Recommendation Report for Planning Permission

REF NO: **FP/217/15/PL**

LOCATION: 59 Downview Road
Felpham

PROPOSAL: Partial change of use from dwelling house (C3 Dwelling Houses) to allow childminding within the dwelling (maximum of 12 children).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The proposal concerns the use of the existing side conservatory, the existing playroom area of the house and part of the garden. It should be noted that the use has commenced and so this applications seeks retrospective consent.
SITE AREA	895m2.
RESIDENTIAL DEVELOPMENT DENSITY (NET)	N/A.
TOPOGRAPHY	Predominantly flat.
TREES	None affected by the proposed development.
BOUNDARY TREATMENT	Solid close boarded fence (part 2m/part 1.6m) to the boundary with no. 61. 1.8m solid close boarded fence to the boundaries with no. 57 and with no. 14 Walsham Close to the rear. The applicant has stated that these fences are designed to minimise noise.
SITE CHARACTERISTICS	2 storey large detached house in brick/render and a tiled roof. Deep rear garden. Conservatory to the side. The use is confined to two of the indoor rooms and the conservatory (which itself forms the child-minding entrance). Space for parking in the front garden. The applicants have recently expanded this area and have an in/out driveway arrangement with more hardstanding available for parking.
CHARACTER OF LOCALITY	Residential area. It was noted during the site visit that there is existing background noise from the external areas of Downview Primary School approximately 228m to the west.

In terms of neighbouring properties, no. 61 has a large single storey garage on the affected side but does have rear facing principal windows and first floor flank windows which overlook the site. No. 57 has velux windows in the roof which overlook the site.

RELEVANT SITE HISTORY

FP/135/00/	First floor and two storey rear extension	ApproveConditionally 13-10-2000
BR/29/48	Garage	ApproveConditionally 18-09-1948
BR/29/48/A	Alterations and additions	Approve 28-03-1957
BR/235/72	Extensions and alterations	Approve 31-05-1972

None.

REPRESENTATIONS

Representations received:

Felpham Parish Council

"No objection"

3 letters of objection raising the following issues:

* Noise disturbance from use of the garden and playroom;
* Insufficient parking;
* Damage to front verge from people parking on the road; and
* 12 children is excessive & unreasonable in a domestic setting.

One of the objectors also lists several issues with the application form/supporting statements and also suggests a number of planning conditions designed to avoid setting a precedent. Concern is also raised as to the role of West Sussex County Council in the application process as they have funded improvements to the business.

1 letter of support stating that:

* The owners do a fantastic job;
* There are limited facilities in Felpham; and
* There have never been any issues with the running of the business.

Comments on Representations received:

Comments noted. However, it is not considered necessary to respond with regard to the concerns raised with the application form/supporting statements as the application has been

validated. Furthermore, it is not considered that this application will set any precedent. Applications are determined on their own merits and with regard to site specific characteristics. It should also be noted that there have not been any representations made by any adjoining neighbours.

CONSULTATIONS

Environmental Health
WSCC Strategic Planning

Consultations responses received:

WSCC Highways - No objection subject to conditions. Comments in full bellow:

"This is the second WSCC highways and transport response to the above planning application for partial change of use of the dwelling house to a D1 day nursery (already existing) for up to 12 children. This report follows two site visits and submission and consideration of additional information from the applicant - namely parking plan and discussion about a Travel Plan. All comments are based on the nursery having a maximum number of 12 children. If any more are proposed, the LPA is asked to stipulate that this would require a separate planning application.

Access and Parking plan.
A drawing showing on-site parking and turning was attached to an email from the Local Planning Authority (LPA) to the Highway Authority (HA) - Simon Davis to Tim Townsend dated 2nd February 2016. The drawing appears to be representative of what is currently being constructed on-site. As such, it is recommended that a condition to secure this in its final state (with pedestrian visibility splays) be attached to any planning permission.

Travel Plan Statement.
To encourage use of the on-site parking (and to discourage parking on Downview Road), a Travel Plan Statement should be produced by the applicant to, amongst other things, require the Nursery to write to all parents/carers setting out vehicular access arrangements and to encourage them to use the on-site parking and turning facilities. In addition, information to inform and encourage use of public transport and other sustainable ways to travel should also be included. This should also be secured by planning condition.

