



**TO:** Planning Committee North

**BY:** Head of Development

**DATE:** 4 June 2019

**DEVELOPMENT:** Retrospective application for the flexible change of use to dual use for part of Boxer Retreat for either Residential (Use Class C3) or Beauty Spa (Sui Generis)

**SITE:** Boxer Retreat Langhurst Wood Road Horsham West Sussex RH12 4QD

**WARD:** Holbrook West (changed to Colgate & Rusper beginning of May 2019)

**APPLICATION:** DC/19/0565

**APPLICANT:** **Name:** Mr and Mrs David and Natalia Shortland **Address:** Boxer Retreat Langhurstwood Road Horsham RH12 4QD

**REASON FOR INCLUSION ON THE AGENDA:** At the request of Cllr Peter Burgess

**RECOMMENDATION:** To approve planning permission subject to conditions

## 1. THE PURPOSE OF THIS REPORT

To consider the planning application.

### DESCRIPTION OF THE APPLICATION

- 1.1 The application seeks planning permission to retain the mixed use of the site for C3 residential purposes and as a Beauty Spa.
- 1.2 The proposed use relates specifically to the use of the western wing of the wider residential property as a Beauty Spa comprising swimming pool, treatment rooms, and reception area.

### DESCRIPTION OF THE SITE

- 1.3 The application site comprises a residential dwelling and associated detached buildings located to the east of Langhurstwood Road, outside of the defined built-up area. The site lies within relatively large grounds, which are bound by mature hedging and landscaping. The surrounding area comprises a mix of sporadic residential dwellings and open countryside, with the nearest neighbouring property known as Rusty Crackle positioned to the south of the site.

## 2. INTRODUCTION

### STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

## RELEVANT PLANNING POLICIES

### 2.2 National Planning Policy Framework

### 2.3 Horsham District Planning Framework (HDPF 2015)

Policy 1 - Strategic Policy: Sustainable Development

Policy 2 - Strategic Policy: Strategic Development

Policy 3 - Strategic Policy: Development Hierarchy

Policy 4 - Strategic Policy: Settlement Expansion

Policy 7 - Strategic Policy: Economic Growth

Policy 9 - Employment Development

Policy 10 - Rural Economic Development

Policy 11 - Tourism and Cultural Facilities

Policy 25 - Strategic Policy: The Natural Environment and Landscape Character

Policy 26 - Strategic Policy: Countryside Protection

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Policy 40 - Sustainable Transport

Policy 41 - Parking

Policy 42 - Strategic Policy: Inclusive Communities

Policy 41 - Community Facilities, Leisure and Recreation

### 2.4 RELEVANT NEIGHBOURHOOD PLAN

#### Horsham Blueprint Neighbourhood Forum

- Designated (Regulation 10)

### 2.5 PLANNING HISTORY AND RELEVANT APPLICATIONS

NH/125/92	Continued use of domestic games room as fitness & beauty club	Application	Refused	on
		04.11.1992		
NH/187/03	Single & two-storey extensions	Application	Permitted	on
		19.02.2004		
DC/08/0678	Single storey sunroom extension	Application	Permitted	on
		19.05.2008		
DC/08/2233	Continued use as beauty salon and change of use of treatment, reception areas, swimming pool and sun room to beauty salon	Application	Refused	on
		17.12.2008		
DC/18/2459	Application to confirm the use of part of the dwelling as an ancillary beauty spa (Certificate of Lawful Development - Existing)	Application	Refused	on
		21.12.2018		

## 3. OUTCOME OF CONSULTATIONS

3.1 Where consultation responses have been summarised, it should be noted that Officers have had consideration of the full comments received, which are available to view on the public file at [www.horsham.gov.uk](http://www.horsham.gov.uk)

### INTERNAL CONSULTATIONS

3.2 **HDC Environmental Health:** No objections in principal. However, there are other residential properties within a 100-meter radius of Boxer Retreat with 'Rusty Crackle,' within a 50-metre

radius. Therefore this department recommend conditions relating to hours of operation, details of plant machinery and any external lighting

- 3.3 **HDC Compliance:** The site is subject of an Enforcement Notice for the use of the domestic games room as a fitness and health club.

