

REPORT UPDATE

Application No: R/129/14/PL

Reason for the Update / Changes

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Firstly, one additional letter of objection has been received from Ms D Rees. It is noted that all three of the objections to this application are from Ms Rees. The letter states that there are some mistakes in the comments:

- * The staff nearly all come by car;
- * There is always a line of cars outside the premises when open often blocking the entrance to the flats car park;
- * None of the parents use bikes and parents keep parking in the car park for the flats; and
- * The children are out more often than stated by the owner.

Secondly, WSCC Highways have responded. They state that: "This site is recognised as having a permitted use at present. In considering the application, the potential vehicle movements from the permitted use is a material consideration. In light of the scale of the permitted and proposed development, it is not considered that traffic generation would significantly vary between the two. It is not considered that this proposal could be resisted on the basis of traffic generation". No conditions are recommended.

Finally, the applicant has requested that the condition on the hours of use of the garden be amended to allow for use between 9am and 11am in the mornings. It is currently proposed as 9am until 10.30am. Environmental Health have not raised any objection to this amendment.

Officers Comment:

The amended condition is shown on the attached updated recommendation.

Notes: Changes to recommendations, conditions and / or reasons for refusal will always be reflected in the recommendation section of the attached Officer's Report/Recommendation.

R/129/14/PL

Recommendation Report for Planning Permission

REF NO: R/129/14/PL

LOCATION: Little Stars
Ascot Way
Rustington

PROPOSAL: Rear extension

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The extension measures 9.6m long by 9m wide and is on the rear of the building. The roof and materials will match with the existing. The proposal also extends the external area by 12.5m to the west. The total amount of outside space would then be 191m ² .
SITE AREA	0.0462 ha.
RESIDENTIAL DEVELOPMENT DENSITY	N/A.
TOPOGRAPHY	The land to the rear (where the extension will go) is slightly higher than the site of the existing building.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	Part of the boundary is the 2m high brick wall that forms a rear boundary to the adjacent flatted building. The other boundaries are formed by 2m high close boarded fencing. The building is open to the road.
SITE CHARACTERISTICS	Existing single storey flat roofed prefabricated building used as a children's nursery. There is a small amount of outdoor space within the site boundaries but the site is located adjacent to a new playground. The site and the wider green space is owned by Arun DC. There is no parking other than on the road.
CHARACTER OF LOCALITY	Predominantly residential characterised by a mix of dwelling type and design. There is a large 3 storey flatted building to the south with its own car park.

RELEVANT SITE HISTORY

R/207/89	Relocation of playgroup hut	ApproveConditionally 20-11-1989
R/151/91	Application under Regulation 4 of the Town and Country Planning General Regulations 1976 for replacement and extension of a fence	Deemed Perm Cnd 13-11-1991
R/157/92	Renewal of Temporary Planning Permission R/207/89 for siting of playgroup hut	ApproveConditionally 20-11-1992
R/151/95	Renewal of temporary planning permission R/157/92 for siting of playgroup hut	ApproveConditionally

04-12-1995

R/79/09/	Demolition of existing playgroup building and erection of replacement playgroup building.	ApproveConditionally 16-06-2009
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It is noted that R/79/09/ (which granted permission for the existing building) is not subject to any restrictions on hours of use or numbers of children.

REPRESENTATIONS

Representations received:

Rustington Parish Council

No objection.

Three letters have been received. One letter is in support of the proposal on the grounds that the extension will benefit the children and provide the extra space that the nursery needs.

The other two letters object on the following grounds:

- * Extension will take space away from the park area meaning kids have less space to play;
- * No parking so this will result in more congestion;
- * Will cars parked in the adjacent car park be protected from toys flying over the wall?;
- * Increased conflict between residents of the flats and users of the nursery who park in the private car park; and
- * Noise from music played in the garden.

Comments on Representations received:

Although there will be a small reduction in the size of the public park, this will allow for the extension of an important community facility and one which provides for safe supervised recreation of young children. The nursery has no existing parking however it lies in a very sustainable location and is within a residential estate meaning that parents will be able to walk their child to the nursery. Environmental Health have not raised any objections in relation to noise. It is not considered that the risk of toys being thrown over the wall is a material planning consideration. These issues will be analysed further in the conclusions section.

CONSULTATIONS

Environmental Health
WSCC Strategic Planning
Environmental Health

Consultations responses received:

Council's Environmental Health Officer - requested details regarding changes to the kitchen, details of outside play and how many children will attend the nursery after the extension has been built. Following receipt of this information, Environmental Health stated:

"Please place the following condition on this application:

The outside area of the premises shall not be used for nursery playgroup purposes except between the hours of 0900 - 1030 hours and 1400 - 1600 hours. No more than 65 children shall play outside at any one time.

If this condition is placed on the application, Environment Health has no objection to the application."

West Sussex Highways - A consultation was issued on 28/08/14. Their response will therefore be reported as an update to the meeting.

Comments on Consultation responses:

It is considered that 65 children is too large a number to have playing outside at any one time. The applicant has indicated that usually there is a maximum of 30 children outside at any one time and that this will rise to 40-45 but spread out in little groups (the outside area would be 119m²). The 65 figure is given as the maximum amount of children within the nursery at any one time.

