

Application No: W 11 / 0446

Town/Parish Council: Blackdown
Case Officer: Rob Young

Registration Date: 23/03/12
Expiry Date: 18/05/12

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Sandy Lane Meeting Room, Sandy Lane, Leamington Spa

Formation of new vehicular access from Sandy Lane, path & on-site car parking to serve existing ancillary burial ground FOR The Trustees of the Sandy Lane Meeting Rooms Trust

This application is being presented to Committee due to the number of objections and an objection from the Parish Council having been received.

The application was withdrawn from the agenda for the Planning Committee on 22 May 2012 at the request of the applicant to enable amendments to be made. The application was previously recommended for refusal but the amendments have addressed the issues of concern and the recommendation is now that planning permission be granted. There remains a recommendation that enforcement action is authorised in relation to the unauthorised track on the land fronting Leicester Lane.

SUMMARY OF REPRESENTATIONS

Parish Council: Object on the following grounds:

- detrimental to highway safety;
- the change of use would detract from the rural nature of the land;
- burials will pollute the water table;
- surfacing the track has caused unnecessary urbanisation of the area; and
- "overpowering" effect on the adjacent dwelling at "The Orchard".

Public response: 7 objections have been received, raising the following concerns:

- detrimental to highway safety;
- the access onto Leicester Lane has not been used for at least 50 years;
- the access onto Leicester Lane could be used to access the main car park on the site in the future;
- there are already 2 accesses onto Sandy Lane and therefore additional accesses are not necessary;
- detrimental to the character and appearance of the area;
- detrimental to the rural character of the Green Belt;
- the proposed access onto Sandy Lane should be relocated so that it is not directly opposite a residential driveway;
- the fencing that has been erected along the boundaries with the neighbouring dwelling at "The Orchard" gives the occupants a feeling of being in prison and a sense of enclosure;
- loss of privacy for the adjacent dwelling at "The Orchard", which would be enclosed on two sides by the extended site of the meeting room;

- the fencing that has been erected is more appropriate for an industrial estate than this rural location;
- additional risk of flooding if the land is surfaced;
- no details of lighting have been provided;
- the burial site has not been granted planning permission;
- the number of burials that have taken place exceeds the 2-3 per year that were previously indicated; and
- the site is located on a major aquifer and consequently there is a danger of pollution of water supplies due to the burials.

Environment Agency: Despite having made comments on the burial ground in the past, this particular application falls outside of our remit and therefore we have no further comments to make.

WDC Environmental Health: No objection.

WCC Highways: Initially raised no objection, but then replaced this with the following comments.

My initial response of no objection was based upon the assumption that the applicant have/had a right of access over the access fronting Leicester Lane. Judging from the fact that there would appear to be no right of access for this proposed usage, then I would object to this access being used for anything other than agricultural usage. My no objection would still stand in relation to the car park access proposed from Sandy Lane, and would ask if this access could also be used for the applicants' maintenance, providing that there was no vehicular through route onto Leicester Lane.

WCC Ecology: No objection. Recommend notes relating to bats and nesting birds.

RELEVANT POLICIES

- DP1 - Layout and Design (Warwick District Local Plan 1996 - 2011)
- DP2 - Amenity (Warwick District Local Plan 1996 - 2011)
- DP3 - Natural and Historic Environment and Landscape (Warwick District Local Plan 1996 - 2011)
- DP6 - Access (Warwick District Local Plan 1996 - 2011)
- DP8 - Parking (Warwick District Local Plan 1996 - 2011)
- DP9 - Pollution Control (Warwick District Local Plan 1996 - 2011)
- DP11 - Drainage (Warwick District Local Plan 1996 - 2011)
- National Planning Policy Framework

PLANNING HISTORY

In 1982 planning permission was granted for "Erection of meeting hall, construction of car park and access" (Ref. W81/0360).

In 2001 planning permission was granted for "Construction of additional vehicular/pedestrian access and provision of additional car parking spaces; erection of a new lamp post and re-siting of 3 no. existing lamp posts" (Ref. W00/1581).

In 2007 a Certificate of Lawfulness was issued for "Ancillary use of car park and grounds of brethren's meeting room (place of worship), Sandy Lane, Leamington

Spa for private burial ground for members of the congregation" (Ref. W07/0123).

In 2009 a planning application was submitted for "Formation of driveway and path within burial ground (retrospective application)" (Ref. W09/1171). This was subsequently withdrawn.