#### OUTSIDE AGENCIES

- 3.4 **WSCC Highways:** No Objection

#### PUBLIC CONSULTATIONS

- 3.5 **North Horsham Parish Council:** No Objection

- 3.6 Two letters of objection were received from a single household, and these can be summarised as follows:

- Does not benefit local community
- Impact on amenities of neighbouring property
- Noise and disturbance

### 4. HOW THE PROPOSED COURSE OF ACTION WILL PROMOTE HUMAN RIGHTS

- 4.1 Article 8 (Right to respect of a Private and Family Life) and Article 1 of the First Protocol (Protection of Property) of the Human Rights Act 1998 are relevant to this application, Consideration of Human rights forms part of the planning assessment below.

### 5. HOW THE PROPOSAL WILL HELP TO REDUCE CRIME AND DISORDER

- 5.1 It is not considered that the development would be likely to have any significant impact on crime and disorder.

### 6. PLANNING ASSESSMENTS

- 6.1 The application seeks full planning permission to retain the mixed use of the site for C3 residential purposes and as a Beauty Spa.

#### **Background**

- 6.2 The site has been subject of a number of compliance investigations in respect of the use of the site for both a fitness and beauty club and a beauty spa. The former relating to the previous owner, where an Enforcement Notice for the operation as a Fitness and Beauty Club was served, and most recently in respect of the use as a Beauty Spa.
- 6.3 An Enforcement Notice was issued on 24 February 1993 for the use of a domestic games room within the dwelling as a Fitness and Beauty Club (including the use of the indoor swimming pool). The reasons for issuing the Notice were: that the breach of planning had occurred within 10 years; the use was contrary to development plan policies; the unauthorised use generated a volume of traffic and level of activity which was prejudicial to the environment and the character of the area; and the unauthorised use detracts from the amenities and quiet enjoyment of nearby residential properties.

- 6.4 The Enforcement Notice was appealed to the Planning Inspector and upheld, where it was considered that the main issues were the harm which would be caused to the rural character of the area, and to the amenities of nearby residents.
- 6.5 The Inspector outlined that the dwellings within the locality include substantial garden areas, and given that the Club operates within the building, any noise generated by the activities were unlikely to affect the nearest residents. However, concern was raised with the prospect of disturbance caused by the movement of vehicles in and out of the property, as well as the appearance of a substantial number of parked cars in front of the dwelling. It was considered, given the level of facilities available, all of which are advertised for use, that there was the potential for a relatively high degree of turnover of customers during the day. This was considered to go well beyond what would be regarded as a reasonable additional use of domestic facilities, and it was concluded that this would unacceptably erode the quality of rural life which would be reasonably anticipated in the countryside through visual impact and level of activity and disturbance created.
- 6.6 The Inspector concluded that no particular justification for the countryside location, other than the use of facilities, had been advanced, and it was considered probably that custom would be drawn from the urban area rather than the nearby rural area. In light of planning policy objection to development in the countryside that has no need for a countryside location, it was concluded that there was no justification to override the policy objection.
- 6.7 The Enforcement Notice required that the unauthorised use cease and the domestic games room and swimming pool be reinstated and returned to the condition prior to the inception of the unauthorised use. Records indicate that the actions required by the Notice were complied with on 14.01.1994.
- 6.8 In September 2008 a compliance investigation was undertaken in respect of the use of the dwelling as a Fitness and Beauty Club in breach of the effective Enforcement Notice. Following an investigation it was noted that a business was operating from certain rooms of the site, in breach of the effective Enforcement Notice. The investigation was closed following the submission of a planning application for change of use.
- 6.9 This application under planning reference DC/08/2233 was refused and a further compliance investigation was undertaken. As part of this investigation, the nature of the business was reviewed, with consideration given to the level of activity generated, and the number of customers served. This investigation found that in contrast to the previous business operated from the site, Beauty Cocktail Spa was relatively small, comprising of a small reception area, one treatment table, and access to the swimming pool; with only 10-15 clients seen a week, over approximately 2 days a week, and no staff employed. It was therefore concluded that the use was clearly of a lower intensity than the use which was targeted by the Enforcement Notice, with the nature of the business falling outside of the term "fitness and beauty club" referred to by the Notice. Furthermore, it was considered that had the Notice not existed, the use of the property for a Beauty Spa would have been considered as ancillary to the main dwelling, and would not have required planning permission. For the above reasons, it was not considered expedient to take formal enforcement action, and the compliance case was closed on this basis.
- 6.11 In September 2018 a complaint was received in respect of the increased use of the property as a beauty spa, in possible breach of the Enforcement Notice. As part of this investigation it was concluded that the operation of the business has distinctly changed from the previous level of activity on the site (which was not considered to require planning permission).
- 6.12 The building now offers two separate treatment rooms, with the addition of a Hamman treatment room and sauna, along with separate decked areas. In addition, the business now employs at least two additional staff, with the employment of two therapists who undertake massage treatments. The evidence suggests that up to 4 spa days are operated a week for

