



# **PLANNING COMMITTEE REPORT**

**TO:** Planning Committee North

**BY:** Head of Development

**DATE:** 6 February 2018

**DEVELOPMENT:** Change of use from Public House (Class A4) to Children's Day Nursery (Class D1); Single storey and first floor rear extensions; changes to elevations including addition of 2x front and 1x rear dormer windows; car and cycle parking; siting of external plant on rear elevation; and surfacing of garden area

**SITE:** 41 Pondtail Road Horsham West Sussex RH12 5HP

**WARD:** Holbrook West

**APPLICATION:** DC/17/1704

**APPLICANT:** **Name:** Mr Paul Clarke **Address:** Oakridge House Wellington Road High Wycombe HP12 3PR

**REASON FOR INCLUSION ON THE AGENDA:** To update Members following the resolution of the Committee at its meeting on 5 December 2017

**RECOMMENDATION:** That the application be approved subject to the conditions set out in 2.3 of this report.

## **1. INTRODUCTION**

- 1.1 At Planning Committee North on 5 December 2017 Members resolved to defer consideration of the application to allow for further consultation / consideration of highway impacts with the Local Highway Authority. A copy of the previous committee report is attached at Appendix A.
- 1.2 A site meeting took place on 11 January 2018 by HDC Officers, a representative of WSCC Highways, Councillor Burgess and the applicant, agent and their transport consultant. At this meeting various highway related issues were discussed and possible resolutions to the concerns raised considered.
- 1.3 Following this meeting additional plans and information have been submitted which reflect the discussions which took place on site. The additional plans and supporting information make the following amendments to the scheme previously considered by Planning Committee North:-
  - The existing access from Pondtail Road will be widened to 6m with a 3m radii;
  - A kerbed car park access with tactile paving linking each side of the access will be provided;
  - 16 demarcated off-street parking spaces (a reduction of 1 space because of the amended access arrangement) will be provided within the site;

- The proposed car parking layout will be subject to a Stage 2 Road Safety Audit and Technical Check prior to the commencement of development;
- Double yellow lines will be provided (pre-occupation) along the frontage of Pondtail Road. These will be provided as part of a S278 process;
- The applicant will continue discussions with WSCC Highways in respect of the provision of school pedestrian warning signs.

- 1.4 The previous report stated that there were no highway safety concerns associated with the development, and that monitoring could ensure any mitigation was put in place if a problem occurred.. The proposed amendments (as set out above) have revisited this position and the application now includes a number of measures which would be put in place prior to the use commencing. The widening of the existing access would provide improved access and egress to / from the site with the double yellow lines along the frontage of the property deterring on-street parking and the resulting potential safety hazards. These are considered to be positive measures which directly respond to the concerns raised during the previous Planning Committee North meeting.
- 1.5 It was discussed during the site meeting whether school warning signs, and speed indicators, could also be provided in the immediate vicinity of the application site. The Highway Authority does not consider that such signs are required, maintaining their view that the proposed development would not result in an adverse impact on the highway network. Notwithstanding this position the applicant is exploring the potential for such signs to be erected, although noting that the Traffic Signs Manual advises that these signs are only supposed to be used for schools or playgrounds, not nurseries. The applicant is therefore continuing discussion with the Highway Authority on this matter and an update will be provided at the Committee meeting.
- 1.6 Since the previous Planning Committee meeting two further letters of objection have been received from local residents, these do not though raise any additional comments beyond those considered in the previous report. North Horsham Parish Council also submitted comments advising that they have no objections to the application subject to the applicant addressing the concerns raised by WSCC Highways and local residents.
- 1.7 Councillor Burgess has also provided additional comments, which are summarised as follows:
- Highway safety concerns with the proposal;
  - Considers the following are essential:
    - Double yellow lines covering the frontage and beyond;
    - Increasing the width of the car park entrance;
    - Traffic warning signs noting the presence of a nursery either side of the road and before the railway bridge;
    - Speed indicator unit on the Horsham side of the railway bridge;
  - Increase in traffic using Pondtail Road;
  - Extensive car journeys for potential clientele;
  - Intention of staff to use local roads for parking;
  - Insufficient space for 80 children within the building;
  - Insufficient space for 50 children within the small play area to the rear.

