



Application No: 150809

Location: St Johns C of E Primary School, Clay Lane Grove, Colchester, CO4 0HH

Scale (approx): 1:1250

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7.2 Case Officer: Nadine Calder **Due Date: 25/06/2015**

MINOR

Site: **Clay Lane Grove, Colchester, CO4 0HH**

Application No: **150809**

Date Received: 30 April 2015

Applicant: St Johns C Of E Primary School

Development: Variation of conditions 3 and 4 of planning permission 090126 to allow 30 pupils to use the building and to allow opening of the building from 0745 hours to 1800 hours Monday to Friday during term time.

Ward: St Johns

Summary of Recommendation: Conditional Approval

1.0 Reason for Referral to the Planning Committee

- 1.1 This application is referred to the Planning Committee at the request of Councillor Paul Smith and for the following reason:

“The reason for the call in follows the concerns of Mr Wright, namely that the school only gained permission for an extension in December 2014, yet within 6 months this proposal has changed to introduce an increase in child numbers and opening times. Before the build has even been started, the school are now asking for a 50% increase in numbers and an earlier 7.45am start. There is concern that this will result in loss of privacy and that there will be parking congestion for longer times, along with increased noise levels to adjacent property. However, I have not yet heard the school’s argument for the development and there may well be counter arguments around the community benefits, which would then need to be balanced against these concerns. The Planning Committee are therefore asked to consider this balance in detail.”

2.0 Synopsis

- 2.1 The key issues explored below are the impact of the proposed increase in the number of children allowed and the earlier opening hours of the building, the subject of this application on the amenities of neighbouring occupiers, in particular No. 7 Clay Lane Grove directly to the north of the building. Also under consideration are the potential impacts the proposal may have on highway safety and/or efficiency. A careful assessment has been made on site and having had regard to representations received from local residents as well as comments from statutory consultees, it is considered that the proposal would not cause any material harm to neighbouring amenities and would not have any detrimental impact on highway safety and/or efficiency. Nevertheless, in order to critically monitor the situation, it is proposed to grant temporary consent for one year and impose further conditions on the use of the building to ensure that the amenities of neighbouring occupiers are safeguarded at all times.

3.0 Site Description and Context

- 3.1 The school sits in a backland position between St John's Road, St John's Close and Ipswich Road. It is accessed via Clay Lane Grove off St John's Close or via a pedestrian access from St John's Road.
- 3.2 The nursery building is located in the north eastern corner of the site, immediately on the left of the Clay Lane Grove entrance of the site. It is a small flat roofed building and sits close to the boundary of the site with the neighbour at 7 Clay Lane Grove. The entrance is located on the side of the building nearest to this common boundary. The nursery play area is set to the rear and runs alongside the neighbour's private amenity area and tapers to a point.
- 3.3 The school is fenced off from the public domain and has automated gates at the Clay Lane Grove entrance. The nursery is fenced off again inside this area.

4.0 Description of the Proposal

- 4.1 The school has run a before and after school club known as 'Playzone' since 2009 when planning permission was granted for the conversion of the caretaker's bungalow to a nursery. The use of this building was restricted to a maximum of 20 children at any one time (condition 3) and between the hours of 08:00 and 18:00 on any one day and is restricted to use when St John's C of E Primary School is also open to children for schooling (condition 4).
- 4.2 The current application seeks to vary these conditions to allow an additional 10 children to use this building for the before and after school clubs (resulting in a maximum of 30 children at any one time) and to extend the hours of use by 15 minutes in the morning, resulting in the building opening at 07:45 instead of 08:00.
- 4.3 There are no physical works proposed as part of this application nor is it proposed to increase the total number of children visiting St John's C of E Primary School.

5.0 Land Use Allocation

- 5.1 The application site is located in a predominantly residential area.

6.0 Relevant Planning History

- 6.1 The following planning history is relevant to the current proposal:

C/COL/03/1841	Change of use of caretakers bungalow to pre-school nursery	Approved 2004
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090126	Use of caretakers bungalow for child day nursery and other child education purposes	<p>Approved 2009</p> <p>Condition 2 limited use solely to child day care/nursery and other child education purposes</p> <p>Condition 3 limited the use to a maximum of 20 children at any one time</p> <p>Condition 4 limited use to 0800 to 1800 hours on school days only</p>
100610	Extensions and new security gates and fencing	Approved 2010
110027	Application to change the hours of use to 2200 on weekdays and 0830 to 1800 at weekends	Refused 2011 due to the lack of information regarding the proposed use and the possibility it could be demonstrably harmful to neighbouring amenity
146392	Erection of a single-storey extension and provision of a canopy over parents waiting area and buggy/scooter park to 'Abacus Kindergarten' building.	Approved 2015

7.0 Principal Policies

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National planning Policy Framework (NPPF) must also be taken into account in planning decisions and sets out the Government's planning policies are to be applied. The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental.