at least two weeks of a calendar month, with treatments operated across the week, mostly on Fridays, Saturdays and Sundays. In addition to the use itself, the part of the building housing the spa functions as a separate entity to the residential dwelling. The facilities provided within the spa building ensure that there is no functional connection with the residential dwelling, with the single internal door marked as 'Private'. The building is accessed from an external door, with the only connection to the residential dwelling being its physical attachment. In addition, the decked areas used by clients have been physically separated from the rest of the amenity space of the residential dwelling, with these spaces furnished specifically for use by the clients of the spa.

- 6.13 A Certificate of Lawful Use Existing under planning reference DC/18/2459 was submitted in November 2018 to confirm the use of part of the dwelling for a beauty spa as ancillary to the main residential use of the property. This application was refused on the basis that the use of part of the dwelling as a spa was not ancillary to the residential dwelling, functioning as an independent business, with this use not having occurred in excess of 10 years from the date of submission.
- 6.14 This current application has therefore been submitted to seek planning permission to retain the mixed use of the site as a residential dwelling and Beauty Spa.

### **Principle of Development**

- 6.13 Policy 10 of the Horsham District Planning Framework (HDPF) states, in part, that sustainable rural economic development and enterprise within the District will be encouraged in order to generate local employment opportunities and economic, social and environmental benefits for local communities. In the countryside, development which maintains the quality and character of the area, whilst sustaining its varied and productive social and economic activity will be supported in principle.
- 6.14 Policy 11 of the HDPF states that measures which promote tourism and enhance local cultural facilities will be encouraged. Any development should be of a scale and type appropriate to the location, and should increase the range, or improve the quality of accommodation, attraction, or experiences for tourists, day visitors, business visitors and residents in the District.
- 6.15 Policy 26 of the HDPF seeks to protect the countryside against inappropriate development unless it is considered essential and appropriate in scale; whilst also meeting one of four criteria. This criteria includes: supporting the needs of agriculture or forestry; enabling the extraction of minerals or the disposal of waste; providing for quiet informal recreational use; or enabling the sustainable development of rural areas.
- 6.16 Beauty Cocktail Spa operates to a private day spa model, with customers attending the site for a half or full day. Each spa day generally caters for between 6-12 customers, with clients arriving at 09:30 and leaving at 18:00. The business operates approximately two days a week; with guests generally arriving by mini-bus or car share. The Spa hosts two part-time employees in addition to the Applicant, with these employees assisting with spa treatments and food preparation.
- 6.17 The established business at the site (known as Beauty Cocktail Spa) operates on a private pre-booked model, where up to 12 customers are in attendance for a half or full day approximately two times a week. As such, the business operates at a lower intensity and frequency than the use subject of the Enforcement Notice.
- 6.19 While the proposal does not necessitate a rural location, it is acknowledged that the business operates from an existing building, within the curtilage of an existing dwellinghouse. The business is considered to support the varied and productive social and economic activity within the rural locality, and is considered to operate at a level and intensity that results in

sustainable rural economic enterprise. The facility is considered to provide an attraction and experience for tourists, day visitors, and residents in the District, and is considered to generate economic and social benefits for the local community. Therefore, it is considered that the proposal enables the sustainable development of the rural area and is acceptable in principle, subject to detailed considerations. Officers also acknowledge that such a facility may be difficult to provide within a built up area given the space needed for a swimming pool.

### **Design and Appearance**

- 6.20 Policies 25, 32 and 33 of the HDPF promote development that is of a high quality design, which is sympathetic to the character and distinctiveness of the site and surroundings. The landscape character of the area should be protected, conserved and enhanced, with proposals contributing to a sense of place through appropriate scale, massing and appearance.
- 6.21 The application relates to the material change of use of part of the dwelling to provide a Beauty Spa, with no external alterations proposed to the building. It is therefore considered that the proposal would not result in harm to the character and appearance of the site and surroundings.

