

SECTION '2' – Applications meriting special consideration

Application No : 13/03647/VAR

Ward:
Kelsey And Eden Park

Address : St John's Coptic Orthodox Church 11
Dunbar Avenue Beckenham BR3 3RG

OS Grid Ref: E: 536385 N: 168426

Applicant : Dr Zoser Boulis

Objections : YES

Description of Development:

Variation of condition 3 (Car parking management) and condition 5 (hours of operation) of planning permission ref 10/00971 for a change of use from Class A4 to Class D1.

Key designations:

Biggin Hill Safeguarding Birds
Biggin Hill Safeguarding Area
London City Airport Safeguarding

Proposal

Planning permission is sought to vary condition 3 (car parking management) and condition 5 (hours of operation) of planning permission (Council ref 10/00971) granted for a change of use from Class A4 (Public house) to Class D1 (community hall, meeting rooms and chapel).

The proposal seeks to extend the permitted hours on Sundays from 6pm to 930pm. It also seeks to use part of the rear tarmacked area in front of several parking spaces for recreational activities, which would require a change to the car parking management arrangements required by condition.

Location

The application site is located on the eastern side of Dunbar Avenue in close proximity to the junction with Croydon Road and Eden Park Avenue. The building is currently used for ecclesiastical purposes and is set within a large site primarily surrounded by hard surfacing for car parking.

Comments from Local Residents

Nearby owners/occupiers were notified of the application and 8 objections were received, which can be summarised as follows:

- o Use of car park and outdoor areas resulting in noise and disturbance;
- o There has been a change of use of the car park;

- o Other conditions of original permission for change of use not being complied with;
- o Surrounding area is residential and not a recreational park; and
- o Extension of hours will set a precedent for further extensions.

The full text of comments received is available to view on file.

Comments from Consultees

From a Parking and Highways point of view there is no objection.

From an Enforcement point of view the site has a history of complaints from local residents relating to use of the car park for recreational activities and the proposed variations would likely generate further complaints.

From an Environmental Health (noise) point of view the proposal is likely to lead to a loss of amenity for residents and therefore, the application should be refused.

The full text of comments received is available to view on file.

Planning Considerations

The application falls to be determined in accordance with the following policies of the Unitary Development Plan:

BE1 Design of New Development
BE10 Locally Listed Building
C1 Community Facilities
ER8 Noise Pollution
T3 Parking
T18 Road Safety

The above policies are considered consistent with the objectives and principles of the NPPF.

This application has been referred to committee because the original application went before committee and there have also been several objections.

Relevant Planning History

There is extensive planning history at the site with the most recent being the permission (ref: 10/00971) that the current application seeks to vary. That 2010 permission allowed for the change of use from public house (Class A4) to community hall, meeting rooms and chapel (Class D1).

Prior to the granting of the change of use, the most relevant planning history relates to the previous use as a public house. Notably applications refused in 2008 for decking, a smoking shelter and new fencing to the rear (ref: 08/01176) and for a child's play area with timber rope bridge and hard and soft landscaping (ref: 08/02130).

Conclusions

The main issues relating to the application are the effect that it would have on parking and road safety and the impact that it would have on the residential amenities of the occupants of neighbouring properties with particular regard to noise and disturbance.

With regard to parking and highway safety, Council's Planning Enforcement Department considered that the use of part of the rear tarmacked area did not involve a significant breach of condition 3 and therefore, did not issue a Breach of Condition Notice. Neither did they consider that use of the car park in the current manner resulted in a change of use as the activities were of a scale and intensity ancillary to the permitted D1 use. However, it was considered prudent to vary the car park management details to, in accordance with the original reason for the condition, avoid development without adequate parking or garage provision, which is likely to lead to parking inconvenient to other road users and would be detrimental to amenities and prejudicial to road safety.

The site has a large number of on-site car parking spaces and recreational use of part of the rear tarmacked area in front of these spaces will not prevent access to them as users of the area will disperse to allow parking. Council's Highways Planning Department have no objection to the proposal. In addition Council's Enforcement Department consider that the recreational use does not represent a breach of condition 3. It should also be noted that the original change of use was for the whole of the site and there are no specific conditions preventing recreational uses ancillary to the main D1 use. Therefore, Members may agree that it would be unreasonable not to vary condition 3 relating to car park management given that the proposal would not be prejudicial to road safety, which was the reason for imposing the condition.

With regard to the impact of the proposed use to the amenities of neighbouring residents, Council's Environment Health Department have confirmed that there has been a history of complaints regarding the noise and disturbance resulting from the outdoor recreational activities and the times at which they are occurring. Several objections to the current application have been received on similar grounds. It should be noted that the placing of volleyball poles and football nets and similar equipment does not involve development requiring planning permission and the car park remains available for use as noted above. Furthermore, at its present scale and frequency the recreational use of the car park is not considered to involve a material change of use as a matter of fact and degree and these activities are ancillary to the D1 use.

Given the above, the primary concern is the impact that increasing the permitted hours from 6pm to 930pm on Sunday will have on neighbouring residential amenities particularly by way of noise and disturbance. It should be noted that it is possible that, despite no statutory nuisance having been proven, the proposal to increase the hours could be deemed to result in unduly harmful noise and disturbance to neighbouring residential amenities as a material planning consideration. The applicant has stated that the increase in hours sought are to

allow for a second service in the evening and that this is in line with a number of religious institutions in the area that have such services. Whilst this may be the case, it is the potential for the associated recreational activities that have generated a history of complaints from local residents in these additional hours to generate further noise and disturbance for local residents that is considered to be unacceptable. It is not considered possible to enforce a condition restricting the increased hours of operation to services only and therefore, the unduly noisy associated recreational activities would be able to occur unfettered.

To conclude, Members may agree that the proposed variation to extend the hours of operation on Sundays would unduly harm the residential amenities enjoyed by the occupants of neighbouring properties by way of unsatisfactory noise and disturbance.

Background papers referred to during production of this report comprise all correspondence on file ref(s): DC/13/03647/VAR and DC/10/00971/FULL2 excluding exempt information.

RECOMMENDATION: PERMISSION BE REFUSED

The reasons for refusal are:

The proposed variation to condition 5 of planning permission reference 10/00971/FULL2 to extend the hours of operation from 6pm to 9pm Sundays would result in a detrimental impact on neighbouring amenity by virtue of increased noise and disturbance, thereby contrary to Policy BE1 and ER8 of the adopted Unitary Development Plan.