

PLANNING APPLICATIONS COMMITTEE 19 JUNE 2019

APPLICATION NO. DATE VALID

19/P0205 09/01/2019

Address/Site: Merton Hall, 78 Kingston Road, Wimbledon,
SW19 1LA

Ward Abbey

Proposal APPLICATION TO VARY CONDITION 8 (HOURS OF OPERATION) IN LBM PLANNING PERMISSION 17/P2668, RELATING TO ALTERATIONS AND EXTENSIONS TO EXISTING MERTON HALL BUILDING INCLUDING PARTIAL DEMOLITION OF THE SINGLE STOREY HALL, AND ALTERATIONS AND REFURBISHMENT TO THE RETAINED MAIN TWO STOREY BUILDING AND ERECTION OF A NEW WORSHIP HALL, CAFE, FOYER AND MEETING/GROUP ROOMS FOR USE OF BY ELIM PENTECOSTAL CHURCH.

VARIATION PROPOSED TO CONDITION 8: TO (EXTEND USE OF CHURCH BEYOND 10PM TO 10.30PM MONDAY TO SUNDAY AND BEYOND THAT TIME ON NO MORE THAN 10 SEPARATE OCCASIONS A YEAR. NO CHURCH SERVICE OR SIMILAR ACTIVITY SHALL TAKE PLACE AFTER 10PM MONDAYS TO SUNDAYS. THESE RESTRICTIONS WOULD NOT APPLY TO ADMINISTRATIVE USE INCLUDING SMALL MEETINGS OF NO MORE THAN 15 PERSONS)

Drawing No's Site location plan for purposes of identification in relation to variation of condition application (all other drawings approved for alterations and extension to buildings remain unchanged).

Contact Officer Leigh Harrington (020 8545 3836)

RECOMMENDATION

GRANT VARIATION OF CONDITION

CHECKLIST INFORMATION

- Head of agreement: No
- Is a screening opinion required: No

- Is an Environmental Statement required: No
- Has an Environmental Impact Assessment been submitted: No
- Design Review Panel consulted - No
- Number of neighbours consulted and re-consulted - 64
- Press notice - Yes
- Site notice - Yes
- External consultations: Metropolitan Police
- Density - N/A
- Number of jobs created N/A

1. INTRODUCTION

- 1.1 This application is brought before the Planning Applications Committee at the request of Cllr Benbow and due to the level of public objection.
- 1.2 When planning permission 17/P2668 was granted for 'Alterations and extensions to existing Merton Hall building including partial demolition of the single storey hall, and alterations and refurbishment to the retained main two storey building and erection of a new worship hall, cafe, foyer and meeting/group rooms for use of by Elim Pentecostal Church' it was subject to a number of conditions. Condition 8 was attached stating; *The use hereby permitted shall operate only between the hours of 7:00-22:00 Monday to Sunday, unless otherwise agreed in writing by the Local Planning Authority. Reason: To safeguard the amenities of surrounding area and to ensure compliance with the following Development Plan policies for Merton: policy 7.15 of the London Plan 2016, and policy DM EP2 of Merton's Sites and Policies Plan 2014.*
- 1.3 The applicant considers the requirements of condition 8 to be too restrictive for its operational needs and consequently submitted has submitted an application to vary condition 8 (hours of operation) to extend use of church beyond 10pm to 11pm Monday to Saturday and beyond that time no more than 10 times a year unless agreed in writing, in LBM planning permission 17/P2668. Following further discussions with officers and the applicant the proposal was amended to its current form representing a reduction in the hours originally sought.

2. SITE AND SURROUNDINGS

- 2.1 The application site is a large hall set within its own land on the south side of Kingston Road in Wimbledon. Directly opposite the site there are a number of residential properties flanked to the east by a Youth centre and to the west by a Fire Station and Salvation Army barracks. A disused social club and bowls club are located directly to the east of the site. More

residential development is located directly to the west and south of the site.

- 2.2 The site is on a main road with busses and tram lines providing a Public Transport Accessibility Level (PTAL level 4) which is considered good. The site is within a Controlled Parking Zone.
- 2.3 Works to implement the consented scheme (17/P2668) are well advanced.

3. CURRENT PROPOSAL

- 3.1 Application to vary Condition 8 (Hours of operation) to extend use of church beyond 10.00 p.m to 10.30 p.m Monday to Sunday and beyond that time no more than 10 separate occasions a year. No church service or similar activity shall take place after 10.00 p.m Mondays to Sundays. These restriction do not apply to administrative use including small meetings of no more than 15 persons of planning permission 17/P2668.
- 3.2 Condition 8 currently states: The use hereby permitted shall operate only between the hours of 7:00-22:00 Monday to Sunday, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of surrounding area and to ensure compliance with the following Development Plan policies for Merton: policy 7.15 of the London Plan 2016, and policy DM EP2 of Merton's Sites and Policies Plan 2014.

