

Application No: W 11 / 0004

Town/Parish Council: Kenilworth
Case Officer: Penny Butler

Registration Date: 15/05/12
Expiry Date: 10/07/12

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67 Common Lane, Kenilworth, CV8 2EQ

Change of use from residential dwelling to Place of Worship and construction of vehicle parking area to front with retaining wall FOR Leamington Gospel Hall Trust

This application is being presented to Committee due to an objection from the Town Council having been received.

SUMMARY OF REPRESENTATIONS

Kenilworth Town Council: (Comments on original scheme) Object strongly to the change of use on the following grounds:

- The loss of much needed residential accommodation.
- The objection and further observations on safety issues from the Highway Authority, to which Members would draw officers attention.
- The recommended widening of the drive could result in the loss of many trees.
- Loss of amenity to neighbouring properties.
- Due to the geographical siting, the proposed car park could cause erosion, resulting in water shedding with the potential risk of causing significant damage to the other properties and the nearby industrial site.

Public response: Two letters of support to original scheme (23 Dalehouse Lane & 54 Glasshouse Lane): Common Lane has a mixture of residential, commercial and industrial properties, where the proposal would fit in. A resident who lives close to a similar use in operation for five years states this has not caused harm.

Two letters of objection to original scheme (65 Common Lane & 2 Highland Road). The surroundings comprise a row of dwellings facing a nature reserve. A place of worship would detract from the attractive residential character of the area. The proposed parking in the rear garden will cause a significant loss of privacy, noise and disturbance due to early morning and evening vehicle movements, particularly on Sundays and Bank Holidays between 06.00am and 07.00am. The driveway to the car park passes neighbouring bedroom windows. Privacy has already been reduced due to the removal of mature trees/shrubbery. The potential removal of further trees from the front and rear will detract from the leafy neighbourhood. Plots near the site have recently been over developed. A car park and any future development in the rear garden would be out of keeping with the residential area and result in overdevelopment. The car park could be used for car boot sales and outdoor parties causing further noise and disturbance, and would be out of character with this residential area. Additional traffic will cause road hazards due to the steep hill and nearby industrial estate entrance. Common Lane is very congested. It is essential that Planning Committee visit to see how unsuitable this site is.

One letter of objection to amended scheme (no. 69 Common Lane). The provision of a car park in the front garden, being of a height such that it may intrude on their privacy. The proposed change of use is inappropriate when there is a shortage of housing in Kenilworth. Many commercial premises with existing parking are available to the applicants. Starting at 06.00am on a Sunday is unacceptable as cars and people would create a noise nuisance however careful they may be. The removal of two well established Silver Birch trees and their replacement would break the tree line in the Lane to the detriment of the area.

WCC Highways: The proposed number of parking spaces is significantly less than would be considered appropriate by the Highway Authority, however, following discussion the number of spaces proposed now meets the satisfaction of the Local Planning Authority. A 5m wide access is normally required, however, given vehicles will arrive and leave at the same time the Highway Authority accept the reduced access width providing the change of use is made personal to the applicant as they would need to reassess the safety of any future D1 uses on the site. On this basis there is no objection subject to a condition requiring development in accordance with the submitted plans.

WCC Ecology: The submitted bat survey does not suggest the trees to be removed are being used by bats therefore it is agreed that the trees can be felled without further survey or mitigation. A nesting bird note is recommended.

Cultural Services (Green Infrastructure Manager): Acceptable given the size of stock proposed as replacement trees, subject to a condition requiring 8m trees planted in Amsterdam tree soil.

Environmental Health: Following initial concerns regarding hours of use and parking in the rear garden, the EHO met with the applicants and discussed the proposals in full. Fully endorse the amended plans.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DAP3 - Protecting Nature Conservation and Geology (Warwick District Local Plan 1996 - 2011)
- DP13 - Renewable Energy Developments (Warwick District Local Plan 1996 - 2011)
- Sustainable Buildings (Supplementary Planning Document - December 2008)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- Vehicle Parking Standards (Supplementary Planning Document)

PLANNING HISTORY

No relevant history.