KEY ISSUES

The Site and its Location

The application relates to part of the grounds of the Sandy Lane Meeting Room and an adjacent strip of agricultural land. The Meeting Room is a place of worship situated on the eastern side of Sandy Lane, within the Green Belt on the northern edge of Leamington. The site forms an L shape, with one arm extending back from Sandy Lane to the eastern boundary of the site (the part of the site that is within the grounds of the place of worship) and the other arm running at right angles to this to a frontage with Leicester Lane (the agricultural land). There is a gated access and gravel track running down to the Leicester Lane frontage. The Sandy Lane frontage currently comprises a wire fence and trees set behind a grass verge. Behind the frontage, the application site comprises a grassed area with a path down the centre that is fenced off from remainder of the Meeting Room site.

The application site wraps around a dwelling at "The Orchard" to the south and west of the site. There are further dwellings on the opposite side of Sandy Lane and Leicester Lane. North Leamington School is also situated on the opposite side of Sandy Lane.

Details of the Development

The application proposes the formation of a new vehicular access from Sandy Lane together with a path and on-site car parking to serve the existing ancillary burial ground.

The application has been amended to omit the strip of land fronting Leicester Lane from the application. The application previously proposed the change of use of this land to extend the grounds of the place of worship and sought retrospective permission for the surfacing of a track within that land.

Assessment

Before listing the main issues, it would be helpful to clarify that certain matters raised by neighbours cannot be considered in the assessment of the current proposals. Neighbours have raised concerns about a number of issues that relate to the use of the land for burials. However, the Council have previously determined that the use of the grounds of the place of worship for the burial of members of the congregation does not require planning permission and a Certificate of Lawfulness has been issued to confirm this. The Council's Enforcement team have also investigated the current frequency of burials and this has been confirmed to be within the established lawful use and does not require any further planning permission. Consequently any issues relating to the principle of the use of the established grounds of the place of worship for burials are not relevant to the consideration of the current application.

The main issues relevant to the consideration of the current application are as follows:

- the impact on the openness and rural character of the Green Belt;
- highway safety; and
- the impact on the living conditions of neighbouring dwellings.

Impact on the openness and rural character of the Green Belt

Paragraph 89 of the National Planning Policy Framework states that the provision of appropriate facilities for cemeteries does not constitute inappropriate development within the Green Belt as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The visual impact of the car park would be limited due to its small size and the fact that it would be located within the established grounds of the place of worship, which already contains substantial areas of car parking. Furthermore, this additional car park is required to meet the operational needs of the site and the applicants. The place of worship is occupied by Brethren and the principles that they follow are such that only Brethren are entitled to access the burial ground via the existing Meeting Room. Therefore a separate access arrangement is required to allow for occasional visits by non-Brethren. For these reasons it is considered that this part of the development would represent appropriate development that would not cause unacceptable harm to the openness and rural character of the Green Belt.

The pathway down the centre of the burial ground represents a minor feature in the context of the layout of the grounds as a whole. This forms an integral part of the lawful use of this part of the site as a burial ground and consequently there are no grounds for refusing permission for this part of the proposals.

Whilst not now forming part of this planning application, it is still necessary to consider whether enforcement action should be taken against the unauthorised change of use of the strip of land fronting Leicester Lane and the hard surface that has been laid on this land. This land is outside of the established grounds of the place of worship. Therefore the lawful use of this land currently remains agricultural. The unauthorised change of use of this land to form an extension to the grounds of the place of worship has resulted in a more urbanised appearance for this land, as is evident in the hard surface that has been laid without the benefit of planning permission. The place of worship already has extensive grounds and there is no reason to permit this to be extended into further agricultural land. The applicants have not given any reason for why the grounds of the place of worship need to be extended into this land. Therefore it is considered that the change of use has detracted from the rural character of the Green Belt due to the urbanising effect that it has had on this land. Consequently enforcement action should be authorised to secure the cessation of the unauthorised use of this land as a place of worship.

The hard surface that has been laid amounts to a substantial engineering operation on a previously undeveloped piece of agricultural land. These works have had a seriously urbanising effect on a piece of land that was formerly very rural in character. This has caused unacceptable harm to the rural character of the Green Belt. The applicant states that the hard surface that has been laid relates to the surfacing of an existing track. However, this does not justify such

a significant encroachment into Green Belt land. In any case, the works cover a significantly larger area of the site than the informal track that existed previously, including a substantial turning area on the site frontage. No compelling reason has been given for this extent of works. The track does not appear to serve any particular purpose given that the place of worship already has 2 accesses onto Sandy Lane with a third proposed as part of the current application. Therefore it is considered that enforcement action should be authorised to require this hard surface to be removed.

Concerns have been raised about the fences that have been erected around the site. However, these were permitted development and did not require planning permission. Therefore the fences do not form part of the current planning application.