- 3.3 The proposal would add 30 minutes to the approved daily hours of operation to allow additional time for the congregation to leave the site at the end of services. There would remain a restriction on church services finishing by 10.00 p.m. in line with the original operating restriction. The proposal does provide greater operational flexibility for the applicant by allowing for up to 10 unrestricted event per year and unrestricted small administrative meetings of up to 15 persons.
- 3.3 The applicant has indicated that in relation to the unrestricted events each year there are number of celebrations that would fall into this category they would include some of the following:
 - New Years Eve Watchnight Service - Worship and Prayer that extends to just past midnight.
 - Annual 2 day conference - These meetings can run longer than average and may finish at 22.30.
 - Night of prayer - once a year a small group from the church meet to pray throughout the night.

- Good Friday Watchnight service - Worship and prayer that may finish later than the usual time.
- Christmas Carol Service - once again this meeting may finish later than the usual time.

There may also be a few additional one off events such as international evenings, volunteer recognition services and charity fundraisers that again may finish slightly later than the usual time.

3.4 All other conditions would remain unaltered including those relating to restricting noise:

Condition 9

As a minimum, the proposed development shall be carried out in accordance with the noise insulation measures as detailed in the RockTech Acoustic Report with reference: 0117/EPCW1 dated 25/01/2017. The approved noise insulation measures shall be installed prior to the commencement of the use/occupation and shall be permanently retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

Condition 10.

No music or other amplified sound generated on the premises shall be audible at the boundary of any adjacent residential building such as to constitute a statutory nuisance, nor shall the use of the premises increase the ambient noise level by more than 2 dB on any day, between the hours of 19:00 and 07:00, when expressed as a LAeq15 mins as measured at the boundary of the nearest residential property, unless otherwise agreed in writing by the Local Planning Authority.

Condition 11.

Prior to the use of the development hereby approved, details of sound insulation/attenuation measures shall be submitted in writing to the Local Planning Authority to ensure that noise from new plant/machinery does not increase the background noise level by more than 2dBa L90 (5 min) with no increase in any one-third octave band between 50Hertz and 160Hertz. No works that are subject of this condition shall be carried out until the details are approved. The plant and machinery shall not be first used until those details are approved and installed in full accordance with the approved details and shall be permanently retained thereafter unless otherwise agreed in writing by the Local Planning Authority.

(Appendix 1 - Copy of planning permission ref 17/P2668).

4. **PLANNING HISTORY**

- 4.1 18/P0891 Application approved to discharge conditions 22 (method statement), 24 (construction logistics plan) and 28 (Sustainability).
- 4.2 17/P4105 Application approved to discharge condition 3 (materials), 4 (fencing/walls), 14 (landscaping), 15 (arboricultural method statement) and 26 (SuDS)
- 4.3 17/P2668 Planning permission granted by Planning Applications Committee for 'Alterations and extensions to existing Merton Hall building including partial demolition of the single storey hall, and alterations and refurbishment to the retained main two storey building and erection of a new worship hall, cafe, foyer and meeting/group rooms for use of by Elim Pentecostal Church'.
- 4.4 16/P4748 Planning permission refused by Planning Applications Committee for alterations and extensions to existing Merton Hall building including partial demolition of the single storey hall, and alterations and refurbishment to the retained main two storey building and erection of a new worship hall, cafe, foyer and meeting/group rooms for use of by Elim Pentecostal Church.
- Reason; The proposed development by reason of the design, form and massing of the extensions facing the Kingston Road frontage would; fail to respect and complement the design and detailing of the existing building; fail to respect the form of the host building; fail to complement the character of the immediate streetscene in the context of the locally listed building and its neighbour at 76 Kingston Road which makes a positive contribution to the streetscene; and fails to enhance the significance of the heritage asset in terms of its individual architectural and historic interest and setting. The proposals would be to the detriment of the character and appearance of the host building, views of the neighbouring building at 79 Kingston Road, which makes a positive contribution to the streetscene, and to the wider streetscene along this part of Kingston Road and would therefore be contrary to policies 7.4, 7.6 and 7.8 of the London Plan (2015), policy CS14 of the Merton LDF Core Planning Strategy (2011), and policies DM.D2, DM.D3, and DM.D4 of the Merton Sites and Policies Plan (2014).**
- 4.5 12/P0025 Planning permission granted by Planning Applications Committee for formation of hardsurfaced area to provide additional car and cycle parking facilities on the east side of the building with access via the existing vehicle access from Kingston Road including installation of new gates and fencing.

