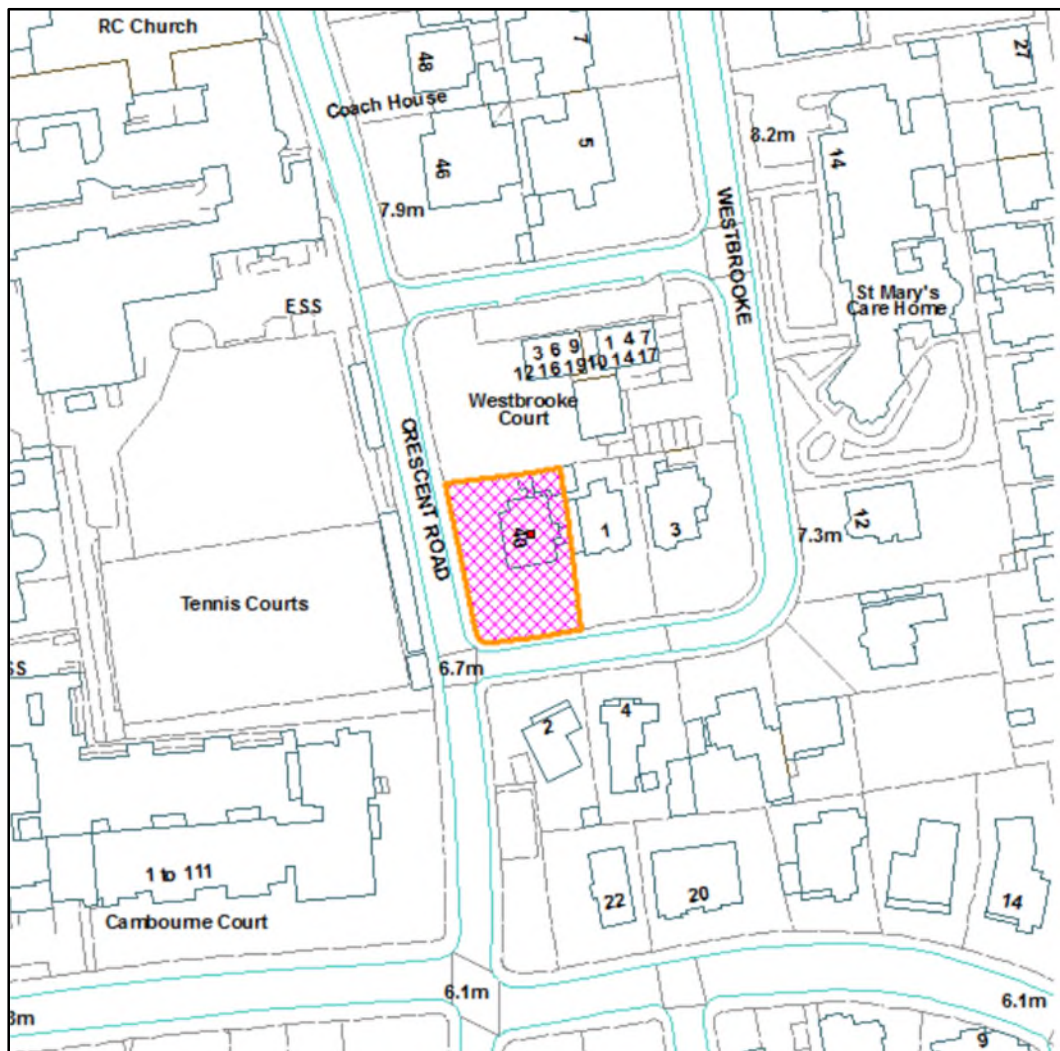


Application Number:	AWDM/0905/22	Recommendation - APPROVE
Site:	Footprints Children And Family Centre 40 Crescent Road, Worthing	
Proposal:	Change of Use to Children's Day Nursery (60 children)	
Applicant:	Mr Roger O'Hara	Ward: Central
Agent:	N/A	
Case Officer:	Gary Peck	



Not to Scale

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Proposal, Site and Surroundings

This application seeks permission to change the use of a currently vacant building to a nursery. The building was previously owned by the County Council who granted permission to itself under a Regulation 3 application in 2004 to convert the application site from a residential dwelling to form a 34 place Nursery although it is understood that the premises were used more as a day centre. The County Council has subsequently disposed of the site which is now owned by the present applicant. While ordinarily this would be an application for a variation of condition, a permission granted Regulation 3 does not run with the land and hence this is an application for full planning permission.