7.2 Continuing the themes of the NPPF, the adopted Colchester Borough Core Strategy (adopted 2008, amended 2014) adds detail through local strategic policies. Particular to this application, the following policies are most relevant:

SD1 - Sustainable Development Locations

SD3 - Community Facilities

UR2 - Built Design and Character

TA1 - Accessibility and Changing Travel Behaviour

TA5 - Parking

7.3 In addition, the following are relevant adopted Colchester Borough Development Policies (adopted 2010, amended 2014):

DP1 Design and Amenity
DP4 Community Facilities
DP17 Accessibility and Access
DP19 Parking Standards

8.0 Consultations

8.1 The Highway Authority raised concerns regarding the parking difficulties associated with this proposal, following which the Applicant submitted a supporting statement outlining the proposed development in greater detail. Having regard to the fact that this is not going to be an additional influx of students; i.e. the students are already in attendance at the school, and that allowing more students to arrive earlier will ease the problem at normal school drop off times, the Highway Authority is now content that there will not be a huge detrimental impact on the highway and as such has removed its objection to the proposal.

8.2 Environmental Protection does not object to the proposal subject to conditions. These are discussed in the Report section below.

In addition to the details reported above, the full text of all consultation responses is available to view on the Council's website.

9.0 Parish Council Response

9.1 This area is non-parished.

10.0 Representations

10.1 Five letters of objection on behalf of two households were received. The main objections can be summarised as follows:

- Overdevelopment of the site
- Increase in traffic movements
- There are existing parking problems at these times / lack of adequate parking
- Loss of privacy / overlooking
- Increase in noise and disturbance
- The school is in an unsustainable location

The full text of all of the representations received is available to view on the Council's website.

11.0 Parking Provision

11.1 The proposed development would not have an impact on the provision of parking. The impacts of the proposal on highway safety and efficiency are assessed in the sections below.

12.0 Open Space Provisions

12.1 There is no requirement for the provision of open space in connection with this application.

13.0 Air Quality

13.1 The site is outside of any Air Quality Management Area and will not generate significant impacts upon the zones.

14.0 Development Team and Planning Obligations

14.1 This application is not classed as a “Major” application and therefore there was no requirement for it to be considered by the Development Team and it is considered that no Planning Obligations should be sought via Section 106 (S106) of the Town and Country Planning Act 1990.

15.0 Report

Background

- 15.1 There has been some confusion as to the scope of the current application given the limited information that was submitted it. The Applicant has therefore been requested to provide a supporting statement outlining the details of the proposal. The Applicant’s statement was made available to members of the public on the Council’s website, however, no further neighbour consultations were carried out as the nature of the proposal the subject of this application did not change. The additional information simply provided clarification with regards to the scope of and the motivation behind the proposal. It also assisted in addressing some of the concerns that were raised by statutory consultees.
- 15.2 It is important to note that the current application solely seeks permission to allow an additional 10 children to use the existing nursery building which is currently restricted to a maximum of 20 children at any one time and to allow the building to open 15 minutes earlier in the morning (i.e. 07:45 instead of 08:00).
- 15.3 Therefore, this application does not seek to increase the number of children visiting St John’s C of E Primary School. In the spring term 2014 the school was asked by Essex County Council to accept a ‘bulge’ year group of pupils totalling 30 children to start at the school in September 2014. This was due to a lack of primary school places for children in the North Colchester Area. As a result, at the beginning of the current academic year, the school roll increased from 211 to 241 children.
- 15.4 Within the supporting statement, the Applicant explains that the before and after school club, known as ‘Playzone’, supports the parents of children in the school by enabling them to drop their children at school early and to pick them up late. Playzone has only ever been accessible for children who are on roll at the school. However, as a result of the increase in the total number of pupils in September 2014, there is now an increased need for places in Playzone. Playzone’s operational hours are 07:45 to 08:45 and 15:15 to 18:00. Currently, the school accepts children into the main building at 07:45 and then transfers them to the Playzone building at 08:00 given the restrictions for the hours of use for the building.

