



Appeal Decision

Site visit made on 26 November 2020

by C J Leigh BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2020

Appeal Ref: APP/D5120/W/20/3251114

Erith Working Men's Club, Valley Road, Erith, DA8 1BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Kent Foresquare Gospel Church UK against the decision of the Council of the London Borough of Bexley.
 - The application Ref 19/02177/FUL, dated 5 September 2019, was refused by notice dated 17 March 2019.
 - The development proposed is described as 'change of use to place of worship (Use Class D1) and retention of access ramp'.
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Preliminary matters

1. Planning permission was granted at appeal on 24 August 2017 for the continued use of part of the premises for mixed use as club house/place of worship (Class D1 and D2) and formation of access ramp (appeal ref. APP/D5120/W/17/3170911). This was subject to a number of conditions, including Condition 2 that limited the period of use to a period of two years from the date of the decision.
 2. The Planning Statement accompanying the application the subject of this appeal stated the application sought to continue that permitted use and to vary certain conditions attached to that permission, and the appellants' submissions also state this. However, the application form submitted to the Council was for full planning permission with the description as set out in the heading above, not an application for the development of the land without compliance with conditions subject to which the previous permission was granted.
 3. The Council's Delegated Report on the application therefore assessed the planning application on the correct basis, and I have assessed this appeal on that same basis as being an application for planning permission.
 4. I note, though, that the access ramp has not been installed at the premises, and indeed the submitted drawings show the ramp as a proposed development, not existing. It is also the case that, since the date of decision The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 has revoked Part D of the Schedule to the Town and Country Planning (Use Classes) Order 1987 and inserted a new Schedule 2, wherein Part B introduces a new Class F.1: Learning and Non-residential Institutions which, among other uses, includes public halls or a use for public worship or religious instruction. The proposed use falls within that Use Class. Accordingly this appeal seeks
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permission for change of use to place of worship (Use Class F.1) and the provision of an access ramp.

Decision

5. The appeal is dismissed.

Main issue

6. The main issue in this appeal is the effect of the proposed development on highway and pedestrian safety, and to the free flow of traffic in the area.

Reasons

Highway and pedestrian safety

7. The appeal premises comprise part of a larger building that was formerly used as a working men's club. It is separate from the rest of the building with its own pedestrian access onto a grassed area that fronts Valley Road and Pembroke Road.
8. The previous time-limited planning permission allowed the use of the premises by no more than 25 persons at any one time and at certain specified times on Wednesdays and Sundays. The current proposal seeks to increase the use of the premises to no more than 40 persons at any one time and to increase the use of the premises on Wednesdays and Sundays, and on certain special days in the year.
9. Conditions attached to the previous grant of permission required the submission and approval of details relating to noise mitigation measures, car and cycle parking arrangements (including access and sight lines), a Travel Plan and the access ramp, and the implementation of such details (with, in some instances, monitoring of the approved schemes). I am informed that there was not any formal discharge of the conditions relating to these matters and the measures they sought to impose upon the permission were not undertaken.
10. The current scheme therefore seeks a more intensive use of the premises than was permitted previously. It is necessary to ensure that this use would not give rise to any harm to highway safety.
11. The appellants state that there is no evidence that any identifiable highway issues have manifested themselves since the development was permitted under the previous appeal decision. The evidence I have seen does not support such a claim. There were a number of objections from nearby residents at the planning application stage that refer to problems of parking and conflict between vehicles when the premises are in use, and that vehicles cross the footway to park on the grassed area in front of the premises. The Highway Authority's comments on the application, reported in the Delegated Report on the application, also refer to observations of parking on the grassed verged area and vehicles crossing the kerb, which they describe as increasing the risk of accidents and affecting the free flow of traffic and local amenity. These submissions are reiterated at the appeal stage.