5. CONSULTATION

- 5.1 The application was advertised by means of neighbour notification letter and press and site notices.
- 5.2 There were 147 objections to the original wording of the proposal which can be summarized as follows;
- Church does not need to be open so late, they had previously suggested to operate until 9pm and 10pm was therefore to allow for slippage from that.
 - The foyer and lobby are to allow them to disperse quietly and given services were supposed to stop at 9pm and hour should be sufficient to leave by 10pm.
 - This will disturb the peace of residents from noise from the venue as well as people returning to cars parked around the area.
 - The church already often has events in its current location that finish about 11pm and there are often children running around shouting and screaming for 30 minutes before their parents take them home.
 - The church is a noisy use with musical and percussion instruments as part of the worship.
 - The Police have been called to the church's current location on average more than once every six months
 - At the Committee meeting one Councillor suggested they would be better off on an industrial estate.
 - Evening Standard ran a story on Pentecostal churches in Lambeth, Southwark and Croydon being open until 3am.
 - The later it is open the harder it is to use public transport and so more people will drive.
 - Congregation don't use public transport for their existing site which is the same distance away from South Wimbledon Station and they won't here. Naïve to expect them to have a sudden change of habit especially with 30 children in the congregation.
 - In 2006 they claimed to need 15 car parking spaces and 20 cycle racks and 13 years later parking no longer appears a problem for them.
 - Many local residents have long working days and or children and all need their rest and peace
 - The insulation of the building has not been tested yet.
 - This is a peaceful residential area not suited to a noise generating activity such as a Pentecostal Church.
 - It is unclear how long they are hoping to operate on a Sunday
 - How will the 10 times a year limit be enforced.
 - The council won't in practice be able to police the extended hours.
 - The Council spent £3m on the building including a foyer which would allow for the congregation to disperse socially without doing it late and outside.
 - To lose the community hall to a wealthy private organization and rebuilt at great cost using taxpayer money adds insult to injury and to inflict further misery on residents in this manner is simply not acceptable.

- “The neighbours have had to put up with the noise, pollution, disturbance and congestion created by the demolition of a perfectly sound Victorian Public community hall and the rebuilding of a monstrous edifice within our quiet residential neighbours just to satisfy the demands of this congregation against the will of the vast majority of inhabitants of the area.”
 - Church should show consideration for residents
 - The Council should listen to its residents and “protect what is left of the amenity of the wider neighbourhood and reject this application to extend the hours of use just to satisfy the desires of a few worshippers at the expense of the many residents in the surrounding neighbourhood.”
 - There were 350 written objections to the original proposal and 5000 signed a petition.
 - As the use hasn’t started how can it already be too restrictive.
 - “They should have considered the restrictions more carefully beforehand if they can’t work within the 10pm limit then they should start services earlier or not move in at all”.
 - Has a judgement been reached on the legality of the freehold swap and an investigation of the land values between the original site and the proposed site.
 - “This is another slap in the face of our community from an organisation that seems hell bent on screwing whatever it can out of this shady deal with little regard for the neighbours they intend to move in next to”.
 - Application is arrogant, cheeky, grasping, thoughtless and greedy.
- 5.3 Stephen Hammond MP. Objects to proposals having signed a letter individual copies of which were submitted by various objectors and which covers various points raised above.
- 5.4 Councillor Benbow. The proposals are totally unacceptable and will cause more unnecessary disturbance from music and people leaving to go to their cars after 11pm.
- 5.5 The Wimbledon Society. Objects to the proposals noting that 10pm was previously considered acceptable and there was no reason for the Council to change its view now. The disruption won’t stop at 11pm as people leaving will be in groups and will not be silent.
- 5.6 The revised details were re-consulted on and as a result further letters of objection, albeit mostly in the form of a pre written and circulated letter, were received taking the total to 207
The letters raised the following concerns;
- Extending the hours of use to 10.30pm seven days a week will impact the neighbours and residents in the area/surrounding streets in an unacceptable manner. It contravenes London Plan Policies 7.6 and 7.15 and SPP Policies DM D2 and DM EP2.