KEY ISSUES

The Site and its Location

The application site comprises a hipped roof bungalow standing within a substantial plot on the eastern side of Common Lane, opposite Kenilworth Common. There is currently a wide grassed verge in front of the house which contains a number of Silver Birch trees recently protected by a Tree Preservation Order. These form part of the buffer between the residential development on this side of the town and Kenilworth Common. Land drops from west to east so the roof of the bungalow is level with that of no.69 which is a two storey house, and the other neighbour no.65 also a two storey house but on higher land. Vehicle parking for three cars is currently provided on a single width driveway, which extends down the side of the bungalow through gates to provide a further parking space, and the front garden is lawned and open onto the highway verge.

Details of the Development

The proposal is to change the use of the property from a single residential dwelling house to a place of worship. Four vehicle parking spaces would also be provided on the site frontage with a turning area, which will necessitate the removal of two TPO Silver Birch trees (out of a group of six). The parking area will be provided by re-levelling the front garden and providing a 1.9m high retaining wall adjacent to the boundary with no.69. The gated parking space to the side of the bungalow will remain. Two 8m high replacement Silver Birch trees would be replanted close to the front boundary.

Assessment

The key items for consideration are:

- Impact on neighbouring property
- Impact on highway safety and parking
- Impact on protected trees
- Sustainability
- Impact on protected species

Impact on neighbouring property

Using the property as a place of worship would have a different pattern and scale of use to the existing residential use. The applicant has entered into discussion with the Environmental Health Officer who is aware of other premises operated by the same applicant in the local area, which have not given rise to noise or disturbance complaints from neighbours. The proposed pattern of use of the property is one hour each weekday evening (18.30-19.30) and one hour on a Sunday morning (06.00-07.00). The amended scheme omits the proposed vehicle parking from the rear garden of the premises, which raised objection due to the introduction of vehicles into the quieter rear curtilage area. The amended parking proposal on the frontage concentrates car related activity to the public elevation on this busy road, where it will be less noticeable and therefore less likely to lead to significant harm. The number of cars using the parking area will be similar to a large family home and the hours of use proposed will further limit this impact to very short periods. The Sunday operating hours are very early but on the basis of the evidence it is not considered that the use or the associated

vehicle movements will lead to such harm as to warrant refusal on the basis that unacceptable harm to neighbours would occur.

The applicant intends to install sound insulation to prevent noise penetration from within the building, which they have also carried out in their other premises. However, it is not considered necessary to require this as part of the application given that the actual noise generated by this particular user will be low. An alternative user of the building as a place of worship could have the potential to create more noise nuisance if amplified music or singing were part of their normal activities, therefore it is considered reasonable to limit the permission to the applicants only in these particular circumstances. Given this personal use restriction, it is not considered necessary to limit the hours of use. The proposal would therefore comply with Policies DP8 and DP2.

The proposed retaining wall will not have a serious adverse visual impact on the adjoining neighbour since the difference in levels between the gardens is already substantial and the retaining wall, which will also screen the side of the parking area, will be partly screened by planting on their plot. The proposal is therefore considered to accord with Policy DP2. The issue of drainage has been addressed by the amended proposals, through the use of a permeable surface to the parking area, a land drain at the edge of the retaining wall leading into the main storm drain, and a surface water gully at the lowest point of the car park draining excess surface water to the main storm drain. This approach is considered to comply with Policy DP11.

Impact on highway safety and parking

The amended plans propose a vehicle parking area at the front of the site which does not raise objection from the Highway Authority. The Vehicle Parking Standards SPD advises that places of worship should provide one space per 10 sq.m or per five seats/person spaces. The floor space of the bungalow would require 10.8 parking spaces (six spaces more than is proposed). The applicant considers the level of parking proposed to be sufficient as members of the same family travel in shared vehicles, and some of the congregation live within walking distance. The building will not be generally open to the public unlike some other places of worship. The limited floor area of the building and its domestic layout which includes ancillary spaces limits the number of people able to worship within the building. In addition, the site location is one where it is considered any parking which overflows from the site to the public highway would not occur to the detriment of highway safety, given that there are two parking spaces on the opposite side of the road adjacent to the Common, and further opportunities on Highland Road which is off this main route.

Taking into account these considerations, it is considered that the level of parking proposed would not unacceptably worsen the existing parking situation, to the detriment of highway safety, and on this basis the proposal would comply with the SPD, and Policy DP8. The parking configuration at the front of the site will enable vehicles to enter and leave the site in a forward gear, which will be an improvement over the current situation where vehicles have to reverse in or out of the site. The layout is therefore considered to comply with Policy DP6 and the SPD. The Highway Authority would wish to retain control over future users, since it is only the particular circumstances of this user which will limit vehicle numbers, and where vehicles will enter and leave at the same time that justify a sub-standard access width. These are additional reasons why it is considered necessary to impose a personal use condition.