Landscaping.
Following site visits to the site, it has been apparent that the verge outside the site has been parked on and damaged. As well as marks from drivers parking alongside Downview Road with wheels on the verge, because the applicant has widened the northern entrance by cutting back the hedge right down to the ground (only part-removal is required for visibility purposes), some drivers are using this whole width and, because the width of the opening doesn't correspond with the actual dropped kerbs, driving over the verge when exiting. To prevent this, the applicant should provide planting alongside the southern edge of the northern access point to prevent drivers overriding the corner and verge and directing them towards using the actual dropped/lowered kerb forming the exit to Downview Road. As for parking and Travel Plan, this too should be secured via condition as part of any planning permission."

ADC Environmental Health - No objection subject to a condition. Comments in full below:

"I note that there have been complaints about noise from children playing in the garden at this property and whilst these have not been substantiated as a statutory nuisance there is a potential that 12 children using the garden could cause considerable disturbance to neighbouring residents if not limited. I note that the applicant has already implemented some

controls over the use of the garden and ...." (a planning condition is suggested to control noise emanating from the garden).

Comments on Consultation responses:

Comments noted and condition applied. It should be noted that the wording of the WSCC Highways conditions as stated in their full response on the Councils website have been altered in order to better relate to the fact that the use has already commenced.

POLICY CONTEXT

Designations applicable to site:

Within Built Up Area Boundary;
Tree Preservation Order; and
No Public Sewer.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	GEN7	The Form of New Development
	GEN12	Parking in New Development
	GEN32	Noise Pollution
Publication Version of the Local Plan (October 2014):		D DM1 Aspects of Form and Design Quality QE DM1 Noise Pollution T SP1 Transport and Development
Felpham Neighbourhood plan 2014 POLICY BT1		Support business expansion

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The Development Plan consists of the Arun District Local Plan 2003, West Sussex County Council's Waste and Minerals Plans and Made Neighbourhood Development Plans.

Arun District Council's Development Plans:

Paragraph 215 of the NPPF ensures that specific policies in Arun District Local Plan 2003 can carry weight. The weight afforded to the policies with Local Plan policies can be assessed according to their level of consistency of the various policies with the National Planning Policy Framework.

Paragraph 216 of the NPPF confirms that weight can be given to policies in emerging plans from the day of publication. The Council resolved that the policies and maps in the Publication Version of the Local Plan be used in the determination of this planning application. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place.

The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The statement of representations procedure and statement of fact produced by the Council under regulation 19 explains that the consultation will take place on 30th October 2014 for six weeks.

The Neighbourhood Development Plan

Where applicable, Neighbourhood Development Plan's (more commonly known as a neighbourhood plan or NDP), once made by Arun District Council, will form part of the statutory local development plan for the relevant designated neighbourhood area and policies within them will be considered in determining planning applications. Made NDP policies will be considered alongside other development plan documents including Arun District Council's Local Plan. Whilst an NDP is under preparation it will afford little weight in the determination of planning applications. Its status will however gain more weight as a material consideration the closer it is towards it being made. Arun District Council will make reference to an NDP when it has, by the close of planning application consultation, been publicised for pre-submission consultation(Reg.14).

Made Plans in Arun District Council's Local Planning Authority Area are: Angmering; Arundel; Barnham & Eastergate; Bersted; Bognor Regis; Clymping; East Preston; Felpham; Ferring; Kingston; Littlehampton; Rustington; Yapton

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that it would have no materially adverse effect on the visual amenities of the locality or the residential amenities of the adjoining properties, nor would it have an adverse impact upon the established character of the surrounding area.

OTHER MATERIAL CONSIDERATIONS

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

PRINCIPLE:

The site is located within the built-up area where the principle of development is acceptable, subject to accordance with relevant planning policies. In this instance, the main criteria against which the application will be assessed is contained within the Arun District Local Plan which in this case are considered to be policies GEN7, GEN12 and GEN32 which together seek to prevent any development causing unacceptable noise and disruption to the amenities of residential properties and ensure that development has sufficient parking and does have an adverse impact on the local highway.

HIGHWAY IMPACTS:

WSCC Highways had requested the submission of a plan showing how additional parking could be provided within the front garden. The applicant has not only provided such a plan but has also

undertaken the works and as such the site now features an in/out driveway with hardstanding able to accommodate the parking of 4 (5 at a push) cars. The site already benefitted from two dropped kerbs.

Highways have also requested that the applicant undertake a travel plan exercise to encourage employees and customers to use alternative means of transport. The applicant has agreed to this and a condition has been proposed to ensure that this happens. These measures will help to ensure that vehicles arriving at the premises do not park part on and damage the verge.