- Planning application 17/P2668 to demolish 80% of the original building and redevelop for Elim Church stated that services ended at 9pm. An additional hour, to 10pm, was allowed for users to disperse slowly so as to reduce impact on the residential neighbourhood. It is very strange that suddenly services are going to end at 10pm. This should have been stated in the original planning application 17/P2668 if it was the case.
- In addition, suddenly there is mention that 'there are some, normally smaller, events that operate beyond 10.00pm'. Again this would have been known when application 17/P2668 was written and submitted.
- There is no mention of needing extra time for these events to disperse slowly. We must therefore assume that these events will disperse over a short space of time.
- The application to extend the hours beyond 10.30pm no more than 10 times a year without approval does not give any indication of the end time of these events and is unenforceable.
- Who will know whether 10 events or more have been held at the site?
- These events could end at any time of the night or indeed run for 24 hours.
- How will they be monitored and controlled?
- When Elim Church moved to their High Path site over 10 years ago, that planning application included a transport statement showing that there would be a reduction in the number of users travelling by car (one of the reasons they moved to High Path was parking problems in Montague Rd and surrounding streets - a matter of metres from the Merton Hall Kingston Road site). This did not happen and as shown in the transport statement in application 17/P2668 many users travel to the High Path site by car.
- Exactly the same will occur at the Kingston Road site. It is very unlikely there will be a reduction in car users. Both sites are virtually equidistant from South Wimbledon Underground Station and a variety of bus routes.
- There is more incentive to travel by private vehicle in the evening especially with such a late proposed closing time.
- Users travelling by car will park in the surrounding streets. A large number of cars all leaving the area at 10.30pm (or later by the time people reach their cars) will disturb the residents many of whom are families with children and working people. They will suffer lack of sleep from the disturbance of people talking as they walk along residential streets and cars starting late at night. This could also affect the academic performance of children disturbed at night.
- A large foyer of 97m² and an additional lobby of 15m² were designed into the redevelopment to allow the congregation to chat inside the building after services and disperse slowly over time, in the evening this would be the hour from 9pm to 10pm. All details in the planning application 17/P2668 were developed in conjunction with representatives from Elim Church Wimbledon, including Pastor Jon Featherstone.
- It is unacceptable that there are now changes being put forward by the church representative(s) and an officer from Merton Council who was also

involved in all the negotiations and the original planning application 17/P2668.

- I refer to the comments from the London Metropolitan Police which raise several of the concerns mentioned above and additional concerns.
- I read with interest that an FOI identified 18 police call outs to event at Elim Church on High Path over the last few years. This demonstrates the sort of disturbance that sometimes occurs at events held in their premises. There is no reason to assume this will change in their new location on Kingston Road.
- The closing time of 10.00 p.m. should apply to all activities whether 15 people or less and administration. The original application was for the building to close at 10pm and this should be adhered to.

Other consultation.

- 5.9 Merton Environmental Health. No objections to proposals as amended (open up to 10.30) provided condition 9 is adhered to.
- 5.10 Metropolitan Police. Comments to proposals as first submitted. Concerned that extending the use of the church to 11 p.m would encroach into the 11 p.m period of low noise. Groups of people leaving the church may cause an increase in the volume of noise into the 11 p.m to 7 a.m period of low noise. Groups of people leaving the church may cause an increase in the volume of noise that exceeds the permitted levels of noise of 34 dBA if the underlying level of noise is no more than 24 dBA or 10 dBA above the underlying level of noise if this is more than 24 dBA. This would cause an increase in the amount of noise nuisance and anti-social behaviour calls to the police and the council.
- 5.11 The use and effects of transportation modes to take the churchgoers away from the church can have a significant impact on the quality of the public realm and nearby residential homes in terms of noise. The applicant should evidence the plans to mitigate against any noise pollution.
- 5.12 A noise impact assessment should be requested to ascertain the levels of noise potentially caused from actions of groups of people dispersing from the church.

6. POLICY CONTEXT

6.1 London Plan Policy 2016 policies.

3.1 Ensuring equal life chances for all

3.16 Protection and enhancement of social infrastructure

7.4 Local character

- 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
- 6.2 Merton Core Strategy 2011 policies
CS 11 Infrastructure
CS20 Parking, Servicing and Delivery
- 6.3 Merton Adopted Sites and Policies Plan 2014 policies
DM C1 Community facilities
DM D2 Design considerations
DM EP2 Reducing and mitigating against noise
DM T2 Transport impacts of Development