## **2. CONCLUSION**

- 2.1 As set out in the Officer's report of 5 December 2017, whilst the loss of the public house is regrettable, it is not considered that its loss can be resisted. The property was marketed for approximately 6 months prior to being sold to the applicant and during this time there were no offers made by public house operators. There are a number of public houses within the vicinity and the applicant, through viability assessments, has demonstrated that the use of the property

as a public house is no longer viable. The application proposes a nursery use, which is a community use in its own right, therefore whilst the proposal results in the loss of a public house it would result in the re-provision of a different type of community use. Whilst the need for a nursery does not have to be demonstrated for the proposal to be acceptable in planning terms (it is primarily about the acceptability of the use) Officers are satisfied that there is a need. Furthermore officers are mindful that a public house can change to an alternative use (A1 – retail, A2 professional services and A3 – food and drink) without the need for planning permission and this would result in the loss of a community facility.

- 2.2 In terms of highway safety, improvements have been made to the scheme since the application was last considered by Members. It remains the view of Officers that the proposal, taking into account the advice of the Highway Authority, that the development would not have an adverse impact on the highway network and refusal on these grounds would not therefore be warranted. Notwithstanding this position officers acknowledge the concerns which were raised by members at the time of the committee deferral. Officers have worked with the applicant and the local member to bring to committee a significantly improved scheme in terms of highways related matters. Officers are of the view that these amendments address the concerns which have been raised by members and can be controlled through conditions suggested within this report and a Section 278 Agreement of the 1980 Highways Act.
- 2.3 The proposal would not result in any significant adverse harm to visual or neighbouring amenity. The proposal is therefore considered to accord with relevant planning policies, and is acceptable in planning terms.
- 2.4 It is therefore recommended that the application is approved subject to the conditions as set out below:

**1 List of plans**

- 2 Standard Time Condition:** The development hereby permitted shall be begun 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-Commencement Condition:** No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for, but not be limited to:

- working hours
- the parking of vehicles by site operatives and visitors
- loading and unloading of plant, materials and waste
- storage of plant and materials used in constructing the development
- the erection and maintenance of security hoarding, where appropriate
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- measures to control the emission of dust and dirt during construction
- a scheme for recycling/disposing of waste resulting from demolition and construction works
- assessment to identify any asbestos contained within the building and controls put in place to ensure safe removal and disposal
- details of public engagement both prior to and during construction works
- the method of access and routing of vehicles during construction

- the anticipated number, frequency and types of vehicles used during construction

Reason: As this matter is fundamental in order to consider the potential impacts on the amenity of occupiers of neighbouring residential properties during construction, in the interests of highway safety and the amenities of the area and in accordance with policies 33 and 40 of the Horsham District Planning Framework (2015).

- 4 **Pre-Commencement Condition:** No development shall commence, including demolition pursuant to the permission granted, ground clearance, or bringing equipment, machinery or materials onto the site, until the following preliminaries have been completed in the sequence set out below:

- All trees on the site shown for retention, as well as those off-site whose root protection areas ingress into the site, shall be fully protected by tree protective fencing affixed to the ground in full accordance with section 6 of BS 5837 'Trees in Relation to Design, Demolition and Construction - Recommendations' (2012).
- Once installed, the fencing shall be maintained during the course of the development works and until all machinery and surplus materials have been removed from the site.
- Areas so fenced off shall be treated as zones of prohibited access, and shall not be used for the storage of materials, equipment or machinery in any circumstances. No mixing of cement, concrete, or use of other materials or substances shall take place within any tree protective zone, or close enough to such a zone that seepage or displacement of those materials and substances could cause them to enter a zone.

Reason: As this matter is fundamental to ensure the successful and satisfactory retention of important trees and hedgerows on the site in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 5 **Pre-Commencement Condition:** No development shall commence until the vehicular access serving the development has been constructed in accordance with the approved planning drawing.

Reason: As this matter is fundamental in the interests of road safety in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 6 **Pre-Commencement Condition:** No development shall commence until such time as revised plans and details incorporating the recommendations given in the Stage 1 Road Safety Audit and accepted in the Designers Response have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The development shall thereafter take place in accordance with the plans and details and shall be retained as such thereafter.