- 15.5 The building the subject of this application is located to the north east of the main school building, directly adjacent to the entrance to the site off Clay Lane Grove and to the south of the neighbouring residential property No. 7 Clay Lane Grove. Given its location in a predominantly residential area, the application site is surrounded by residential dwellings to the north, east and south with Ipswich Road running along the west of the site. Having established the site specific circumstances of the application building and the scope of the proposal, the key issue with regards to this current application relates to the impact the increase in the number of children using the nursery building and the additional 15 minutes in the morning may have on the amenities of neighbouring occupiers in terms of noise and disturbance. Particular consideration has to be given to the amenities of the occupiers of No. 7 Clay Lane Grove given their proximity to the building.

Noise Generation and Impact on Neighbouring Amenity

- 15.6 Given that this application only relates to the before and after school club, any argument raised on noise grounds can only relate to the increase of up to 10 children using this club during the proposed hours of use and not to the current use of the nursery or the school itself.
- 15.7 The occupiers of No. 7 Clay Lane Grove are concerned that the increase in the number of children using the before and after school club would result in increased noise levels by up to 50 per cent, impact on their quiet enjoyment and negatively affect their privacy. It is acknowledged that the application building is located in close proximity to their dwelling and private rear garden, however, the proposed increase in hours of use and the number of children is not considered to have any materially harmful impact on the privacy of the neighbouring occupiers. During a site visit to the school, it was noted that any overlooking from the nursery building to the neighbour and their side facing windows would be very oblique. On the ground floor, there are two small windows, one of which is obscure glazed. On the first floor, there are two further windows, however, one of them serves a bathroom and is therefore obscure glazed while the other serves the landing, i.e. a non-habitable room. There is also a second floor window high up into the gable.
- 15.8 With regards to the two first floor windows, it is not considered that the proposed development would result in any overlooking that would harm the privacy of the neighbouring occupier, despite increasing the number of children using the building by up to 50 per cent, given that these two windows serve rooms that one does not generally spend a great deal of time in. Furthermore, the bathroom window is obscure glazed, thereby safeguarding the privacy of the neighbouring occupiers. Reference is also made to the possibility of looking into the bedroom windows from the playground at the rear of the building and into the living room from the area to the front of the building. Contrary to their objection comments, this area to the front of the building is not proposed to be an additional play area. Notwithstanding this, there is a mature hedge along the boundary of the application site and the neighbouring property and, therefore, there are no direct views into any ground floor windows on the neighbouring property from within the application site.

- 15.9 The outside space to the rear of the building, i.e. the area adjacent to the neighbouring rear garden, which the objectors state provides children with direct views into their bedrooms, is an existing play area and there are no restrictions in place that prevent the school from using this space as such for the 20 children that are allowed to be in the building at present. The objectors argue that an increase in the number of children being allowed within this building at any one time would increase the number of children that could look into their rear facing windows. It has to be noted that the size of the outside play space is fairly small and it is not considered that 30 children would be able to play in this area at any one time, however, it is understood that this nevertheless has to be accepted as a possibility. Therefore, the consideration has to be whether the increase in the number of children using this space would affect the privacy of the neighbouring occupiers to such a degree that would be materially harmful. During a site visit, it was noted that the rear facing window is set back a good 2.5 to 3 metres from the flank wall of the property and as such, it is considered unlikely that the privacy of the occupiers of No. 7 Clay Lane Grove would be materially affected even if the outside space were to be used by up to 30 children. The position of the window simply makes the angle of potential overlooking too oblique to cause any material harm to the amenities of neighbouring occupiers to justify a refusal on that basis.
- 15.10 Whilst it is not considered that the increase in the number of children using the building and its outside space would result in a materially harmful impact on the privacy of the neighbouring occupiers, it could have an impact in terms of noise and disturbance. This matter has been discussed at length with the Council's Environmental Protection Service which has previously received complaints regarding noise from the nursery. However, whilst consideration has to be given to the fact that the neighbouring residents are impacted on by the use of this building in such close proximity to their home, it has to be reiterated that this application does not relate to the nursery itself but solely to the use of the building for the before and after school club.
- 15.11 Notwithstanding this, detailed discussions were held with the Environmental Protection Officer to seek mitigation measures that would allow for the school to be able to meet the demand for their Playzone club while simultaneously seeking to reduce the impact this may have on the neighbouring occupiers to a minimum. Whilst it is considered unlikely that all 30 children would play within the outside space to the rear of the building at any one time, given its limited size, it is proposed to restrict the number of children that can use this space to a maximum of 20 which would be in line with its current permitted use. This would ensure that the outside activities directly adjacent to the neighbouring rear garden would be kept at their current level and would therefore not result in any increased noise and disturbance. Similarly, it is suggested that a condition shall be imposed requiring all windows and doors within the northern elevation of the building, i.e. those openings facing the neighbouring property, to be shut at all times except for access and egress to and from the building. These conditions have been discussed with the Applicant who has confirmed that they would be happy to comply with these requirements. It should be noted that whenever possible, the after school club uses the school's playing field for their outside activities while during bad weather the children would stay inside. As such, there are alternatives to the relatively small outside playing space directly adjacent to the rear garden of No. 7 Clay Lane Grove.