The application site is on the corner of Crescent Road and Westbrooke and is within the Conservation Area, its boundary being immediately to the south. Since the premises was acquired by the applicant, hedging has been removed from the site (it previously affected the view from the junction with Westbrooke) and was replaced, without permission, with a fence of over 2 metres in height. A retrospective application was submitted and refused under delegated powers. It is now the subject of an appeal. The outcome does not affect the determination of the current application.

The nursery is yet to open. The subject building has villa style design and appears similar to a residential property. Parking is provided to the front and of the building with the main garden area to the side. Similarly scaled residential properties are immediately to the east in Westbrooke while a block of flats, Westbrook Court, is to the north. Across the road to the west are school sports courts behind a flint wall.

Relevant Planning History

04/00246/CCR3 - (Regulation 3 County Consultation) - Application under Regulation 3 for conversion of residential dwelling to form 34 place Nursery and replacement single storey building in place of garage to provide community room and alterations to boundary wall to provide new vehicular access - No objection to County Consultation

AWDM/1293/22 - Retrospective application for timber acoustic fence on top of the existing wall on the south and west side of Nursery: REFUSED (an appeal has been lodged against the Council's decision).

Consultations

West Sussex County Council Highways - initial comment

This proposal seeks to increase the children's day nursery capacity from 34 to 60 children. The site is located on Crescent Road, an unclassified road subject to a speed restriction of 30 mph.

Following an inspection of the application documents, WSCC in its role as Local Highway Authority (LHA) requests more information from the applicant, subject to the following comments.

The applicant proposes to increase the capacity from 34 to 60 children. As this is nearly double of the existing capacity, the LHA requests the applicant to submit a

Transport Statement outlining the impacts that the proposals will have on the local highway network. Specifically, the Transport Statement should provide details of trip generation for both the existing and proposed child capacities, to ascertain the net increase of vehicular movements. In addition, details of the anticipated impacts on on-street parking should also be provided.

Please raise this with the applicant and re-consult. Upon receiving this information, the LHA will assess the application further.

Further comments following the receipt of the requested Transport Statement

Summary and Context

This application seeks to increase the children's day nursery capacity from 34 to 60 children. The site is located on Crescent Road, an unclassified road subject to a speed restriction of 30 mph. WSCC in its role as Local Highway Authority (LHA) previously provided comment on this application, dated 21/06/2022, requesting additional information regarding trip generation. The applicant has submitted a Transport Report prepared by Reeves Transport Planning. As such, the LHA has been reconsulted and can provide the following updated comments.

Access: The site is served by two existing accesses on Crescent Road, forming an in-out arrangement. From inspection of WSCC mapping, there are no apparent visibility issues with the existing points of access on to Crescent Road. An inspection of collision data provided to WSCC by Sussex Police from a period of the last five years reveals no recorded injury accidents attributed to road layout within the vicinity of the site. Therefore, there is no evidence to suggest the existing access arrangement is operating unsafely or that the proposals would exacerbate an existing safety concern.

Capacity: The Transport Report includes trip generation data, ascertained from the TRICS Database, as well as the applicant's own estimations. As no additional floorspace is proposed, the TRICS Database indicates that a site of this size and use would generate 69 movements per day, of which 13 movements would take place during the morning peaks and 14 movements during the afternoon peaks.

The applicants themselves estimate more generous numbers, with 33 movements in the morning peak and 20 movements in the afternoon peak, forming an overall increase of 27 movements per day, 69 in total.

The LHA acknowledge this to be more reflective of what would be anticipated at the site, given the change in child capacity.

Whilst the proposals will likely result in a material intensification of movements to and from the site, the LHA is satisfied that this number of trips can be accommodated into the local highway network and is not anticipated to give rise to any adverse impacts on highway safety. The site benefits from four spaces on-site for pick up and drop off, which will be managed by nursery staff in 5 minute slots.

Parking: The site currently has six car parking spaces. However, these will be utilised for the picking up and dropping off of children, and staff will be required to park off site.

Whilst on-street parking is limited in the area, there are comprehensive parking restrictions in place on Crescent Road and other nearby roads, prohibiting vehicles from parking in places that would be detrimental to highway safety.

