

P/12/1017/VC

FAREHAM EAST

MRS K GALLIFORD

AGENT: MRS K GALLIFORD

VARIATION OF CONDITION 2 OF P/06/0764/VC (TO ALLOW OPENING OF THE PREMISES BETWEEN 07:30 HOURS TO 18:00 HOURS MONDAY TO FRIDAY)

MANOR LODGE 3 CHURCH PATH FAREHAM HANTS PO16 7DT

Report By

Alex Sebbinger (Ext 2526)

Site Description

The application site comprises a two storey semi-detached property located on the eastern side of Church Path. The site is within the Fareham High Street Conservation Area and is itself a Grade II Listed Building. The building is currently occupied by and used as a nursery.

The site is situated in an edge of town centre location, with a number of commercial/office/entertainment facilities in the vicinity. However some surrounding properties are residential, including a first floor flat above the chiropodist studio in the adjoining unit.

Description of Proposal

This application is for the variation of planning condition 2 of planning permission ref: P/06/0764/VC to permit the opening hours of the nursery to be extended by half an hour, so that the premises can be open to the public from 07:30 hours, Monday to Friday.

Condition 2 is currently worded:

The nursery day care centre hereby permitted shall not open for day care provision before 8.00 hours nor remain open after 18.00 hours.

This condition was imposed when the Planning Inspector allowed the appeal in relation to varying the condition to allow an increase in the number of children on the premises.

Policies

The following policies apply to this application:

Approved Fareham Borough Core Strategy

CS17 - High Quality Design

CS5 - Transport Strategy and Infrastructure

Relevant Planning History

Planning permission was granted on 6th October 1997 for the "change of use from residential care home to nursery day care centre with ancillary one bedroom flat". This was the original development concerning the initial change of use on this site.

Planning application ref: P/98/0724/VC was approved on 6th July 1998 for the "variation of condition 1 of P/97/0700/CU (to allow use as day nursery on a permanent basis)."

A subsequent application (ref: P/00/0610/VC) was granted permission on 14th July 2000 for "variation of condition 4 of P/97/0700/CU to increase number of children from 40-46". A further application (ref: P/06/0764/VC) was made in 2006 for "variation of condition 4 of P/97/0700/CU to increase number of children to 52", which was refused planning permission by the Council, but subsequently allowed on appeal in 2007.

When the Inspector allowed that appeal, he added a number of planning conditions, one of which was the hours of use restriction the subject of this application.

A further application was granted permission (ref: P/10/0041/VC) on 18th March 2010 for "Variation of condition 4 of P.06/0764/VC - allowed on appeal (to increase number of children from 52 to 58." This was granted subject to further conditions requiring the installation of soundproofing measures, however it is understood that this consent has not been implemented.

Representations

One letter of representation from Manor Croft (the adjoining property). Object to the application, setting out how works are currently being undertaken to their property to extend their living accommodation and that the windows of the two bedrooms of the completed property are sited directly above the area where most noise is experienced from Nursery staff and children. Concern raised that the lengthened opening hours will add to noise issues that have been an ongoing concern at Manor Croft for some years. Be it extended hours or extra children, both add to nuisance experienced. All windows are single glazed sash windows. Would ask that permission is refused, but in the event permission is granted, that the same conditions as P/10/0041 apply (an approved scheme of sound insulation to party walls), the cessation of hard plastic wheeled vehicles on the hard surfaces of the garden play area (which make a noise) and no play activity to take place in the enclosed area between the two properties. Previous promises to keep all garden activity to the very rear of the garden and keep all internal play away from adjoining rooms have not been kept. The Police have been involved on about four occasions in the last two years in respect of noise disputes. Attention also drawn to the fact that the Good Manors website currently states that a Breakfast Club operates from 07:30.

Consultations

Director of Planning & Environment (Highways) - No objection.

Director of Planning & Environment (Conservation) - No objection as it would not affect the special interest of the listed building or the character or appearance of the Conservation Area.