12. I have no reason to doubt these statements. I can also appreciate from my observations at the site visit that maneuvering vehicles over the kerb onto the grassed area is potentially dangerous to other vehicles and to pedestrians.
13. Based on what I have read and seen it is my judgement that it is essential the proposed use incorporates the appropriate measures to ensure no harm to highway and pedestrian safety. I am not satisfied by the information before me. The drawings submitted with the application show two different parking arrangements, to which the Highways Authority objected on the basis of insufficient parking provision, along with absence of provision for a mini-bus and for disabled users.
14. The appellants' have further submitted a parking layout that would see the use of the land adjacent to Pembroke Road which, they say, was approved as part of the previous appeal scheme. However, as noted earlier, the relevant Conditions attached to that appeal decision did not approve any parking arrangement: Condition 10 required the submission of details of the proposed access, sightlines, car park and bicycle park, among other matters. In any event, this further scheme has been the subject of a recent separate planning application (ref. 20/00176/FUL) that the Council inform me was refused on highway safety grounds.
15. I note the appellants' reference to the submitted Travel Plan (January 2020) which they say points to a very modest level of car usage with a demand for 2 car parking spaces, and that the proposed 2 car parking spaces (as shown in the proposed site layout plan in the document) would be sufficient. However, this was based on a survey of the use of the premises with a limitation of 25 attendees. The proposed increase to 40 attendees is a significant change and I am not reassured this increase in capacity of some 60% will not lead to any increase in need for car parking. Furthermore, as observed by the Highways Authority, the parking layout drawing referred to in the Travel Plan does not make provision for the parking of the mini-bus, nor any provision for disabled users of the premises.
16. I note the appellants are willing to seek that the mini bus service collects users of the premises from local stations. However, there are no firm proposals that show how this might be achieved, with the Management, Monitoring and Action Plan as contained in the Travel Plan being more generic undertakings rather than persuading me there are specific measures that would achieve this objective. I therefore place little weight on this generalised aspiration.
17. It is my conclusion that the information contained within the submission is not sufficient to demonstrate adequate provision for the parking of vehicles would be made on the site for the development proposed, that there may be sufficient space on the site for such provision, or that the appellants can encourage a meaningful and long-term change in travel patterns. The evidence I have seen points to the previous use of the premises for 25 persons causing harm to highway and pedestrian safety and the free flow of traffic by virtue of the non-implementation of measures to control parking or travel patterns. I consider the information before me points to the proposed use of the premises for 40 persons – a significant increase – being likely to lead to a more harmful effect which, with longer opening hours, would be further emphasised.

18. Paragraph 55 of the National Planning Policy Framework states that consideration should be given to whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.
19. In this instance I do not consider it in the interests of proper planning to leave the matter of parking provision, and seeking any measures to encourage different travel patterns, to be determined through attaching planning conditions. As noted above, the intensity of use of the premises is significantly higher than that permitted with the previous appeal where the Inspector at that time considered conditions could be attached. In short, I am not satisfied from what I have read and seen that there is sufficient space on site, coupled with any robust or sound approach to the issue of parking provision and highway safety, to demonstrate that the appellants can achieve the adequate and safe parking arrangements for all vehicles and users of the premises and wider area, or to achieve the pattern of travel use they seek.
20. I therefore concur with the Council and the Highway Authority that the development as proposed in this scheme would be harmful to highway and pedestrian safety and to the free flow of traffic in the area. This would conflict with Policies T17 and ENV39 of the London Borough of Bexley Unitary Development Plan (UDP) 2004 and Policy CS15 of the London Borough of Bexley Core Strategy 2012, whose aims include ensuring new developments make provision for off-street parking and maintain the highway network to ensure free flow of traffic.

Other considerations and conclusion

21. I acknowledge the proposed use would provide a local community facility within a predominately residential area. This would be consistent with the National Planning Policy Framework's objective of promoting healthy and safe communities. The UDP also encourages the provision of meeting halls, places of worship and other community facilities, as does the London Plan.
22. However, I must balance this matter against other recognised planning objectives. The harm that I have identified with regard to the main issue, and the consequential conflict with the development plan, is sufficient to outweigh the benefits of the scheme. Thus, the appeal is dismissed.

C J Leigh

INSPECTOR