The LHA does not anticipate that the proposed development would result in a detrimental highway safety impact, nor give rise to a parking capacity issue. The site does benefit from being situated in a sustainable location, within walking distance of various public transport links and public car parks.

This application includes a Travel Plan Statement which includes a subsidised staff public car parking scheme, as well as various benefits for those who are looking to travel to the site sustainably.

Conclusion: The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 111), and that there are no transport grounds to resist the proposal.

Environmental Health (initial comment)

With reference to the above application a Management Plan for Children in the Outside Space (dated 2022) has been submitted. This document details how the applicants intend to manage the use of the garden to minimise disturbance to neighbours.

This plan limits the number of children who can use the garden at any one time to 34.

I do have concerns about the continued use of the garden daily from 9am - 5pm with potentially 34 children using this area at all times. I appreciate the Management Plan discusses how they intend to minimise disturbance to local residences by the use of organised and supervised outdoor activities with dedicated outdoor leaders and the location of noisier activities furthest from neighbouring premises. However, the duration and continued use of the garden with this number of children could result in loss of amenity to surround residents

I would suggest the incorporation of a couple of hours in the day when the garden will not be used to give the residents some break from noise, for example at lunch time between 12:00 and 14:00 hrs.

The Management Plan mentions the use of bikes on rubber flooring, but the location of this activity is not marked on the site plan. Please could the location of this activity be confirmed?

Applicant's response:

I appreciate the concerns of noise but I would have to say that to close the outside space off to the children for 2 hours in the middle of the day would be an unacceptable restriction on their learning experience, access to fresh air and undermines not only our approach to Early Years learning but likely that of all outstanding Early Years providers.

I'm not aware of any such condition in the existing planning. Currently, the permission allows for 34 children at the setting with no number restrictions in the outside space. I'm not aware of any other nursery having such a condition. We have 4 other nurseries including one in Worthing and none of those have such a restriction nor has any such restriction ever been requested as I think it understood that access into outside spaces are regarded as essential. We have a very strong belief in children playing and learning outside and this is so very important where nurseries are located in town centres where there is likely to be a higher level of deprivation and/or children coming from homes with little or no outside space. Shutting off the garden is not the answer to concerns about noise. It's also important to appreciate that we are extremely unlikely to have 34 children continually in the garden from 9am to 5pm. Numbers will generally be lower at the beginning, middle and end of the day. If the numbers did ever reach 34 in the garden that would be for a short period of the day and then only if we were running at full capacity.

It should also be noted that we will be taking approximately 12 children from the nursery 3 times a week to our Forest School site. We have our own minibus that will collect and pick up in our own car park during off peak times and so will not impact on local parking in any way whilst at the same time reducing the numbers of children in attendance on those days. This will naturally affect the numbers in the garden. We will also be visiting the beach by foot for our Beach School activities.

We are happy to install acoustic fencing which we have at our existing nurseries. This would be placed on top of the existing wall and result in an overall height of 2.4m. We will also speak to our one direct neighbour and ask if they would be happy for us to go ahead and put up such a fence.

Primary schools have playtimes - set times when children leave the confines of the classroom and run around to let off steam which is more likely to result in a high level of noise. We, on the other hand, have organised learning activities similar to the activities indoors and supervised by dedicated outdoor leaders. The outside spaces are more outdoor learning environments rather than playgrounds. I would say stopping the children from using the outside space is more likely to lead to more noisy outside play with children having to wait to get outside.

Just a few yards from our outside space is the playground and sports pitches of the Sion Senior school. Just around the corner is the Sion Junior school with its own play areas. The noise from these two areas will likely exceed anything you'll hear from our outside space. (Please see attached map). I would say also that any noise reduction achieved by the 12-2pm closure of our nursery garden will surely be more than replaced by the noise from the school playgrounds close by filling up over the same period.

I hope I've set out above why closing the garden off during the day would be unacceptable on a number of levels to the operation of the nursery and the experience for the children while at the same time, I hope I've set out why there should be no concerns of any increase in noise.

There has been a nursery here for a number of years and we must be able to carry out our business activities in a responsible way as per the permission and the

established use of the site over the past decades. Our request to increase capacity to 60 does not affect the garden.

Regarding the rubber flooring - The garden will now be largely artificial grass. There will be no hard ground / tarmac that children on bikes/ride-ons will have access to.

