

Rosalind Bentley

From: Delwyn Jones
Sent: 12 November 2012 16:37
To: Planningecons; Daniel Vick
Subject: RE: Planning Consultation on: EG/59/12/ 17 Elm Grove - D1 school building to D1 Church hall

Dan,

We met on 8 November 2012 last week about this.

This has a background in a CLEUD [for a change of use from D1 to C3 which was refused] and now there is an application for operational works connected with a change of use to a church gospel hall [ref EG/59/12 see below].

I have given more thought to the issues.

I list and address the issues we discussed :-

1.what Use Class do the school hall /gospel hall fall into ?

Both are D1 ---see Land Use Gazetteer. See also Land Use Classes Order 1987 Part D1(c) education and (h) religious purposes.

It appears that the building has had a chequered /variable history with occasional changes ----but the last use was "teaching " ie D1.[see CLEUD file]and references on the enforcement and application file.

2. Consequences of letter from Enforcement and other files information ?

I think that the Use Classes Order and Land Use Gazetteer are of more significance and say this is a D1 use.

However ,I have seen the CLEUD file ref EG/36/11/CLE ,which is public, as is the report on ref EG/59/11 confirms a D1 use .Both these refer to the building being used as D1 use. Combined with the letter dated 27 June 2012 plus these files, I think in terms of a reasonable approach to a planning application that a D1 use is unarguable and difficult to argue or deny, irrespective of estoppel/reasonable expectation.

The law now is that seldom will a Council be bound by a letter or commitment written to another unless in very express terms.The letter dated 27 June 2012 is sufficiently qualified not to bind the Council [Reprotech v East Sussex County Council and Lewes DC 2001] but other factors must be looked at too [see above].I think in combination these make it impossible to argue against D1 use.

I can take you through the files if needed to show D1 references.

3. Consequences of both being D1 uses ?

This is that it is possible to change from one use to another without planning permission :see UCO 1987 Art 3(1).

4. Remedies for noise ,traffic [pedestrian and motor vehicle]

I suggest that the Council are best addressing these issues via conditions and /or statutory nuisance powers.I think seeking to argue for changes of use is problematical given the number of times the Council has described the existing use as D1 School.

I think you could seek EHO advice on whether what noise insulation is required because it would be under 11/95:-

- 1 necessary due to improved and heightened noise reduction expectations
2. related to the development and planning in general

Alternatively EHO will have to monitor and address these matters.

I think I have answered the questions asked but feel free to ask for more.

Delwyn Jones | Planning Solicitor and Deputy Monitoring Officer , Legal Services, [Arun District Council](http://www.arun.gov.uk) | Location: First Floor, Arun Civic Centre, Maltravers Road, Littlehampton, BN17 5LF

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Save the environment - think before you print.

From: planningecons@arun.gov.uk [mailto:planningecons@arun.gov.uk]

Sent: 03 October 2012 09:31

To: Delwyn Jones

Subject: Planning Consultation on: EG/59/12/

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To: **Planning Solicitor- Delwyn Jones**

NOTIFICATION FROM ARUN DISTRICT COUNCIL

Town & Country Planning Act 1990 (as amended)

Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended)

Planning Permission

APPLICATION EG/59/12/

NO:

Registered: 7th September
2012

Site Address: 17 Elm Grove South Barnham PO22 0EJ

Grid Reference: 495505 104712

Description of Works: Laying of permeable hardstanding, A/C unit/enclosure, handrail and external lighting

The Council have received the above planning application. I shall be pleased to receive any observations you may wish to make.

[Click here to view the application details](#)

Should you have any comments to make, these should be sent by replying to this

email

by 11-OCT-12.

You can also monitor the progress of this application through the Council web site:

www.arun.gov.uk/planning

Please be aware that any comments you may make will be available on our website so please do not insert personal details or signatures on your reply.

In the absence of a reply within the period stated, I shall assume that you have no observations to make.

The application will be determined having regard to the development plan policies (if any are relevant) and other material considerations. The development plan can be accessed via the website as can the leaflet which deals with material planning considerations.

Should the application go to appeal the Planning Inspectorate will publish any comments made to the Council on their website:

www.planningportal.gov.uk/planning/appeals/ but they will protect personal details.

The officer dealing with this application is Mrs S Leeson who can be contacted on telephone number 01903 737769.

Regards

Planning Officer

consultee_email
