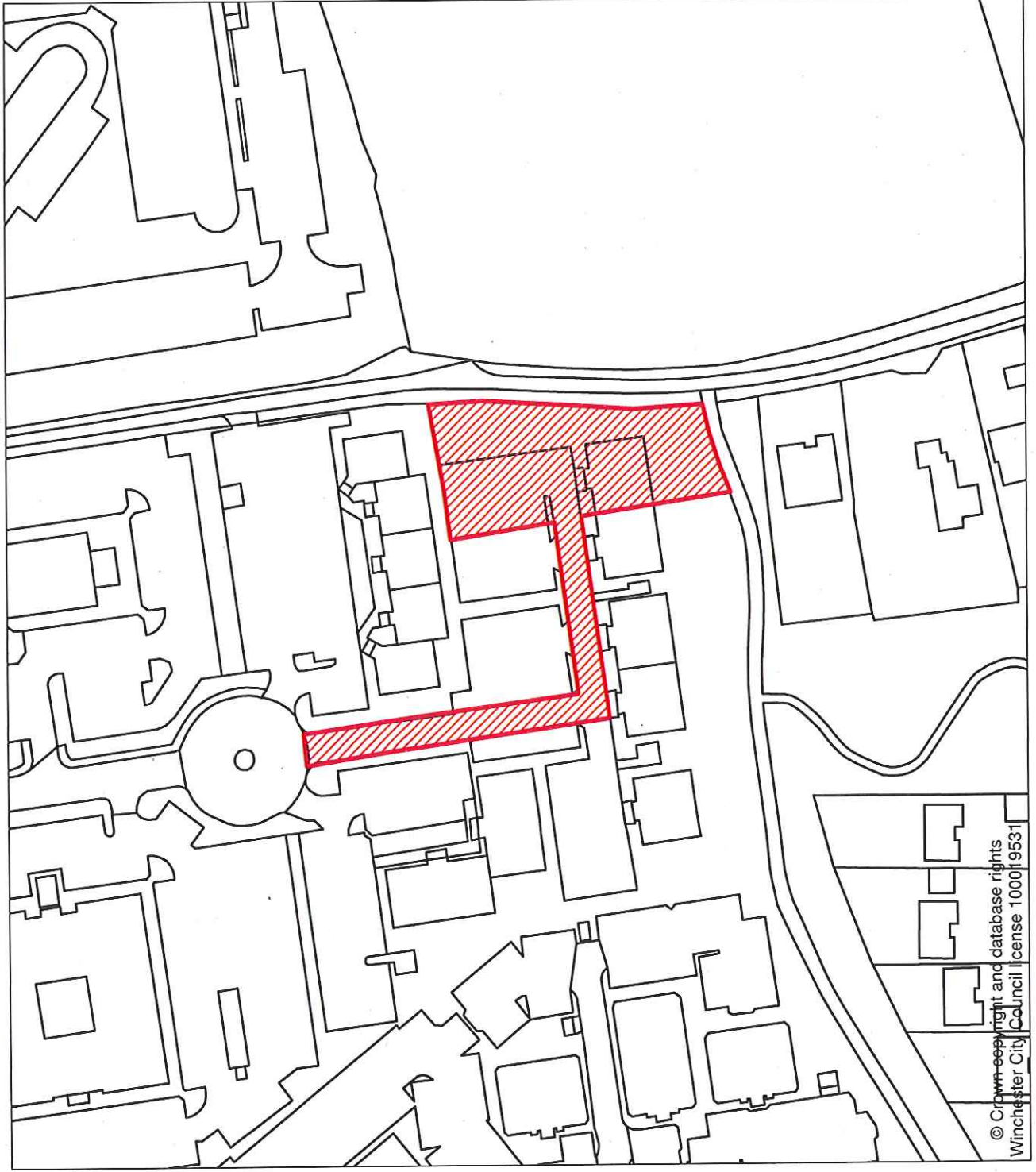


Brooklands House, 1637-1638 Parkway, Whiteley, Hampshire.