We do take very seriously our responsibility to our neighbours and of course we believe that residents have every right to expect to be able to live without excessive noise. Staff are reminded that the nursery is their place of work but for our neighbours it is their home so we must always be sensitive to our surroundings. The restrictions we have ourselves requested, I believe, ensure that there should be no increased noise even with the increase to 60 spaces overall. Shutting off the outside space to children in the manner suggested would be such a serious restriction as to make it untenable to operate a nursery at all.

Environmental Health (further response)

I appreciate the applicant's thoughts regarding the site's proximity to the surrounding schools and their lunchtime noise cancelling out any benefit from closing the nursery garden over this period. I do feel that the residents should have some break in the noise. Although the level of noise may not be excessively high, the regularity and duration of the noise (8 hours a day, 5 days a week) could cause disturbance, particularly in the warmer months when more children are likely to use the garden area and residents' windows are more likely to be open. I have considered the applicant's thoughts concerning the impact of closure of the garden and as a compromise I would suggest restricting the noisier activities such as the water play, mud kitchen, bikes/trikes for two hours of the day. I would suggest between 09:00hrs and 10:00hrs and an hour in the afternoon.

With reference to the use of the bikes/trikes, if a number of children are using this equipment this could potentially be a noisy activity. I would suggest locating the bikes and trikes area to the west of the garden, leaving the east side for quiet activities.

Southern Water

No objection

Representations

11 letters of objection have been received during the course of the application from 7 different residents with 4 re-iterating their objection after further information was submitted.

The grounds of objection are:

- the previous use of the building was as a Day Centre catering for all age groups and did not generate excessive disturbance
- The proposed opening hours represent an increase over the previous usage as the building was not open on Fridays and operated less opening hours on other days

- The previous capacity of 34 children was hardly ever reached and this therefore represents a significant increase in the use of the premises
- Adverse impact upon highway safety. There is little available parking and the existing highway infrastructure for parents to be dropping off children. Many requests for traffic calming have been made. Increased congestion
- The unauthorised erection of the fence does not suggest the applicant will be a considerate neighbour.

Relevant Planning Policies and Guidance

Worthing Core Strategy (2011):

Policy 11 Protecting and Enhancing Recreation and Community Uses, Policy 12 New Infrastructure, Policy 16 Built Environment and Design and Policy 19 Sustainable Travel

Submission Draft Local Plan

DM5 Quality of the Built Environment, DM8 Planning for Sustainable Communities, DM9 Delivering Infrastructure, DM15 Sustainable Transport and Active Travel

Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations

Section 73A and also Section 72 Planning (Listed Building & Conservation Areas) Act 1990 which require the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the appearance of the Conservation Area.

Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning Assessment

The main issues in the determination of the application are whether the principle of the development is acceptable, the impact upon the amenities of neighbouring properties and the character of the surrounding area and highway safety.

The planning history of the site is slightly unusual in that the previous permission, having been granted by the County Council when they owned the premises, does not run with the land and hence this is a completely new application rather than a variation of the existing. Nonetheless, the previous use of the building is considered to be a

relevant material consideration in the determination of the application and given the length of time the building has been used for similar purposes to that proposed here, it is not considered any objection can be raised to the principle of development. The existing Core Strategy identified pre-schools as *important focal points for communities* which *meet an essential local need* while the emerging Local Plan also supports improvements to educational facilities.

The emerging Local Plan policy, DM8, states that the improvement of such facilities will be supported provided there is no unacceptable impact upon adjoining properties.

It is noted that the representations received state the existing limit of 34 children was rarely reached and moreover the previous use as a Children and Family Centre was seemingly not considered by nearby residents to cause undue disturbance. The proposed increase in capacity to 60 children, therefore, clearly needs to be carefully considered.

A Management Plan, in respect of the outdoor space has been submitted which states that access to outside areas will be restricted to 34 children at any one time. This reflects the previous situation, therefore, and it is considered that the imposition of a condition to this effect would be an adequate safeguard. While a control of numbers is easily achievable and enforceable, the comments of the Environmental Health Officer regarding the hours of use of the garden, and the applicant's response are both noted. It is considered that, in light of the additional opening hours, compared to that of the previous Day Centre, and added to the potential difference in usage of the premises as a Nursery, further provision should be made which may, for example, specify the area of the garden to be used or the hours of its usage. This could be secured by a condition requiring a revised Management Plan.