Reason: As this matter is fundamental in the interests of road safety in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 7 **Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a schedule of materials and finishes and colours to be used for external walls, windows and roofs of the approved building(s) has been submitted to and approved by the Local Planning Authority in writing and all materials used in the construction of the development hereby permitted shall conform to those approved.

Reason: As this matter is fundamental to enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of

visual quality in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 8 **Pre-Occupation Condition:** No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: To provide car-parking space for the use in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 9 **Pre-Occupation Condition:** Prior to the first occupation (or use) of any part of the development hereby permitted, full details of the hard and soft landscaping works shall be submitted to and approved, in writing, by the Local Planning Authority. The approved landscape scheme shall be fully implemented in accordance with the approved details within the first planting season following the first occupation of any part of the development. Any plants, which within a period of 5 years, 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 a satisfactory development that is sympathetic to the landscape and townscape character and built form of the surroundings, and in the interests of visual amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 10 **Pre-Occupation Condition:** The use of the building as a children's nursery permitted shall not commence unless and until provision for the storage of refuse/recycling has been made for the use in accordance with details to be submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be retained for use at all times.

Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 11 **Regulatory Condition:** No external lighting or floodlighting shall be installed other than that shown on the approved plans. Any external lighting that is installed with the permission of the Local Planning Authority shall be maintained in accordance with the approved details.

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

- 12 **Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), the premises hereby permitted shall be used as a children's day nursery only and for no other purposes whatsoever, (including those falling within Class D1 as defined in the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) without express planning consent from the Local Planning Authority first being obtained.

Reason: Changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case due to (insert with reasons) under Policy 33 of the Horsham District Planning Framework (2015).

- 13 **Regulatory Condition:** The premises shall not be open for trade or business except between the hours of 0730 and 1830.

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

Note to applicant: The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works and proposed double yellow lines. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

Background Papers: DC/17/1704

# APPENDIX 1



## Horsham **PLANNING COMMITTEE** District **REPORT FROM** Council **05.12.2017**

- TO:** Planning Committee North
- BY:** Development Manager
- DATE:** 5 December 2017
- DEVELOPMENT:** Change of use from Public House (Class A4) to Children's Day Nursery (Class D1); Single storey and first floor rear extensions; changes to elevations including addition of 2x front and 1x rear dormer windows; car and cycle parking; siting of external plant on rear elevation; and surfacing of garden area
- SITE:** 41 Pondtail Road Horsham West Sussex RH12 5HP
- WARD:** Holbrook West
- APPLICATION:** DC/17/1704
- APPLICANT:** **Name:** Mr Paul Clarke **Address:** Oakridge House Wellington Road High Wycombe HP12 3PR
- REASON FOR INCLUSION ON THE AGENDA:** More than 8 representations have been received of a contrary view to the Officer recommendation and at the request of Councillor Peter Burgess
- RECOMMENDATION:** That the application be delegated for approval to the Head of Development to consider whether the requirement of WSCC highways to provide a parking survey if there is a problem with on street parking can be the subject of a condition or is required to be the subject of a legal agreement, and subject to appropriate conditions as suggested at paragraph 7.

### 1. THE PURPOSE OF THIS REPORT

- 1.1 To consider the planning application.

#### DESCRIPTION OF THE APPLICATION

- 1.2 The application relates to the proposed change of use of the former Rising Sun Public House at 41 Pondtail Road, Horsham to use as a Children's Day Nursery.

- 1.3 The proposals incorporate two small single storey rear extensions, first floor rear extension, insertion of two dormer windows into the front elevation at first floor level, insertion of a dormer window into the rear roof slope at first floor level, removal of front chimney stack on front elevation and replacement of high level windows on the front elevation with full height glazing. The gross internal floor space will increase, as a result, from 252.88sqm to 356sqm.
- 1.4 The proposals also incorporate changes to the car park. A total of 17 spaces are provided – the same number as existing and maintaining the same vehicular access point. However the car park is rearranged in order to free up space immediately adjacent to the building for that area to be used as part of the nursery garden. Four parking spaces will be allocated for members of staff. The remainder will be drop-off spaces for parents/carers bringing and collecting children. A cycle stand with capacity for six bicycles will be positioned at the front of the site.
- 1.5 The proposed garden will utilise all space at the rear of the building and between the building and the car park. It will primarily be resurfaced with artificial grass, with two small block paving tracks, two sand areas and two water features for supervised play. Six air conditioning units will be positioned on the rear elevation, away from any site boundary.