16/00772/FUL



Winchester
City Council



© Crown copyright and database rights
Winchester City Council license 100019531

Legend

Scale: 0 0.0125 0.025 0.05 KM

Organisation	^Organisation
Department	^Department
Comments	^Comments
Date	06/07/2016
MSA Number	^PMSA Number

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

Item No: 03
Case No: 16/00772/FUL / WPP-05039992
Proposal Description: Variation of Condition no.4 of Application 14/01182/FUL - To allow the use of the outdoor area for childrens play.
Address: Brooklands House 1637 - 1638 Parkway Whiteley Hampshire
Parish, or Ward if within Winchester City: Whiteley
Applicants Name: Mr Peter Barnet
Case Officer: Russell Stock
Date Valid: 10 May 2016
Site Factors: Civil Aviation
Solent Disturbance and Mitigation Zone
Recommendation: Application Permitted

General Comments

This application is reported to Committee because of the number of objections received. 6 neighbour objections have been submitted along with objections from Whiteley Town Council and ward member Cllr Achwal.

Site Description

The unit is located within the Whiteley parkway development and borders Whiteley Lane and the woodland to the east, residential properties to the south and other units to the north and west. A cycle/footpath runs along the rear (southern) boundary between the unit and the residential properties. The area is well vegetated with numerous mature trees both within and outside of the site.

The unit is a two storey brick building and currently operates as a Children's Nursery having previously been converted from offices. An outdoor area has been landscaped in order to provide suitable play and learning facilities and includes an enclosed fence area with a pergola structure behind the rear doors.

Proposal

To vary condition 4 of application 14/01182/FUL in order to allow the outdoor area to be used for children's play. It has been agreed that this will take place between the hours of 9:00 to 11:45 and 12:45 to 16:30 only.

Relevant Planning History

14/01182/FUL - Change of use from offices to day nursery (Class D1).

Consultations

Environmental protection

No Objection

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

Enforcement

16/00110/USE - Alleged breach of condition 4 relating to outdoor use and extension of site with erection of canopy without planning permission. Pending

Representations:

Town Council

Object, detrimental to the amenities of the nearby residents. Condition 4 required there to be no outdoor activities.

6 representations received objecting to the application for the following reasons:

- Noise concerns, both to residents and businesses nearby.
- Increased traffic due to use of Whiteley Lane for drop off and pickups by parents.
- Encroaching into 'Greenway'
- Sets a precedent.

Relevant Planning Policy:

Winchester District Local Plan Review

DP3, CP9, SF1

Winchester Local Plan Part 1 – Joint Core Strategy

CP15

National Planning Policy Guidance/Statements:

National Planning Policy Framework

Planning Considerations

Principle of development

This application has been made in order to vary condition No.4 which was placed on application 14/01182/FUL which was for a 'Change of use from offices to day nursery (Class D1)' and the condition states that;

"The use as a children's day nursery hereby approved shall take place within the building only. No outdoor activities shall take place in association with the approved use of the building."

Reason: To restrict the use of the premises in the interests of local amenity.

Since the change of use was permitted there has been no change in planning policy, the site is within the main settlement boundary of Whiteley and was previously considered with reference to CP9 and SF1. The only consideration therefore for this application is the use of the outdoor spaces which has been assessed against DP3 (vii) which states that the development 'does not have an unacceptable adverse impact on adjoining land, uses or property'.

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

This application has been made in order to vary condition No.4 which was placed on application 14/01182/FUL which was for a 'Change of use from offices to day nursery (Class D1)' and the condition states that;

"The use as a children's day nursery hereby approved shall take place within the building only. No outdoor activities shall take place in association with the approved use of the building."

Reason: To restrict the use of the premises in the interests of local amenity.

Since the change of use was permitted there has been no change in planning policy, the site is within the main settlement boundary of Whiteley and was previously considered with reference to CP9 and SF1. The only consideration therefore for this application is the use of the outdoor spaces which has been assessed against DP3 (vii) which states that the development 'does not have an unacceptable adverse impact on adjoining land, uses or property'.

To clarify the fence and pergola structures as noted above within the outdoor space are considered to need planning permission with enforcement action on hold until the outcome of this application.

It was identified during the previous application that the use of this unit for a children's nursery would provide employment opportunities whilst making sure that the unit remained in use. It was made clear during the process of the previous application that the intention was not to use the outdoor area as part of this new use. However this is now not the case and this application has been submitted in order to allow this use.

Impact on character of area and neighbouring property

It is understood that the nursery has a business need to use the outdoor area and would probably not be able to operate effectively in this location without the variation of condition.

It has been noted that there have been a number of objections to the variation of condition due to the potential for noise disturbance from the children using the outside area. A site visit has been undertaken by a member of the environmental health team and it was clearly apparent that the noise from the children using the outdoor space will be audible in the gardens of the nearest residential dwellings and will have an amenity impact.