Director of Regulatory & Democratic Services (Environmental Health) - Would ask that two conditions are attached to any approval granted. Firstly that a condition is added to prohibit the use of the rear garden until after 8am as is currently the case in order to restrict any issue of early morning noise from the use of the garden to neighbouring residential dwellings. Secondly condition 9 of planning permission P/10/0041/VC should be included. This states:

No more than 52 children shall be present at the site at any time until a scheme for sound attenuation measures has been submitted to and approved by the Local Planning Authority in writing. The approved noise attenuation measures shall be fully installed before the additional children hereby permitted attend the nursery and shall be subsequently retained at all times.

REASON: To protect the amenities of the occupiers of Manor Croft, Church Path, Fareham

Planning Considerations - Key Issues

The main issue with this application relates solely to whether or not the extension of the hours of opening will give rise to situations that are detrimental to the living conditions of neighbouring properties to the site itself.

Members should be aware that the 2006 planning application (for increasing the permissible number of children in attendance from 46 to 52) was refused by this Council but subsequently allowed on appeal. At that time, the Inspector added the condition the subject of this application.

Concern has been raised by the adjoining neighbouring property that the current situation gives rise to levels of noise which are considered to be unacceptable, and that any changes to the current method of operation will worsen their living conditions further. Members should also be aware that this matter is currently being investigated by the Council's Environmental Health Officers.

In respect of this application, Environmental Health Officers have raised no objection subject to the imposition of two conditions, one reiterating the requirement to install sound insulation if more than 52 children occupy the premises and the other being that no children should use the rear garden until after 08:00 as is currently the case. In the absence of any specific objection from Environmental Health Officers, refusal of this application on the grounds of amenity would be very difficult to sustain.

Furthermore, when the Inspector was considering the 2006 application the issue of noise was considered in some detail. The Inspector stated that in terms of the use of the garden area, the level of children playing outside was critical to the level of noise and disturbance that may arise from the nursery. In allowing the appeal, the Inspector imposed a condition that restricted the use of the garden so that no more than 12 children were able to play outside at any one time.

The Inspector also addressed the issue of noise transmission through the party wall, doors and windows. At the time of considering the application to permit the expansion of the business to its current level (i.e. 52 children) the Inspector did not consider that sound transmission through walls would be a determining factor as any sound proofing measures would have been determined by the use of the neighbouring buildings and not the number of users.

Members may recall that the 2010 application however (to expand the business to allow 58 children present) was permitted subject to a condition that required the submission and approval of a scheme of noise attenuation to take place before any more than 52 children could be on the premises. Officers consider that in light of the comments made in 2007 by the Inspector, and fundamentally with regard to the fact that Environmental Health Officers have not raised an objection, that allowing the nursery to open thirty minutes earlier will not give rise to an unduly harmful impact on any neighbouring property, in particular Manor Croft.

The use will take place Mondays to Fridays, and given this town centre location in close proximity to other commercial uses it is not considered that an opening time of 07:30 would give rise to levels of noise and disturbance that would be unacceptable. The application is therefore in accordance with Policy CS17 of the Core Strategy.

The conditions recommended by Environmental Health Officers will ensure that formal play or use of the garden for anything other than entry/exit of the premises does not take place. It is not considered necessary under this application to re-impose the condition relating to the need for sound and noise attenuation if the number of children are to increase (as per the 2010 application) as that permission still stands as a separate entity.

Reasons For Granting Permission

The development is acceptable taking into account the policies and proposals of the Development Plan as set out in this report. The proposal is not considered likely to result in an impact of adjoining occupiers and the character of the area. Other material considerations not judged to have sufficient weight to justify a refusal of the application, and where applicable conditions have been applied in order to satisfy these matters. The scheme is therefore judged to be in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and thus planning permission should therefore be granted.