## DESCRIPTION OF THE SITE

- 1.6 The application site is located on the eastern side of Pondtail Road. It has a street frontage of approximately 56.5m, a depth of approximately 21m along its northern boundary, a depth of approximately 16.5m along its southern boundary, and an overall site area of 1106.7sqm. The site contains a former Public House (The Rising Sun) which it is understood ceased trading on 16 June 2017.
- 1.7 The existing building is two storey with a large two storey extension (first floor accommodation within the roof space) on the northern side. When in use as a public house it is understood that tables and chairs were positioned in front of the building with there also being a rear garden with barbeque area for patrons. To the south of the building is the tarmacked pub car park, laid out to accommodate a total of 17 cars and with a single vehicular ingress/egress point. There are a few trees within the site along its perimeters – primarily at its northern and southern side boundaries - with two trees at the rear and one at the front.
- 1.8 To the west of the site (along its rear boundary) is a treed embankment leading up to a railway line (The Capel to Horsham line). The railway line is approximately 3m to 4m above site level. To the south of the site is a detached bungalow (39 Pondtail Road). Within the grounds of this and adjacent to the application site boundary is a single storey double garage building. To the north of the site is 43 Pondtail Road, this being a detached house with an attached garage. The garage is adjacent to the boundary with the application site. Other properties in the vicinity of the site are detached houses on both sides of the road; those on the eastern side being set back significantly from the road.

## 2. INTRODUCTION

### STATUTORY BACKGROUND

- 2.1 The Town and Country Planning Act 1990.

### RELEVANT PLANNING POLICIES

- 2.2 **National Planning Policy Framework:**
  - NPPF1 - Building a strong, competitive economy
  - NPPF2 - Ensuring the vitality of town centres
  - NPPF4 - Promoting sustainable transport



NPPF7 - Requiring good design  
NPPF14 - Presumption in favour of sustainable development

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

HDPF1 - Strategic Policy: Sustainable Development  
HDPF2 - Strategic Policy: Strategic Development  
HDPF3 - Strategic Policy: Development Hierarchy  
HDPF24 - Strategic Policy: Environmental Protection  
HDPF32 - Strategic Policy: The Quality of New Development  
HDPF33 - Development Principles  
HDPF40 - Sustainable Transport  
HDPF41 - Parking  
HDPF43 - Community Facilities, Leisure and Recreation

#### RELEVANT NEIGHBOURHOOD PLAN

2.4 The parish of North Horsham was designated as a Neighbourhood Development Plan Area on 12 June 2017.

#### PLANNING HISTORY AND RELEVANT APPLICATIONS

2.5 The below application is the most recent and relevant application relating to this site:

HR/164/64	Addition of new bars and new car park and access	Application Permitted on 15.01.1965
HR/81/52	New toilet accommodation and drainage	Application Permitted on 13.11.1952
HR/70/65	Car port, beer garden and living accommodation	Application Permitted on 03.06.1966
HR/183/67	Erection of a garage	Application Permitted on 08.12.1967
HR/121/83	Change of use from domestic accommodation to internal extension to saloon bar	Application Permitted on 04.08.1983
NH/102/90	Single storey extension, internal alterations, replacement storage building and extension to existing car park	Application Permitted on 15.08.1990
NH/46/93	Erection of illuminated & non-illuminated signs & lantern	Application Permitted on 09.06.1993
NH/169/03	Erection of 1 detached dwelling and garaging (outline)	Withdrawn Application on 09.12.2003
DC/10/1373	Fell 1 Silver Birch (T1)	Application Permitted on 15.10.2010

### 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 **Environmental Health** – No objection in principle. Conditions recommended in respect of removal of asbestos and waste from the site, controlling dust during construction works, limiting

the hours of construction works, hours of operation of the facility, use of the premises as a children's day nursery only, external lighting and sufficient drainage.

3.3 **Economic Development** – It will become a useful amenity for the growing population.