Your Officers note that the Management Plan needs to be amended in any case. The Plan states that a 2.4 metre high acoustic fence will be erected to restrict noise to adjacent properties. It is highly regrettable that the applicant proceeded to erect this fence in advance of a planning application being submitted, planning permission being required for any fence above 1 metre in height where adjacent to the road. The subsequent retrospective application seeking to retain the fence has been refused and in your officers view, it is quite clear that the fence adversely affects the visual character of the Conservation Area. The application is the subject of an appeal which if successful will allow the retention of the fence, but if, as your officers hope and anticipate, it is dismissed then the applicant will need to investigate alternative options with the Council. In terms of this specific proposal upon the Conservation Area, there is no increase in floor space and the external areas will be used for similar purposes as previously permitted (and the maximum number using such space would be conditioned, at 34, to be the same number as previously permitted). It is considered that the proposed use would have less than substantial harm on the Conservation Area.

Whether the fence is allowed to remain or not, it will need to be accompanied by adequate planting. A quite substantial hedge previously existed at the site, as well as a tree, although it had become overgrown and certainly from previous images appears to have adversely affected vehicular visibility from Westbrooke along Crescent Road as well as often at least partially obscuring the Controlled Zone road sign. As such, it is not surprising that the Highways Authority required the hedge to be at least cut back,

but its replacement with a fence (albeit not attracting any adverse comments from the Highways Authority in terms of highway visibility) is not felt to be an acceptable solution. The ideal solution is likely to be adequate and maintained planting to the boundary maintaining adequate visibility with a fence screened and set behind such planting. This could be considered more fully in any future revised management plan.

A number of representations relate to the highways impacts of the proposal and concerns are understandable given the difficulty of parking in the immediate area with the area immediately outside of the site containing double yellow lines. The application has been with the Council for determination for some time since the Highways Authority required a Transport Statement to be submitted which has now been submitted and assessed. As stated in the consultation section above, the Highways Authority note that the proposal is likely to result in an increase of 27 movements per day which will result in a '*material intensification of movements to and from the site*'.

However, the Highways Authority considers '*that this number of trips can be accommodated into the local highway network and is not anticipated to give rise to any adverse impacts on highway safety*'. They further go on to note that there are comprehensive parking restrictions in the area and the site is within a sustainable location within walking distance of public transport links and public car parks.

The near town centre location of the site can certainly be considered to be in a sustainable location and therefore having regard to central government policy which not only directs development to such locations but also stresses that development should not be refused on highways grounds unless such impacts are severe, it is not considered there are any grounds to resist the development on such grounds especially in the absence of any objection from the Highways Authority. It is noted that from the Transport Statement that staggered drop off times have been used at other nurseries owned by the applicant which originally derived during the pandemic to ensure social distancing but has been used subsequently. Again, it is considered that this system could be included within the Management Plan to ensure that it is retained as the impact of the development upon highways grounds appears dependent upon the effective management of drop off and pick ups by car given the constrained nature of the location for those providing by car. Such a Plan could also, for example, include a specific instruction for parents not to attempt to illegally park in Westbrooke and Crescent Roads.

On balance, therefore, it is considered that subject to the imposition of appropriate conditions, the application can be supported.

Recommendation

To APPROVE the application subject to the following conditions

Subject to Conditions:-

1. Approved Plans
2. Full Permission
3. Upon the first commencement of use, the Applicant shall implement the measures incorporated within the approved Travel Plan. The Applicant shall

thereafter monitor, report and subsequently revise the travel plan as specified within the approved document.

Reason: To encourage and promote sustainable transport.

4. Prior to first use of the premises a Management Plan dated shall be submitted including details of, but not restricted to, the use of outdoor spaces (including the areas and times of such spaces to be used), measures to ensure adequate noise prevention to neighbouring properties including the provision of additional planting where required, and details of measures to be sent to all nursery users to encourage alternative forms of transport to the site and ensuring that a staggered drop off and pick up system is in place. The approved details shall be maintained thereafter.
5. The number of children attending the premises for the purposes hereby permitted, shall at no time exceed a total of 60 including no more than 34 in any external space at any one time without the prior written permission of the Local Planning Authority.

Reason: In the interests of highway safety and residential amenity, having regard to policies 15, 17 and 33 of the Adur Local Plan.

6. The use hereby permitted shall not be open for business other than between the hours of 8am and 6pm Monday to Friday and arrival/departure times for children shall be staggered in accordance with the approved Management Plan.

Reason: In the interests of highway safety and residential amenity