Highways also noted that the applicant had removed too much vegetation when they had carried out the driveway works and that as a result, people were cutting the verge either side of the dropped kerb to take advantage of the full width of the access. In response the applicant has confirmed that potted plants have been placed to close the gap and that new vegetation will be planted for a more permanent solution. This will be subject to a condition. It is therefore considered that the proposed change of use is acceptable having regard to highway impacts.

NOISE & AMENITY IMPACTS:

Certain local residents raise concern with noise emanating from both the dwelling and the rear garden. However, it should be noted that the area is subject to background noise emanating from children playing at the nearby primary school and that none of the immediately adjoining neighbours have raised any objections. Logically, these properties would be affected more than most.

The Councils Environmental Health officers consider that although there is potential for noise disturbance to adversely affect the amenity of residents, that the concern has not been substantiated as a statutory nuisance. They also consider that if all 12 children were in the garden at once this could be detrimental. Therefore, they propose that the use be restricted in order to minimise the potential adverse effects. The proposed restriction concern the hours of use, the maximum number of children using the premises (12) and the maximum number of children (6) using the garden at any one time - and for how long the garden can be used per day (1.5 hours in the morning and 1.5 hours in the afternoon).

It is known that the use had taken place for some time prior to a complaint being made and the applicant had said that it was likely a private birthday party with a number of children in the rear garden that first aroused suspicions. Although this permission does not prevent the applicant from having family gatherings in the rear garden which are connected to the domestic use, it would prevent the garden being used by large groups of children who are being looked after during the day.

With these proposed safeguards in place, it is considered that this use can exist in such a way as not to adversely impact on the amenity of neighbouring or nearby residential properties.

CONCLUSION:

Given the comments of the Councils technical experts in the field of highways/parking & noise, and the lack of any objections from those properties immediately adjoining the property, it is not considered that an objection on grounds of parking, highways or noise can be sustained. It is not considered that the proposal raises any additional impacts and therefore it is recommended that

permission be granted subject to the following conditions.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a positive impact by reason of age.

RECOMMENDATION

APPROVE CONDITIONALLY

1 The development hereby approved shall be carried out in accordance with the following approved plans:

Part Floor Plan showing Playroom & Conservatory;
1:1250 Location Plan; and
1:100 Block Plan showing Front Garden Parking Area.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

2 The child minding/children's day nursery use hereby permitted shall be confined to the existing side conservatory, the playroom area of the house (as shown on the submitted floor plan) and the rear garden. There shall be no use of other areas of the house for purposes other than as a C3 residential dwelling.

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with policy GEN7 of the Arun District Local Plan.

3 (i) The premises shall not be used for children's day nursery/child minding purposes except between the hours of 7:30 and 18:00 on Mondays to Fridays inclusive.

(ii) Not more than twelve children shall be accommodated at the premises at any one time.

(iii) Not more than six children shall be accommodated in the garden area of the premises at any one time, in connection with the use hereby approved. Use of the outdoor space must not exceed 1.5 hours in the morning or 1.5 hours in the afternoon.

Reason: To ensure that the proposed development does not prejudice the enjoyment of neighbouring occupiers of their properties in accordance with policies GEN7 and GEN32 of the Arun District Local Plan.

4 Within 2 months of planning permission being granted, the vehicular access serving the development shall be constructed in accordance with the approved drawing.

Reason: In the interests of road safety and in accordance with Policy GEN7 of the Arun District Local Plan.

5 Within 2 months of planning permission being granted, plans and details shall be submitted to and approved by the local planning authority which detail pedestrian visibility splays of 1.0m on either side of the proposed vehicular accesses onto Downview Road. These visibility splays shall thereafter be kept free of all obstructions over a height of 0.6m above adjoining carriageway level or as otherwise agreed.

Reason: In the interests of road safety and in accordance with Policy GEN7 of the Arun District Local Plan.

6 Within 2 months of planning permission being granted, the vehicle parking and turning spaces shall be constructed in accordance with the approved drawing. These spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development in accordance with Policy GEN7 of the Arun District Local Plan.

7 Within 2 months of planning permission being granted a Travel Plan Statement shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan Statement shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority. The approved Travel Plan shall thereafter be implemented and shall endure for the duration of the approved use.

Reason: To encourage and promote sustainable transport and on-site parking and turning facilities.

8 Within 2 months of planning permission being granted, a landscaping plan showing the proposed replanting of the areas either side of the northernmost entrance shall be submitted to the local planning authority and approved in writing. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the approval of the scheme, and any shrubs or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or

diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that landscaping compliments the access and visibility splays (and does not obstruct the same) in the interests of road safety and policy GEN7 of the Arun District Local Plan.

9 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.