7. PLANNING CONSIDERATIONS

- 7.1 The planning considerations in this case relate to the impact on the operation of the church, neighbour amenity and traffic and parking.
- 7.2 Core Planning Strategy Policy CS11 and SPP Policy DM C1 encourages improvements to existing community facilities and places of worship, including encouraging services to be co-located where possible. The policies state that facilities should be provided in accessible locations with good links to public transport, should be adaptable and suitable to accommodate a range of services and should not have an undue adverse impact on the amenities of nearby residents or businesses.
- 7.3 The use of the site as a place of worship along with associated facilities having already been found acceptable by the Council remains unaltered by this application. It is the extension of its operational hours which is the subject of review alongside the objections to the proposal which are primarily related to a perceived adverse impact on neighbour amenity.
- 7.4 SPP policy DM D2 and London Plan policies 7.4 and 7.6 also require that proposals do not have a negative impact on neighbour amenity from increased disturbance and that people feel comfortable with their surroundings.
- 7.5 Existing soundproofing conditions mean that any noise generated within the actual auditorium itself should not be audible outside of the site. In the event that it is then the Council is already in a position to take enforcement action if it is deemed necessary.
- 7.6 Officers would also note that the proposals would not increase the numbers of worshiper or the number of religious gatherings on site.
- 7.7 It is the extension of the times of those events that has generated concerns from neighbours regarding noise and disturbance from the

congregation leaving the site late at night and returning to their cars on the surrounding side streets.

- 7.8 The changes would allow for services to continue until 10pm and then allow time to leave the building within the additional 30 minutes being sought. During the course of assessing the application officers have pursued amendments to limit the extension from an additional hour to an additional half hour. Members may consider that an extra half an hour is a reasonable extension to the regular hours of operation that would not have an undue adverse impact on the amenity of neighbours.
- 7.9 Condition 8 currently provides for the use of the building beyond 10 p.m subject to the written agreement of the local planning authority. While such a condition seeks to provide for flexibility in the event of, for example, a Christmas eve service, that might run later than 10.00, or perhaps an all-night vigil its operation has the potential to prove cumbersome with the applicant routinely reverting to the council as local planning authority to sanction various one off extensions of hours of operation. The proposed amended wording would enable the operator to log and record events so as to enable the Council if necessary to scrutinise this in order to verify compliance with the condition.
- 7.10 Again, while Condition 8 would enable small groups (for example an events committee and the like) to use the building after 10 p.m this too would currently need to be the subject of written submissions to the Council in order to seek approval. The prime potential source of activity outside and beyond the buildings is considered to be that associated with services in the main hall. A planning condition should meet the test of reasonableness and it may be considered that the noise and activity associated with departures from the building by a group of no more than 15 people would not be significant or warrant such a restriction and that this could reasonably be included in the wording of a revised condition.
- 7.11 Objections have also been concerned with the impact of parking on the area. When the original consent was granted it was considered that the proposals for the use would generate up to 70 additional vehicles in the area for members of the congregation. The proposals will not impact on this number but it is acknowledged that congregation members would be returning to their cars later than would be the situation without the variation of the condition. It is conceivable that the pattern of departures of those leaving by car would not be any different after 10 p.m than were the premises to close before 10 p.m. While its effect may be more advisory than mandatory members may feel it would be prudent to recommend as part of the management arrangements of the church signage to be displayed in the premises requiring the congregation to respect the amenities of neighbours and to leave quietly at the end of services.

- 7.12 Above and beyond planning controls Councils can investigate complaints of statutory nuisance to tackle noise produced at any time of day or night. They may also issue warning notices in response to complaints about noise above permitted levels from 11pm to 7am. These warning notices can be used by councils for noise that's not a statutory nuisance.

The warning notice must tell the recipient:

- that the noise is coming from the premises between 11pm and 7am
- that the noise exceeds, or may exceed permitted levels as measured from within the complainant's dwelling
- that the noise must be reduced to below the permitted level in a specified period (this must be at least 10 minutes after the notice is served and must end by 7am)
- what time the notice is issued.

It is considered that the Council's wider powers provide adequate checks and balances so as to safeguard the amenities of the wider community.

8. Conclusion

- 8.1 The use of the building as a place of worship has been approved by members. On a day to day basis the change would be to allow the congregation an additional 30 minutes to leave the premises, allow up to 10 unrestricted events per year and allow for non-religious administration meetings of up to 15 persons to take place beyond the current 10pm limit.
- 8.2 The current amended hours proposed reflect a reduction on the original proposed change of hours that was applied for. As a matter of judgement it is considered that the amended hours provide for a more robust and enforceable condition and that the change in impact on neighbour amenity over and above that of the current condition would not warrant a refusal of the application. The proposed variation of condition is recommended for approval.

RECOMMENDATION. Grant variation of Condition 8 of planning permission reference 17/P2668 and issue a new permission incorporating a varied hours of opening condition along with other relevant conditions previously imposed.

[Click here](#) for full plans and documents related to this application.

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