To minimise the noise impact as far as practicable, a close-boarded timber fence has been erected around the perimeter of the nursery and the applicant has agreed that children will only be permitted to use the outdoor area between the following hours: 9:00 to 11:45 and 12:45 to 16:30.

It is considered that the use of the outdoor space will still have a noise impact on the local amenity despite all the mitigation measures that the applicant has suggested. It is also considered that there are not any further measures that the applicant could reasonably take to reduce the noise levels further; nor is there sufficient evidence to suggest recommending that this application be refused on noise grounds.

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

An indicative layout plan has been submitted and showing the areas predominantly to be used in association with the use. It's noted that the mitigation fencing requires planning permission. The full assessment of this and potential for mitigation of the appearance of the fencing will continue to be considered through the open enforcement case.

Landscape/Trees

The trees on site have been retained both within and outside of the erected fence, it is considered that they help screen the site visually and audibly and therefore assist in reducing noise issues.

Highways/Parking

No changes in parking are proposed with this application, it is not expected that this application will impact upon the highways.

Other Matters

Objections have been raised about the impact upon the 'greenway'. The greenway design brief was created to inform the design and layout of the Whiteley development in order to facilitate safe and attractive routes through the new development layout. It is not considered that the use of the outdoor area will affect this by lifting the planning condition 4 which is the only matter for consideration in this application. The use of the outdoor area will need to be enclosed, as noted above the affect of the fence on the greenway will be assessed when the enforcement case is progressed.

The application is therefore recommended for approval as no substantial harm has been identified by the environmental health officer and to facilitate the business need given the previous permission for the site.

Recommendation

Application permitted subject to the following condition(s):

Conditions

1. The use of the internal building permitted by 14/01182/FUL shall only open within the following times 0700 to 1800 Monday to Friday 0800 to 1700 Saturdays and at no time on Sundays or recognised public holidays. The outside area hereby permitted shall only be used between the hours of 09:00 to 11:45 and 12:45 to 16:30 Monday to Friday only.

Reason: To protect the amenities of the occupiers of nearby properties.

2. The development hereby permitted shall be used for a children's day nursery and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order with or without modification).

Reason: To restrict the use of the premises in the interests of highway safety and local amenity.

WINCHESTER CITY COUNCIL
PLANNING COMMITTEE AGENDA

4. The outdoor area shall be enclosed by an acoustic fence, details of this and a noise management plan shall be submitted to and approved in writing by the Local Planning Authority within one month from the date of this permission. The fencing shall then be erected in accordance with the approved plans and the outside area shall thereafter be used in accordance with the noise management plan. The site plan dated 05/04/16 is indicative only and the details on it are not approved within this permission.

Reason: To protect the amenities of the occupiers of nearby properties.

Informatives:

1. This permission is granted for the following reasons:
The development is in accordance with the Policies and Proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.
2. The Local Planning Authority has taken account of the following development plan policies and proposals:-
Winchester District (WD) Local Plan Review: DP.3
3. In accordance with paragraphs 186 and 187 of the NPPF Winchester City Council (WCC) take a positive and proactive approach to development proposals focused on solutions. WCC work with applicants/agents in a positive and proactive manner by;
-updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.
4. All building works including demolition, construction and machinery or plant operation should only be carried out between the hours of 0800 and 1800 hrs Monday to Friday and 0800 and 1300 hrs Saturday and at no time on Sundays or recognised public holidays. Where allegations of noise from such works are substantiated by the Environmental Protection Team, a Notice limiting the hours of operation under The Control of Pollution Act 1974 may be served.
5. During Construction, no materials should be burnt on site. Where allegations of statutory nuisance are substantiated by the Environmental Protection Team, an Abatement Notice may be served under The Environmental Protection Act 1990. The applicant is reminded that the emission of dark smoke through the burning of materials is a direct offence under The Clean Air Act 1993.
6. Please be respectful to your neighbours and the environment when carrying out your development. Ensure that the site is well organised, clean and tidy and that facilities, stored materials, vehicles and plant are located to minimise disruption. Please consider the impact on your neighbours by informing them of the works and minimising air, light and noise pollution and minimising the impact of deliveries, parking and working on public or private roads. Any damage to these areas should be remediated as soon as is practically possible.
For further advice on this please refer the Construction Code of Practice
<http://www.ccscheme.org.uk/index.php/ccs-ltd/what-is-the-ccs/code-of-considerate-practice>