- 15.12 Having regard to the above, Officers are satisfied that the proposal to increase the number of children using the building would not give rise to any materially harmful impact on the amenities of neighbouring occupiers given that the outside play space would not be subjected to an increased number of children using it at any one time. However, in an attempt to allow neighbouring occupiers, in particular the occupiers of No. 7 Clay Lane Grove, to monitor the potential impacts of the increased activity within the nursery building, it is suggested that a temporary consent for one year should be granted. This would allow for the Applicant and neighbouring occupiers as well as the local authority to closely monitor the activities on site and to revisit the proposal in a year's time when a full assessment of the increased activity associated with the proposal based on the previous year can be made.

Traffic and Parking

- 15.13 As stated above, the proposal the subject of this application does not relate to an increase in children visiting St Johns C of E Primary School, it simply allows for up to 10 children making use of the school's existing before and after school club. Whilst initially raising concerns regarding the parking difficulties associated with the school, the Highway Authority has been provided with the Applicant's supporting statement which addresses those concerns. Having regard to the fact that this is not going to be an additional influx of students the Highway Authority does not consider there to be a huge detrimental impact on the highway raises no objection to the proposal.
- 15.14 Given that the children using the before and after school club already attend the school, the proposal would not result in an increase in the total number of car movements, it would simply allow for some parents to drop their children off earlier as well as picking them up later (which they do already). This would ease the problem at normal school drop off times.
- 15.15 The Applicant has confirmed that, at present, parents drop their children off on or around 07:45 for the breakfast club which runs from 07:45 to 08:45. At 07:45 children are allowed inside the main school building before they are transferred to the nursery building at 08:00. In the afternoon, the club runs from 15:15 to 18:00 with children usually being picked up between 16:30 and 18:00. Standard planning condition controls with regards to construction noise relate to the hours between 08:00 and 18:00 with vehicles being allowed to arrive after 07:30 and leave no later than 19:00. It is acknowledged that construction noise is only temporary while the use of the school on this site is more permanent, nevertheless, it is considered that a maximum of up to 10 vehicle movements around 07:45 and between the hours of 16:30 and 18:00 is not unreasonable. Similarly, given the fact that many children are already dropped off before 07:45, it is not considered that the proposal to open the nursery building 15 minutes earlier than what is currently allowed would materially change the vehicle movements and/or noise levels that currently exist on site. The main difference between the proposal and the current situation is that children could access the nursery building from 07:45 after having been dropped off by their parents rather than the school having to move the children from the main building into the nursery building at 08:00.

- 15.16 Having regard to the above, it is your Officer's opinion that the proposal would not have any negative impact in terms of highway safety and/or efficiency, nor would the additional vehicle movements in the morning and afternoon/early evening create any materially harmful impacts on the amenities of surrounding residents in terms of noise and disturbance.