Impact on protected trees

Since this application was originally submitted, a Tree Preservation Order has been imposed on the group of six trees on this side of Common Lane, in front of properties no.63 to no.67. There are two Silver Birch trees (6m high and 7m high) within the site frontage, however, these trees have been assessed as not having long term potential for retention due to the severe reduction that has been carried out to both. When the TPO was confirmed the replacement of these trees with other large specimens closer to the road was discussed. In order to achieve vehicle parking and manoeuvring space on the frontage, the applicant has offered to provide two replacement Silver Birch trees. These will be 8m specimens which will be located closer to the front of the site, and therefore make a more positive contribution towards the wider tree belt and therefore the visual amenity of the area. Subject to a condition requiring the trees to be replaced with those of a sufficient standard, the proposals are considered acceptable as they would not result in the loss of important natural features, in accordance with Policies DP3 and DAP3.

Sustainability

Change of use applications should address the requirement of Policy DP13 and the Sustainable Buildings SPD to provide 10% renewable energy. The applicants proposed use of the building would be limited to only about 2 hours per week, therefore, it is not considered reasonable to insist on such provision given this limited use.

Impact on protected species

Since no physical alterations are proposed to the building there would be no impact on any bats that may be using the property. The trees to be removed at the front of the site have been assessed for bat potential. Subject to a note advising of the need to avoid disturbance to nesting birds, the proposals are considered to accord with Policies DP3 and DAP3.

CONCLUSION/SUMMARY OF DECISION

For the purposes of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, in the opinion of the District Planning Authority, the development achieves acceptable standards of layout and design and does not give rise to any harmful effects in terms of noise, parking, drainage or use which would justify a refusal of permission. The proposal is therefore considered to comply with the policies listed.

RECOMMENDATION

GRANT, subject to the conditions listed below.

CONDITIONS

- 1 The development hereby permitted must be begun not later than the expiration of three years from the date of this permission. **REASON** : To comply with Section 91 of the Town and Country Planning Act 1990.
- 2 The development hereby permitted shall be carried out strictly in

accordance with the details shown on the application form, site location plan and approved drawing(s) (no. 3076), and specification contained therein, submitted on 24 April 2012 unless first agreed otherwise in writing by the District Planning Authority. **REASON** : For the avoidance of doubt and to secure a satisfactory form of development in accordance with Policies DP1 and DP2 of the Warwick District Local Plan 1996-2011.

- 3 Samples of the external facing materials to be used in the construction of the retaining wall hereby permitted, shall be submitted to and approved by the local planning authority before any construction works are commenced. Development shall be carried out only in strict accordance with the approved details unless otherwise agreed in writing by the local planning authority. **REASON** : To ensure that the visual amenities of the area are protected, and to satisfy the requirements of Policy DP1 of the Warwick District Local Plan 1996-2011.
- 4 All hard surfaces hereby approved shall be made of porous materials. **REASON** : To reduce surface water run-off and to ensure that the development does not increase the risk of flooding elsewhere, in accordance with Policy DP11 of the Warwick District Local Plan.
- 5 The use hereby permitted shall enure solely for the benefit of Leamington Gospel Hall Trust only and on the discontinuance of their use of the site for the purposes of worship, that use shall immediately cease and revert to its former residential use. **REASON** : Since the use is only considered acceptable in highway and amenity terms on the basis of the information put forward by this applicant, and use as a place of worship by a separate party may result in further unacceptable impacts in accordance with Policies DP2, DP6 and DP8 of the Warwick District Local Plan.
- 6 Within six months of the implementation of the works hereby approved replacement planting shall be undertaken and shall be maintained in strict accordance with a schedule of maintenance for the tree(s) until successfully established in accordance with the details set out in the approved application documentation or any variation submitted to and approved in writing by the local planning authority. All tree(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations (excluding hard surfaces). If within a period of five years from the date of planting the tree(s) (or any other tree(s) planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree(s) of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree(s), or in accordance with any variation for which the local planning authority give their written consent. **REASON** : To protect and enhance the amenities of the area, and to satisfy the requirements of Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011.