Recommendation Report for Planning Permission

REF NO: **R/213/14/PL**

LOCATION: 31 Albert Road
Rustington

PROPOSAL: Application for the variation of condition 4 following a grant of planning permission R/202/13 - increase capacity to 25 children & relax outdoor restriction

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The use of the building is established as per application R/202/13. The application seeks to vary the condition in three respects which are as follows:- * Allow the nursery to be used by children over 5 between the hours of 08:30 and 15:30 as well as the hours already allowed (07:00 - 08:30 and 15:30 - 19:00) *Increase the capacity to accommodate up to 25 children at any one time. * Remove completely the restriction on the number of children that can use the garden area at any one time.
SITE AREA	Approximately 373 square metres.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the proposed development.
BOUNDARY TREATMENT	The site is enclosed by timber fencing which varies in height between approximately 1.5 and 1.8 metres. There is additional hedging on the southern boundary.
SITE CHARACTERISTICS	The site is occupied by a detached bungalow which is use as a nursery as per permission granted under R/202/13. The building has red/brown brick elevation walls and a tiled, gable ended roof There is a flat roof garage attached to the western elevation.
CHARACTER OF LOCALITY	The site is located on a corner plot at a junction between two residential roads that are lined, in the main, by two-storey detached and

semi-detached dwellings, with a cluster of bungalows at the eastern entrance to Albert Road. Buildings are generally set back from the road, softening their visual impact within the street scene and helping generate a sense of openness.

RELEVANT SITE HISTORY

R/202/13/	Change of use of existing residential dwelling to form children's day nursery and construction of conservatory	ApproveConditionally 13-11-2013

REPRESENTATIONS

Representations received:

Rustington Parish Council

No objection.

One letter of objection: Increase in capacity will lead to increased traffic. 31 Albert Road is basically a two bedroom bungalow and toilet facilities must be under stress to serve 13 children so can't imagine what it would be like for 25.

Comments on Representations received:

Noted. County Highways have been consulted on this application. Internal conditions are not a planning matter but would be covered by other legislation which the use would have to be compliant with.

CONSULTATIONS

Environmental Health

WSCC Strategic Planning

Consultations responses received:

ENVIRONMENTAL HEALTH

Objection.

It is confirmed that based on the information submitted with the application, Environmental Health recommends refusal of the proposed change to condition 4(iv) in order to protect the amenity of the residential area from noise disturbance. There is no adverse comment in relation to the proposed amendments to the other elements of condition 4.

WEST SUSSEX COUNTY COUNCIL HIGHWAYS

Comment.

The Area Highways Engineer has not received any complaints with regards to parking in the area, however there are concerns with regard to the increase in numbers and the proximity of the site to the main road. It is requested that the applicant provides a parking survey for Albert Road and Woodlands Road for am/weekday peak time. The applicant will need to record how many on road car parking space are available in given area i.e. Albert Road and north end of Woodlands Road, every 15 minutes between 7am and 10am. It is also requested some sort of signage on the elevation of the dwelling bounding Worthing Road and a commitment/evidence

from the applicant to the staggering of start finish times.
Whilst it is unlikely that the highway Authority would raise an objection, there is the need for confirmation of the parking which will be generated by the proposal and there is sufficient space in the locality for parents to park.

Comments on Consultation responses:

Comments noted. Based on the response from WSCC Highways, it is clear that technical and extensive surveys would be required which cannot be undertaken, submitted and reconsulted with WSCC during the life of this application. Therefore, in any resubmission of the application, this information would be required and an Informative will further draw this matter to the applicant's attention.

POLICY CONTEXT

Within Built-Up Area Boundary

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:

PLANNING POLICY 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: Arundel; Barnham & Eastergate; Felpham.

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 conflict with relevant Development Plan policies in that it would have a materially adverse effect on the residential amenities of adjoining properties and the highways/parking provision at the site which would be harmful to 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 is considered to be policies GEN7, GEN12 and GEN32 which seeks to prevent any development causing unacceptable noise and disruption to residential amenity and disruption to highways and parking at the site.

CONTEXT OF THE APPLICATION
This application seeks to vary Condition 4 from planning permission R/202/13 which was for 'Change of use of existing residential dwelling to form children's day nursery and construction of a conservatory'.

This application seeks to vary the condition in three respects which includes (i) allowing the nursery to be used by children over 5 between the hours of 08:30 and 15:30 as well as the hours already allowed (07:00 - 08:30 and 15:30 - 19:00), (ii) to increase the capacity to accommodate up to 25 children at any one time and (iii) remove completely the restriction on the number of children that can use the garden area at any one time.

NOISE AND RESIDENTIAL AMENITY (POLICIES GEN7 AND GEN32, ARUN DISTRICT LOCAL PLAN)
Environmental Health have raised an objection to varying Condition 4 relating to the third part which limits the number of children in the garden area to six any one time. It is considered that use of the outdoor play by up to 15 children at any time will adversely impact nearby neighbours

and properties. This would be to the harmful detriment of their residential amenity and would conflict with policy GEN7 of the Arun District Local Plan.

INTENSIFICATION AND HIGHWAYS ISSUES (GEN7 AND GEN12, ARUN DISTRICT LOCAL PLAN)
The varying of Condition 4 will mean an increase in the number of children (up to 25) and this would result in an intensification of use at the premises. This would have an impact on the highways and parking situation. West Sussex County Council have been consulted and raised concerns
with regard to the increase in numbers and the proximity of the site to the main road. More information is required from the applicant in relation to producing a parking survey for Albert Road and Woodlands Road. It has also been requested that some sort of signage on the elevation of the dwelling and a supporting statement from the applicant relating to the staggering of start/finish times. There is also the need for confirmation of the parking which will be generated by the proposal and whether there is sufficient space in the locality for parents to park. In the absence of this information, it is not possible to determine whether the proposal is acceptable in highways terms in conflict with policies GEN7 and GEN12 of the Arun District Local Plan.

It is therefore recommended that the application be refused for the following reasons.

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 private and family life), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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, a neutral impact has 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.

RECOMMENDATION

REFUSE

1 The varying of Condition 4 from planning permission R/202/13 by proposing to increase

the number of children accommodated in the garden area of the premises to 15 at any one time would cause unacceptable noise and disruption to the quiet enjoyment of nearby residential properties and would be prejudicial to the residential character of the area in conflict with policy GEN7(iv) of the Arun District Local Plan, policy D DM1 of the Emerging Local Plan and the National Planning Policy Framework.

2 There has been insufficient information submitted in the application in respect to the increase in traffic movements at the site. Specifically, the submission of a parking survey for the increase in vehicles arriving and leaving the site, a record of the number of car parking spaces available, details of signage on the building relating to traffic directions and a supporting statement for the staggering of start and finish times are required and in the absence of which it is not possible to determine whether the proposal is acceptable in highway terms and so it conflicts with policies GEN7(iv) and GEN12 of the Arun District Local Plan, policy D DM1 of the Emerging Local Plan and the National Planning Policy Framework.

3 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 identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reasons for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

4 INFORMATIVE: The applicant is advised to examine the comments made by West Sussex County Council Highways department in respect to the requirements for further survey work of vehicle parking to be carried out before any further application is submitted.