Recommendation

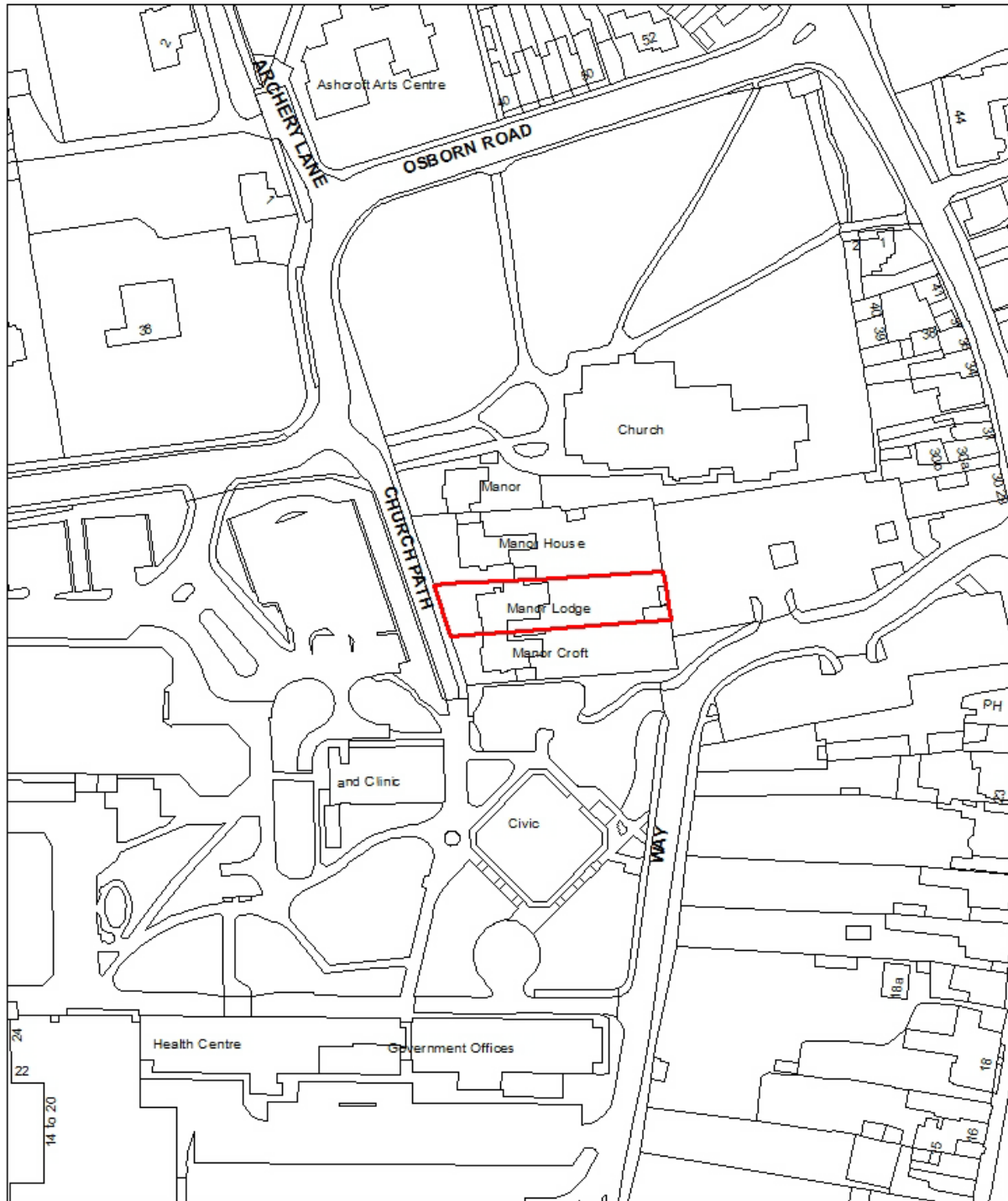
PERMISSION, subject to all conditions attached to P/06/0764/VC but with amended condition 2 (permitting opening 07:30 to 18:00 Monday to Friday), and adding restriction that no use of the garden for play purposes outside the hours of 08:00 to 18:00 Monday to Friday.

Background Papers

P/12/1017/VC

FAREHAM

BOROUGH COUNCIL



Manor Lodge
3 Church Path
Scale 1:1250

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