3.4 **Arboricultural Officer** – No objection.  
OUTSIDE AGENCIES

3.5 **WSCC Highways** – Following an initial objection to the proposal, verbal advice has been received advising that, following the submission of additional information, the change of use is acceptable subject to an additional condition/obligation relating to parking capacity monitoring. Members will be updated at the Committee meeting following the receipt of comments.

3.6 **WSCC Early Years team** – According to our sufficiency data there is a housing development West of Southwater with an estimated 600 dwellings that will require an estimated 30 childcare places, as well as a development on Land the North of Horsham of an estimated 2500 dwellings requiring an estimated 125 childcare places. However the preference is to have the childcare provision of the second development linked to the planned Primary Schools for this development.

PARISH COUNCIL

3.7 **North Horsham Parish Council** – No objection.

3.8 **Horsham Denne Neighbourhood Council** (HDNC) – No objection in principle however raises concerns in respect of the following issues:

- Pedestrian and vehicular access will increase including adults with young children walking from the HDNC area
- Vehicles don't adhere to the maximum speed limit
- Poor visibility when approaching the railway bridge
- Footpath under the bridge and for some distance either side on opposite side of road to nursery
- Footpath under the bridge is narrow and can be slippery
- Adults with children will need to cross Pondtail Road to access the nursery and there is no safe crossing point
- A pedestrian crossing and an off-road layby in close proximity to the proposed nursery are required

LOCAL MEMBER

3.9 **Councillor Burgess** – Summarised as follows:

- The public house was a public asset
- It was the only public house in Holbrook West
- It was popular in 'years gone past'
- Local residents and the Parish Council have not been consulted
- No survey of the need for another nursery has been undertaken
- A nearby nursery has closed down
- There has been no community involvement
- No attempt to sell it as a going concern
- No reason given as to loss of pub

PUBLIC CONSULTATIONS

3.10 18 letters/emails of objection have been received from 14 households which raise the following concerns:

- Unsuitable site for a nursery
- Intensification of the access
- Lack of pavement
- Overflow parking on pavement/verge
- Insufficient parking provision
- Highway safety concerns
- Loss of public house
- Reliance on vehicles to access the site
- Adverse impact on neighbours – noise from vehicles and children
- Introduction of a business into a residential area
- Inadequate facility for a nursery for 80 children

#### **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 main issues in the consideration of the application are:-

- Loss of public house
- Need for a children's nursery
- Highway safety, transport and highway issues
- Impact on occupiers of neighbouring properties
- Impact of proposed works on the character and appearance of the streetscene
- Community Infrastructure Levy

##### Loss of public house

6.2 Policy 43 of the Horsham District Planning Framework (HDPF) relates to community facilities, leisure and recreation. The preamble to the policy details that the district has a good quality, quantity and accessibility to existing leisure and recreation sites, with a range of facilities including three swimming pools, leisure centres, playing fields and parks, allotments and children's' play areas and that there is also a theatre, cinema and a number of museums, libraries, restaurants and pubs across the district.

6.3 The policy details that proposals that would result in the loss of sites and premises currently or last used for the provision of community facilities or services, leisure or cultural activities for the community will be resisted unless equally usable facilities can be conveniently provided nearby. It will be necessary to demonstrate that continued use of a community facility or service is no

longer feasible, taking into account factors such as; appropriate marketing, the demand for the use of the site or premises, its quality and usability, and the identification of a potential future occupier. Where it cannot be demonstrated that such a loss is surplus to requirements, a loss may be considered acceptable provided that: a. an alternative facility of equivalent or better quality and scale to meet community needs is available, or will be provided at an equally accessible location within the vicinity; or b. a significant enhancement to the nature and quality of an existing facility will result from the redevelopment for alternative uses on an appropriate proportion of the site.