Highway safety

The amendments to omit the strip of land fronting Leicester Lane from the application have addressed the concerns of the Highway Authority. The Highway Authority have not objected to the proposed access only Sandy Lane. Therefore, the application is now considered to be acceptable from a highway safety point of view.

Whilst not now forming part of this planning application, it is still necessary to consider whether there are highway safety grounds for taking enforcement action against the unauthorised change of use of the strip of land fronting Leicester Lane and the hard surface that has been laid on this land (in addition to the Green Belt concerns referred to above). The Highway Authority have objected to this part of the development on highway safety grounds. In the past the access appears to have only been used infrequently for agricultural purposes. The change of use and the improvements to the surfacing of the track are likely to result in an intensification in the use of the access. The access is substandard in terms of visibility and it is not possible to achieve the required visibility splays because this would require land outside of the applicant's ownership. Furthermore, there would not appear to be any overriding need for this access given the existing and proposed accesses onto Sandy Lane. Therefore, it is considered that the unauthorised change of use and alterations to the access onto Leicester Lane is detrimental to highway safety. Consequently, enforcement action is justified on highway safety grounds.

Impact on the living conditions of neighbouring dwellings

Concerns have been raised about the impact on the adjacent dwelling at "The Orchard". The omission of the proposed change of use of the strip of land fronting Leicester Lane will address some of these concerns in terms of the enclosure of that property by the grounds of the place of the worship, although in itself this was not considered to justify a refusal of planning permission. The fences that have been installed around the site are permitted development and do not require planning permission. These would remain in place even if planning permission were to be refused for the current proposals. The proposed parking area on the Sandy Lane frontage would be of limited size, with space for only 3 cars. Furthermore this would be situated within the established grounds of the place of worship and is only likely to be used on an infrequent basis. Therefore, the proposals would not cause undue harm to the living conditions of neighbouring dwellings.

A neighbour has also requested that the proposed access onto Sandy Lane be relocated so that it would not directly face the driveway of the dwelling opposite. However, there are no planning grounds for requiring such a change. The new access has been deemed to be acceptable on highway safety grounds and the proposed position of the access would not cause demonstrable harm to the living conditions of the dwelling opposite.

Other matters

The new access onto Sandy Lane would require the removal of a number of trees. However, these are all small trees that do not individually make a significant contribution to the character and appearance of the area. A condition is recommended to require suitable replacement planting.

CONCLUSION/SUMMARY OF DECISION

In the opinion of the District Planning Authority, the development does not prejudice the openness and rural character of this green belt area and would be acceptable in terms of highway safety. Furthermore, the proposals would not harm the living conditions of nearby dwellings. The proposals are therefore considered to comply with the policies listed.

RECOMMENDATION

1. GRANT, subject to the conditions listed below.
2. AUTHORISE ENFORCEMENT ACTION to ensure the cessation of the unauthorised use of the land hatched red on the original application site plan as a place of worship and to require the removal of all parts of the hard surface from this land and the restoration of the land to its condition before the breach took place, with a compliance period of TWO months.

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 only be undertaken in strict accordance with details of both hard and soft landscaping works which have been submitted to and approved in writing by the local planning authority. Details of hard landscaping works shall include boundary treatment, including full details of the proposed boundary walls, railings and gates to be erected, specifying the colour of the railings and gates; footpaths; and hard surfacing which shall be made of porous materials or provision shall be made to direct run-off water from the hard surface to a permeable or porous area. The hard landscaping works shall be completed in full accordance with the approved details within three months of the first use of the car park hereby permitted; and all planting shall be carried out in accordance with the approved details in the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which within a period of five years from the completion of the development dies, is removed or becomes in the opinion of the local planning authority seriously damaged, defective or diseased shall be replaced in the next planting season with another of

similar size and species, unless the local planning authority gives written consent to any variation. All hedging, tree(s) and shrub(s) shall be planted in accordance with British Standard BS4043 – Transplanting Root-balled Trees and BS4428 – Code of Practice for General Landscape Operations. **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.

- 3 The car park hereby permitted shall not be used unless and until a public highway verge crossing has been laid out and constructed in accordance with the details to be submitted to and approved in writing by the local planning authority. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 4 The vehicular access hereby permitted shall not be used unless and until visibility splays have been provided to the public highway carriageway with an 'x' distance of 2.4 metres and 'y' distances of 70 metres to the near edge of the public highway carriageway. No structure, erection, trees or shrubs exceeding 0.6 metres in height above the adjoining highway carriageway shall be placed, allowed to grow or be maintained within the visibility splays so defined. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
- 5 No vehicular through route shall be maintained from the proposed car park through to the existing access on the A445 or through to the existing car park. **REASON** : In the interests of highway safety, in accordance with the requirements of Policy DP6 of the Warwick District Local Plan 1996-2011.