POLICY CONTEXT

Designations applicable to site:

PD Restriction;
Public Open Space;
No Public Sewer; and
Within the Built-Up Area Boundary.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:	AREA5	Protection of Open Space
	GEN7	The Form of New Development
	GEN32	Noise Pollution
Publication Version of the Local Plan (October 2014):	D DM1 Aspects of Form and Quality	
	D DM4 Extensions & Alterations to Existing Buildings	
	QE DM1 Noise Pollution	

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

POLICY COMMENTARY

The above policies combine to describe the criteria against which the application will be assessed particularly with regard to visual and residential amenity.

The Development Plan consists of the Arun District Local Plan 2003.

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. It should be noted that the NPPF states that weight is given to individual policies and not to the plan as a whole.

NPPF Paragraph 216 confirms that weight can be given to policies in emerging plans following publication. The Council agreed the majority of the Arun Local Plan in February 2014 (Publication Version) and this is a material consideration in the determination of this planning application. The remaining chapters of the Local Plan namely: the Spatial Portrait, Employment & Enterprise, Housing Allocations, Transport, Monitoring and Implementation will be considered for publication

at a later meeting of Full Council. Following 'publication' of the Local Plan a formal public consultation, examination and adoption process takes place. The chapters that have been published will undergo public consultation alongside the remaining chapters when they have been agreed. The weight given to the current published policies can be significant depending:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The policies within this published version of the plan are at an advanced stage as they have been agreed by Full Council for regulation 19 consultation, they have been subject to independent audit and are considered to meet the NPPF and there are no known significant unresolved issues arising from regulation 18 consultation for the published policies.

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 once the remaining chapters / policies have been published.

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 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).

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

PROPOSAL & PRINCIPLE

The application seeks to enlarge the existing nursery building with a 9.6m by 9m extension. The site 'curtilage' will also increase. It is not considered that the principle of the nursery use is in doubt as it already benefits from a permanent permission and which is unrestricted in terms of hours of use. However, the proposal will result in an intensification of the use and a loss of part of an existing public open space and as such, must be assessed against Policies GEN7 and AREA5.

RESIDENTIAL AMENITY

Concerns have been received as regards noise from the external play areas. However, it is clear that although there will be a small extension in the external 'garden' area and that this extends further along the boundary with the adjacent residential car park, it does not extend any closer to this car park than at present. The apartment building to which this car park serves is approximately 11m from the nursery's boundary and this is the closest residential property to the nursery. In addition, noting that the current building has unrestricted hours of occupation, it is considered that the time restriction imposed on the use of the external areas (as recommended by Environmental Health) represents an improvement on the current situation and will benefit local residents.

Furthermore, there are no current restrictions on the number of children using the outside area. Whilst the extension will increase the capacity of the nursery to 65, it is considered appropriate at this time to limit the number of children using the outside area to 45. This will allow for future monitoring and an application submitted to revise this figure should the applicant deem it too restrictive.

LOSS OF PUBLIC OPEN SPACE

Local Plan Policy AREA5 states that public open space will be protected from development other than associated recreational development. Exceptions to the policy can be made when the development materially enhances the existing facility or satisfies an essential social need that is unable to be provided elsewhere in the locality and where the amount of open space is not significantly reduced.

It is considered in this case that the development satisfies an essential social need for children's nursery/pre-school places. It is desirable to locate new nursery provision on sites which already have planning permission where the use is established. In addition, it is not considered that the area of land to be lost is significant enough to materially reduce the amount of public open space.

Furthermore, it is considered that a playschool/nursery will promote and encourage the recreation of those children who are using the facility. Therefore, whilst this proposal might on one hand result in less space for children to play it will on the other hand result in more space for nursery children to play safely. Finally, it should be noted that the land to the immediate rear of the

nursery is slightly raised and is not ideal for play/recreation.

PARKING

The current site does not provide any car parking and there is no space available to provide off-street parking. There is on-street parking available for drop-offs and pick-ups on Ascot Way (which is a D Class road) or on nearby secondary roads. It is also noted that the site lies within a residential area and is therefore within walking distance of many surrounding houses. Therefore, a number of parents can walk (or cycle) with their children to the site. There is a bus stop on Station Road within 250m of the site and Angmering railway station is only 430m away. West Sussex Highways comments will be reported as an update to the meeting.

SUMMARY

It is considered that the loss of this small amount of public open space is acceptable given that the development in question is a children's nursery. It is not considered that the proposal will result in any harm to nearby residential properties and whilst no parking is proposed, the site is sustainable and is both accessible and convenient by bus, rail, by bicycle or on foot. The application is therefore recommended for approval subject to the conditions set out below.

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 neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

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

Dwg No. 1 - Block Plan, Existing and Proposed Elevations (02/07/14);

Dwg No. 2 - Existing and Proposed Ground Floor, Roof and Location Plans (20/01/11);
and

Dwg No. 6 - Part Proposed Ground Floor Plan showing location of Kitchen (01/08/14).

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 The materials and finishes of the external walls and roof of the extension hereby permitted shall match in colour and texture those of the existing building.

Reason: In the interests of amenity in accordance with policies GEN7 and DEV19 of the Arun District Local Plan.

- 4 The outside area of the premises shall not be used for nursery playgroup purposes except between the hours of 0900 to 1100 hours and 1400 to 1600 hours. No more than 45 children shall play outside at any one time.

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.

- 5 INFORMATIVE: Statement pursuant to Article 31 of the Town and Country Planning (Development Management Procedure)(England) (Amendment No. 2) Order 2012. 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.