- 6.4 The applicant has commissioned a viability study which has been the subject of review. The viability study carried out by Savills details that the property was originally put on the market in January 2017 at a sale price of £450,000. During the marketing period the agent received a total of 39 enquiries and undertook 11 internal viewings. No offers were received by the agent from public house operators and the majority of offers received were from residential developers. Two offers were however received from alternative commercial users – one from the applicant. The property was sold to the applicant in July 2017.
- 6.5 The report goes on to say that Public Houses such as The Rising Sun have suffered more than others since the economic downturn due to them not having the economies of scale to compete with the larger managed house operations and as the property has a small commercial kitchen and trade area, it would not attract 'destination' customers and it is clear from the barrelage information provided that the local population has not supported the business recently.
- 6.6 The report additionally says that The Rising Sun does not have any commercial kitchen equipment and existing equipment in situ has been removed. A new operator is therefore likely to scrap and replace with new or reconditioned units which have a guarantee which the author of the report details as being in the region of £40,650 excluding any general refurbishment works to the property.
- 6.7 As part of the viability report competing public houses located within a 1.5 mile radius of The Rising Sun have been detailed. These include Dog and Bacon Inn some 0.5 miles away, Smith & Western some 0.6 miles away, Sussex Barn some 0.6 miles away, the Malt Shovel some 1.1 miles away and the Kings arms some 1.2 miles away. There are then a number of public houses within the town centre some 1.4 miles away.
- 6.8 In terms of the future of The Rising Sun, the report details that the business that could be generated would still no longer provide a sufficient income for an operator in the medium term as the fundamental requirements of a successful modern Public House could not be provided.
- 6.9 The report concludes that during the 6 month marketing period, no interest or offers were made from pub operators, nor from community users and that the public house is commercially unviable in the long term.
- 6.10 The review of the viability study, commissioned by the applicant and carried out by Colyer Commercial, details that the viability assessment has been undertaken by Savills who are an international firm with a specialist leisure department and extensive experience in selling and marketing public houses. The review goes on to say that as there were no offers from pub operators, this would strongly suggest that the pub use is not viable.
- 6.11 The review details that there has been a growing trend in Horsham of the closure of the smaller tenanted properties, detailing the Tanners Arms on Brighton Road, The Queens Head on Queen Street, the Enterprise Inn on Brighton Road and the Fountain Inn on Rusper Road as examples. The review states that Horsham has a much improved town centre where most of the national restaurants are located, and where more restaurants will likely be attracted to as a result of the Piries Place redevelopment scheme.

- 6.12 In terms of the viability of the public house use at the Rising Sun, the review details that from the figures provided in the viability assessment, a low turnover with high running costs is not a very good formula for any business. The review concludes by saying that “...*Savills represent Hall & Woodhouse across their pub portfolio in the South East and they are clearly very knowledgeable of the local pub market and would conclude that their report is a true reflection of the non viability of the Rising Sun Public House in it’s current use.*”
- 6.13 Given the information outlined above, whilst the loss of the public house is regrettable it is not considered that its loss can be resisted. There are a number of public houses within the vicinity and the applicant, through viability assessments, has demonstrated that the use of the property as a public house is no longer viable as required by Policy 43 of the HDPF.

#### Proposed children’s nursery use

- 6.14 The applicant’s supporting statement advises that developments in the areas surrounding Horsham will increase the need for additional childcare in Horsham, as a number of families living there will travel into Horsham for work and to access the main train station and would prefer their child’s nursery to be closer to those facilities. Prior to submission of the application, the applicant has gained advice from WSCC on the provision of child care in Horsham. Similar advice was received as part of this application, with WSCC Early Years commenting that, “...*according to our sufficiency data there is a housing development West of Southwater with an estimated 600 dwellings that will require an estimated 30 childcare places, as well as a development on Land the North of Horsham of an estimated 2500 dwellings requiring an estimated 125 childcare places.*”
- 6.15 In addition, a report produced by WSCC (Securing Sufficient Childcare in West Sussex) and published in Summer 2016 details that the main focus of housing growth within the Horsham District Planning Framework is the delivery of homes in and around Horsham town and that increased housing development in the area is likely to see the need for childcare provision increase.
- 6.16 In terms of other childcare provision in the area, the applicant has advised that there are six full day care providers, open all-year round, who cater for children aged from babies to five years. Research undertaken by the applicant in June 2017 showed that three of these nurseries had limited or no spaces available and three had spaces. Of the three that had space, two could cater for in excess of 120 children, and the applicant advises it is not uncommon for such a large nursery to have some capacity at any moment in time.
- 6.17 The County Council has a statutory duty to ensure that there is access to a free high quality early education place for all eligible two, three and four year olds whose parents would like to take up a place for their child. Children can use up to 570 hours each year, or a maximum of 15 hours over 38 weeks (1140 hours for 3/4 year olds in certain circumstances from September 2017), from a pre-school, nursery or an accredited childminder who are registered to offer free places. Given the recent changes to free childcare places, it is understood that the need for places is likely to increase.
- 6.18 Given the information provided by the applicant and advice given by WSCC, it is considered that there is a need for a children’s nursery within Horsham to meet likely future childcare demands.