Other Matters

- 15.17 Objections were received on the basis that the school is not in a sustainable location and is not close to public transport links, thereby failing to comply with policy DP17. This is a matter that has already been addressed as part of the most recent application for the extension of the nursery building and the provision of a canopy (146392). It was established that the application site is located well within the settlement limits of Colchester, surrounded by existing residential properties and is located within walking distance of bus stops. It has to be noted that this is not a proposal for a new building or use, but an alteration to the maximum number of children using it and an increase in the hours of use. As set out in the above paragraphs, the children already visit the school and there will therefore not be an increase in the total number of children on this site or additional car movements, simply a slight variation of up to 10 families dropping their children off at an earlier time and picking them up slightly later in the day. There is, therefore, no conflict with the afore-mentioned policy or the Government's requirement for sustainable transport modes as set out in paragraph 35 of the NPPF.
- 15.18 The objectors also state that condition 4 (hours of use of the nursery building) of planning permission 090126 has been and is being breached by the Applicant. The Planning Enforcement Team has investigated this matter and the Applicant has confirmed that the building was, in fact, used in excess of the allowed opening hours earlier in the year (i.e. from 07:45 instead of 08:00), however, following discussions with, and a site visit from, the Planning Enforcement Officer, alternative arrangements have been made ensuring that the building is only used within the permitted hours. This means that, currently, children are allowed to enter the main school building at 07:45 and are then transferred into the nursery building at 08:00. With this arrangement, there is no longer a breach of condition 4 of the afore-mentioned permission. As there is no need to take further action, the enforcement matter has been closed.
- 15.19 Further enquiries were made as to when the Applicant will provide the two replacement trees they are required to plant in place of those that were removed in favour of the extension to the nursery building (reference 146392). This requirement is embedded into the landscape conditions (5 and 6) which state that 'the approved landscaping details shall be carried out in full prior to the end of the first planting and seeding season following the first occupation of the development'. The Applicant has confirmed that they have identified the location for the two replacement trees and that the requirements of the afore-mentioned conditions for the planting of these trees will be complied with, i.e. that the two trees will be planted within the first planting season following the first occupation of the permitted development.

16.0 Conclusion

- 16.1 To conclude, whilst the views of local residents are understood, Officers are of the opinion that the proposal would not have any materially harmful impacts with regards to neighbouring amenities or highway safety and/or efficiency. A careful assessment of the proposal has been made on site and all objections raised have been discussed at length with statutory consultees as well as the Applicant. It is your Officer's opinion that there is no justification to refuse permission to vary conditions 3 and 4 of planning permission 090126 to allow an additional 10 children in the existing building and to open this building 15 minutes earlier in the morning subject to the conditions set out in the paragraphs above. Notwithstanding this, the Applicant agrees that the proposal needs to be carefully assessed in terms of its potential impact on neighbouring amenity and has agreed to a temporary consent for one year which will allow for the proposal to be revisited next year and will provide the Applicant with an opportunity to justify the acceptability of the proposal in the long term.

17.0 Recommendation

- 17.1 APPROVE subject to conditions.

18.0 Positivity Statement

- 18.1 The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

19.0 Conditions

1 - Non-Standard Condition/Reason

With the exception of conditions 3 and 4 of Planning Permission 090126 which are hereby varied, the requirements of all other conditions imposed upon planning permission 090126 remain in force and shall continue to apply to this permission, including the details and provisions of any approved matters discharging any condition(s) of that permission.

Reason: To avoid any doubt that this application only applies for the variation of the stated condition(s) of the previous planning permission as referenced and does not seek the review of other conditions, in the interests of proper planning and so that the applicant is clear on the requirements they need to comply with.

2 - Non-Standard Condition/Reason

The period of this permission to vary conditions 3 and 4 of 090126 shall expire at the end of the 2015/16 academic year, after which the requirements of conditions 3 and 4 imposed upon planning permission 090126 shall again apply in full. Reason: To enable the precise impacts of the proposal on the amenities of local residents to be assessed and reviewed.

3 - Non-Standard Condition/Reason

For the purpose of the before and after school club, referred to as Playzone club in the supporting statement, all windows and doors within the northern elevation of the building the subject of this application shall be closed at all times except for allowing access and egress to and from the premises.

Reason: To ensure that the development hereby permitted is not detrimental to the amenity of nearby residents by reason of undue noise during the hours of use associated with those clubs.

4 - Non-Standard Condition/Reason

The use hereby permitted shall be limited to a maximum of 30 children at any one time.

Reason: For the avoidance of doubt as to the scope of the permission, as this was the basis on which the application has been considered.

5 - Non-Standard Condition/Reason

The use shall only take place between the hours of 07:45 and 18:00 on any one day that St John's C of E Primary School is also open to children for schooling and at no other time whatsoever, unless otherwise agreed, in writing, by the Local Planning Authority.

Reason: For the avoidance of doubt as to the scope of the permission, as this was the basis on which the application has been submitted and subsequently considered.

6 - Non-Standard Condition/Reason

Notwithstanding the details hereby approved, the use of the outside playing space to the east of the building the subject of this application and directly adjacent the private amenity space of No. 7 Clay Lane Grove shall be limited to a maximum of 20 children at any one time.

Reason: To safeguard the amenities of nearby residential properties.