### **Amenity Impacts**

- 6.22 Policy 33 states that development should consider the scale, massing and orientation between buildings, respecting the amenities and sensitivities of neighbouring properties.
- 6.23 Beauty Cocktail Spa operates to a private day spa model, with customers attending the site for a half or full day. Each spa day generally caters for between 6-12 customers, with clients arriving at 09:30 and leaving at 18:00. The business operates approximately two days a week; with guests generally arriving by mini-bus or car share. The facilities are available within the western projection of the building, with two decked areas to the west and south of the building utilised by customers.
- 6.24 A letter of objection has been received raising concerns to the proposed use on the grounds that the level of activity would generate unacceptable noise and disturbance, to the detriment of the nearby residential property.
- 6.25 While the proposal would result in additional noise and activity beyond the established residential use, it is noted that the use primarily occurs within the building. The business is operated between 09:30 and 18:00, with the number of customers restricted to no more than 12 at any one time. It is considered that the operation of the business, including the hours of use and number of customers, could be controlled through condition.
- 6.26 It is acknowledged that concern is raised in respect of the outside decked areas. While the area of decking to the south-west of the building is considered sufficiently screened, there is concern that the use of the decked area to the west would result in a poor relationship with the nearest neighbouring property of Rusty Grackle. Following discussion with the Applicant, it has been agreed that the decking to the west would be removed, and this would be subject of an appropriately worded condition.
- 6.27 It is therefore considered that, subject to the imposition of appropriately worded conditions, the proposal would not result in harm to the amenities and sensitivities of neighbouring properties, in accordance with Policy 33 of the HDPF.

### **Highways Impacts**

- 6.28 Policies 40 and 41 of the HDPF promote development that provides safe and adequate access, suitable for all users.

- 6.29 The proposal would utilise the existing and established access to Boxer Retreat, with the existing hardstanding to the frontage used for visitor parking. This arrangement is established and seems to be functioning appropriately, with sufficient space available for the parking of vehicles.
- 6.30 Following consultation with WSCC Highways, no objections have been raised to the access and parking arrangements. It is evident that turning can take place on site, and the entrance appears to be functioning adequately. The proposal is not considered to result in severe cumulative impacts on the operation of the highway network, and as such it is considered that the access and parking arrangements are acceptable.

### Conclusion

- 6.31 The proposed use is considered to result in social and economic benefits, and supports varied and productive economic activity within the rural locality. The proposal is considered to result in a level of activity that would not result in harm to the amenities or sensitivities of neighbouring properties, or the safety and function of the highway network. The proposal is therefore considered to accord with all relevant local and national planning policies.

### COMMUNITY INFRASTRUCTURE LEVY (CIL)

Horsham District Council has adopted a Community Infrastructure Levy (CIL) Charging Schedule which took effect on 1st October 2017.

**It is considered that this development constitutes CIL liable development.** At the time of drafting this report the proposal involves the following:

Use Description	Proposed	Existing	Net Gain
District Wide Zone 1	356.02	597.76	0
All Other Development	241.74	0	241.74
		<b>Total Gain</b>	<b>0</b>
		<b>Total Demolition</b>	<b>0</b>

Please note that exemptions and/or reliefs may be applied for up until the commencement of a chargeable development.

In the event that planning permission is granted, a CIL Liability Notice will be issued thereafter. CIL payments are payable on commencement of development.

## 7. RECOMMENDATIONS

- 7.1 It is recommended to approve the proposal, subject to the following conditions.

### Conditions:

- 1 Approved Plans
- 2 **Standard Time Condition:** The development hereby permitted shall begin before the expiration of three years from the date of this permission.

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

- 3 **Pre-Occupation Condition:** Within 2 months of the date of this permission a Noise Management Plan shall be submitted to the Local Planning Authority for its written approval. The Plan shall include but not be limited to, management responsibilities during all operating hours, measures to control noise from all activities and operations at the site (including the operation of any equipment, plant or building services) and minimising noise from vehicles, deliveries, collections and servicing. The Noise Management Plan shall be implemented in accordance with the approved details for the duration of the use.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with Policies 33 and 40 of the Horsham District Planning Framework (2015).

- 4 **Regulatory Condition:** The Beauty Spa use hereby permitted shall only take place in the area identified on drawing no DS/19/01a.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 5 **Regulatory Condition:** The Beauty Spa, as identified on drawing no. DS/19/01a, shall not be open for trade or business except between the hours of 09:00 and 18:00 Monday to Sunday.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 6 **Regulatory Condition:** No external lighting or floodlighting shall be installed other than with the permission of the Local Planning Authority by way of formal application.

Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 7 **Regulatory Condition:** Within two months of the date of this permission the decked area to the west of the building, as identified on drawing no. DS/19/01, shall be removed and the land made good.

Reason: In the interests of the amenities of the locality and in accordance with Policy 33 of the Horsham District Planning Framework (2015).