

App.No: 150729	Decision Due Date: 9 September 2015	Ward: St Anthony's
Officer: Anna Clare	Site visit date:	Type: Variation of Condition
Site Notice(s) Expiry date: n/a		
Neighbour Con Expiry: 9 August 2015		
Press Notice(s): n/a		
Over 8/13 week reason: n/a		
Location: St Philips Church, St Philips Avenue, Eastbourne		
Proposal: Application to vary condition 6 of planning permission Reference EB/2002/0465 for the Demolition of the existing church and hall and the erection of new church hall and community facilities, together with 16 flats and six houses, dated 3 March 2004 to allow the use of the garden by up to 12 children between the hours of 10am-12pm and 2pm- 4pm.		
Applicant: Mrs Margaret Barr		
Recommendation: Refuse variation of condition		

Executive Summary:

Application seeks to increase the number of children permissible to use the external play-space at any one time, this is currently limited to 6 children.

This application seeks to increase the number up to 12 children within two two-hour periods per day, outside if this time they would revert to the original limitation.

Despite the proposed limitations on the hours of use it is considered that as this external play space is in close proximity to residential properties that the proposed increase in number of children within this space would be likely to result in a significant and material adverse impact upon residential amenity.

It is recommended that this application should not be supported and should be refused.

Planning Status:

Relevant Planning Policies:

National Planning Policy Framework 2012

1. Building a strong, competitive economy
2. Ensuring the vitality of town centres
3. Supporting a prosperous rural economy
4. Promoting sustainable transport
5. Supporting high quality communications infrastructure.
6. Delivering a wide choice of high quality homes
7. Requiring good design
8. Promoting healthy communities
9. Protecting green belt land
10. Meeting the challenge of climate change, flooding and coastal change
11. Conserving and enhancing the natural environment
12. Conserving and enhancing the historic environment
13. Facilitating the sustainable use of minerals

Local Plan 2013.Core Strategy Local Plan 2013 Policies

B2 Creating Sustainable Neighbourhoods

Eastbourne Borough Plan Saved Policies 2007

HO 20 Residential Amenity

Site Description:

Located at the junction of St. Philips Avenue and Whitley Road and opposite the Fire Station, the existing community hall is currently used as a children's nursery ('Pooh's Nursery School'). The nursery has exclusive use of an outdoor courtyard to the rear of the hall which it utilised as an outdoor play area for the children. Condition 6 of the planning permission dated 3 March 2004 which granted consent for the erection of the new church hall restricted the use of the rear garden to no more than 6 children at any one time.

Relevant Planning History:

020367

Demolition of existing church and hall and the erection of new church hall and community facilities, together with 16 flats and six houses.

Planning Permission

Approved conditionally

03/03/2004

150495

Formation of a playground enclosed by a 1.4 metre high fence and replacement of a window with a door for access. (Amended description).

Planning Permission

Refused for the following reason:

The introduction of a 1.4m high closed board fence would be intrusive and alien in its appearance and out of character with the open plan nature of the area and for that reason would not accord with policies

UHT1 and UHT4 of the Eastbourne Borough Plan 2007 Saved Policies and Policy D10a of the Eastbourne Core Strategy Local Plan.

Proposed development:

The application proposes to vary condition 6 of the planning permission dated 3 March 2004 to allow the use of the rear garden by up to 12 children between the hours of 10am and 12pm and 2pm and 4pm; with the existing use of up to 6 children at other times.

Consultations:

Neighbour Representations:

Objections have been received from the following residents;

Flat 1, Block 2 St Philips Place
Flat 1, Block 3 St Philips Place
Flat 5, 2 St Philips Place
9 St Philips Place
73 Whitley Road
114 Whitley Road
Petition signed by 12 local residents

And cover the following points;

Noise from increased number of children
Size of the garden is not suitable for this number of children

Appraisal:

Principle of development:

The principle of the use of the garden in association with the church hall/nursery was approved under the previous application granted in 2003.

The purpose of this application is to assess whether the increase in the number of children using the garden from 6 to 12 at the times outlined would create significant detrimental impacts on the amenity and enjoyment of the surrounding residential properties to warrant the refusal of planning permission to vary the condition.

Impact of proposed development on amenity of adjoining occupiers and surrounding area:

There have been numerous complaints in relation to the use of the garden by more than the approved number of children and the noise and disturbance this causes to surrounding residents specifically the adjacent neighbour 114 Whitley Road.

The church hall is now exclusively used for the purposes as a Nursery, and the rear garden is used throughout the day by children. The number of

children using the garden was restricted to 6 to minimise the impact on the surrounding residential properties.

It is considered that the use of the garden has the most impact on the immediately adjacent neighbours of No.114 Whitley Road and Flat Blocks 2 and 3, St Philips Place. In particular 114 Whitley Road is located to the east of the site, the Nursery's garden is level with the rear elevation of the property and therefore the use is particularly overbearing on this property.

Whilst it is acknowledged that the Nursery want to provide as much outdoor play as possible for the children it is considered this should not be at the detriment of the surrounding residential properties.

It is considered that the increase in the number of children from 6 to 12 would significantly increase the noise generated detrimental to the amenity of the adjacent residential properties contrary to saved policy HO20 Residential Amenity of the Borough Plan 2001-2011 and Policy B2 Creating Sustainable Neighbourhoods of the Core Strategy Local Plan 2013.

Human Rights Implications:

The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

Conclusion:

For the reasons set out above it is considered that the increase in the number of children using the rear garden area from 6 to 12, even for short periods of the day, would cause significant detrimental impacts by virtue of the noise generation, on the surrounding residential properties and therefore it is recommended that planning permission to vary the condition is refused for the following reason;

Recommendation:

Refuse

The increase in the number of children from 6 to 12 would significantly increase the noise/activity generated in close proximity to noise sensitive residential boundaries detrimental to the amenity and enjoyment of the adjacent residential properties contrary to saved policy HO20 Residential Amenity of the Borough Plan 2001-2011 and Policy B2 Creating Sustainable Neighbourhoods of the Core Strategy Local Plan 2013.

Appeal:

Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be **written representations**.