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## Appeal Decision

Site visit made on 24 January 2023

**by E Grierson BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 7 February 2023**

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**Appeal Ref: APP/H1515/W/22/3293344**

**Brentwood Vineyard Church, Ashwells Road, Pilgrims Hatch, Brentwood CM15 9SE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Reverend Lukas Roos (Brentwood Vineyard Church) against the decision of Brentwood Borough Council.
  - The application Ref 21/00842/FUL, dated 9 May 2021, was approved on 20 August 2021 and planning permission was granted subject to conditions.
  - The development permitted is a change of use from a place of worship including social activities, teaching and training to a place of worship including social activities, teaching and training and a café open to the public.
  - The condition in dispute is No 3 which states that: The use of the cafe area open to the public as detailed on dwg 22 Rev B is restricted to the preparation of hot and cold drinks and food, and the serving of hot and cold drinks and food for consumption on the premises. With the exception of heating up of food, no cooking shall take place on the premises.
  - The reason given for the condition is: to establish the scope of this permission to allow the local planning authority to manage any increase in intensity of use, in the interests of amenity and the green belt.
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### Decision

1. The appeal is allowed and the planning permission Ref 21/00842/FUL for a change of use from a place of worship including social activities, teaching and training to a place of worship including social activities, teaching and training and a café open to the public at Brentwood Vineyard Church, Ashwells Road, Pilgrims Hatch, Brentwood CM15 9SE granted on 20 August 2021 by Brentwood Borough Council, is varied by deleting condition No 3 and substituting it for the following conditions:
  - 3) The use of the cafe area open to the public as detailed on dwg 22 Rev B is restricted to the preparation of hot and cold drinks and food, and the serving of hot and cold drinks and food for the consumption on the premises.
  - 4) Details of any extraction equipment and ductwork to be implemented shall be submitted to and approved in writing by the local planning authority before the use as a café open to the public commences. The development shall be carried out in accordance with the approved details and shall be maintained thereafter.

### Preliminary Matter

2. Since the original planning permission was determined, the Brentwood Local Plan 2016-2033 (the LP) was adopted on 23 March 2022. As such Policies CP1,

GB1 and GB2 of the Brentwood Replacement Local Plan 2005 referred to within the Council's report are now superseded by Policies MG02 and BE14 of the LP. Therefore, the appeal will be considered against these policies from the recently adopted plan.

### **Main Issues**

3. The main issues are the effect that removing the stipulation within condition 3, preventing cooking on the premises, would have on the Green Belt, the character and appearance of the area and the living conditions of the occupiers of neighbouring dwellings with regard to intensification of the site and the extraction equipment necessary for a commercial kitchen.

### **Reasons**

4. Planning permission has been granted on the appeal site for a change of use to include a café open to the public. The appeal seeks to remove the stipulation within condition 3 of the original planning permission, preventing cooking on the premises, with the exception of heating up food. This is to allow for the preparation and serving of food within the café, to include cooking.
5. The removal of part of this condition, to allow food to be cooked on the premises, may result in a slight intensification in the use of the appeal site, as this may encourage more people to visit the café and stay for longer due to the broader range of food on offer. However, as the overall size of the café's kitchen and seating area would remain the same as in the original planning permission, this would not be a significant increase and would not fundamentally change the overall use or appearance of the appeal site.
6. The appeal site is located within a rural location in the Green Belt. The Council's report indicates that the proposal includes no external changes to the existing building and therefore it would not be inappropriate development in the Green Belt. Cooking on the premises at a commercial scale would likely require external changes to the existing building through the provision of external extraction equipment. However, due to the limited scale of the kitchen, this would likely be a small feature relative to the size of the overall building which would not have a detrimental impact on the openness of the Green Belt. Furthermore, to ensure the provision of any external extraction equipment would not adversely affect the Green Belt, an additional condition could be included requiring the submission of details for approval by the Council before the use as a café commences. Such a condition has been suggested by the Council in their appeal statement.
7. Any extraction equipment, required due to cooking on the premises, would alter the external appearance of the existing building. However, such an addition would be minor and could be directed to a side of the building which is less visible from public view. Therefore, it would not significantly alter the character and appearance of the overall building. The existing building is also well screened from Ashwells Road by extensive hedging and mature trees. As such, any such external changes to the building would have limited visibility within the streetscene and would not harm the overall character and appearance of the area. The condition outlined above would also allow the Council to review details of any extraction equipment/ductwork in relation to its impact on the character and appearance of the area prior to its installation, in terms of size and position.

8. The cooking of food on the premises would be likely to give rise to odours emanating from the building and noise from the necessary extraction equipment. Due to its rural location, there are a limited number of neighbouring dwellings within close proximity to the appeal site, with the closest on the opposite side of Ashwells Road. Due to the scale of the kitchen, such odours and noise would be limited and the closest neighbouring property is sufficiently separated from the appeal site to ensure any such factors do not have a detrimental impact on the neighbouring occupiers living conditions.
9. Therefore, although the condition does not currently prevent the appellant seeking planning permission to allow the cooking of food on the premises, I do not consider that the part of condition 3 restricting this is necessary. Therefore, the condition as a whole would not meet the tests set out in paragraph 56 of the Framework and should be removed. However, the first part of the condition restricting the use of the café is necessary to ensure the use is consistent with the original application and therefore this part should be re-imposed.
10. I therefore conclude that removing the stipulations within condition 3, preventing the cooking of food on the premises, would not have a harmful impact on the Green Belt, the character and appearance of the area or the living conditions of the occupiers of neighbouring dwellings subject to the inclusion of an additional condition relating to extraction equipment detailed above. As such I find no conflict with Policies MG01 and BE14 of the LP which seek to protect the Green Belt and ensure that development responds sympathetically to their context whilst safeguarding the living conditions of adjacent residents. There would also be no conflict with the sections of the Framework relating to protection of the Green Belt and the general design objectives.

### **Other Matters**

11. As I have concluded that the cooking of food on the premises would not significantly alter the amount of people using the site at any given time, the alteration of condition 3 as such would not result in significant levels of additional traffic to and from the appeal site. Furthermore, as such food would be eaten within the premises, as required by the retained section of the condition, the onsite cooking of food would not result in additional littering within the surrounding area.

### **Conditions**

12. As I have concluded that the part of condition 3, preventing the cooking of food on the premises, is not necessary to protect the Green Belt, the character and appearance of the area or the living conditions of the occupiers of neighbouring dwellings, this condition has been varied from the original planning permission to remove the section relating to this. However, I have also included an additional condition requiring the submission of details relating to extraction equipment and ductwork to be submitted to the Council for approval prior to the commencement of the use as a café open to the public. This is because such equipment would be likely be necessary for a commercial kitchen where cooking takes place on the premises and would alter the external appearance of the building, which was not detailed in the original application. I have altered the wording of this condition, from that suggested by the Council, to include specific reference to extraction equipment and ensure it meets the tests required in paragraph 56 of the Framework.

## **Conclusion**

13. For the reasons set out above, the appeal is allowed and the planning permission should be varied as set out in the formal decision.

*E Grierson*

INSPECTOR