#### Highway safety, transport and parking issues

- 6.19 Policies 40 and 41 of the HDPF relate to sustainable transport and parking. Policy 40 seeks to manage the anticipated demand for travel by requiring development proposal to promote an

improved and integrated transport network, with a re-balancing in favour of non-car modes as a means of access to jobs, homes, services and facilities. The policy requires development to, amongst other criteria, be located in areas where there are, or will be a choice in the modes of transport available and provide safe and suitable access for all vehicles, pedestrians, cyclists, horse riders, public transport and the delivery of goods. Policy 41 requires adequate parking and facilities to be provided within developments to meet the needs of anticipated users.

- 6.20 The proposals include changes to the car park to provide a total of 17 spaces – the same number as existing and maintaining the same vehicular access point. The car park will however be rearranged in order to free up space immediately adjacent to the building for that area to be used as part of the nursery garden. Four parking spaces will be allocated for members of staff. The remainder will be drop-off spaces for parents/carers bringing and collecting children.
- 6.21 WSCC Highways initially raised an objection on the grounds that the applicant had failed to demonstrate that safe and suitable access could be achieved, with a stage one road safety audit (RSA) requested due to the intensification in use of the existing access. A stage one RSA was subsequently undertaken by the applicant.
- 6.22 The audit raised a concern that the pedestrian access did not show any proposed measures to deter children from running out onto the footway or carriageway, and the likelihood that a number of users may walk to the property generating an increase in the pedestrian movement, including a younger element, to the location via this entrance. The RSA recommended that a pedestrian barrier be provided on the inside of the entrance off the footway. Additional information and plans were received in response to this issue, detailing a self-closing (private) gate at the access onto the footway. This arrangement is considered an acceptable solution to the concern identified in the RSA.
- 6.23 The final problem raised by the audit related to there being no 'No Waiting' parking restrictions on Pondtail Road, especially in the vicinity of proposed nursery. With the change of use from public house to nursery it is possible there would be an increase in vehicle movements and the usage of the existing car park and its 17 parking spaces. If the parking spaces are full then road users may park on the carriageway increasing the risk to all road users of obstructing the carriageway and leading to conflict. In response a recommendation was made that the applicant would liaise with the LHA with a view to assessing the need for implementing parking restrictions; assessments could include before and after parking surveys or assessments during nursery drop off and collection times following site occupation.
- 6.24 It is noted that Councillor Burgess, Horsham Denne Neighbourhood Council and a number of local residents have made suggestions in terms of highway safety. These relate to issues such as a limit on the number of children in attendance at any one time at a nursery on the opposite side of Pondtail Road and the requirement for an in-out access arrangement, and a pedestrian crossing being installed at or near the nursery. WSCC Highways have responded to these issues advising that the need for a crossing would be hard to justify as the RSA did not identify the requirement for a crossing as a concern. In terms of an in-out access arrangement into the car park, WSCC have advised that they are happy with the approach as outlined within the RSA, and in terms of a parking capacity survey being carried out post consent and if there were a significant demand then a traffic regulation order would be investigated. The method of securing this request, either via a condition or a section 106 agreement, is currently being considered and an update will be provided to Members at the Committee meeting.
- 6.26 Therefore, whilst the concerns of local residents, Councillor Burgess and Horsham Denne Neighbourhood Council have been fully considered, given the advice of WSCC Highways it is not considered that a reason for refusal on the grounds of highways safety or car parking provision could be substantiated. The proposal would not result in a significant adverse impact on the highway network and would accord with the relevant policies of the HDPF.

#### Impact on occupiers of neighbouring properties

- 6.27 To the south of the site is a detached bungalow (39 Pondtail Road). Within the grounds of this property and adjacent to the application site boundary is a single storey double garage building. To the north of the site is 43 Pondtail Road, this being a detached house with an attached garage. The garage is adjacent to the boundary with the application site. Other properties in the vicinity of the site are detached houses on both sides of the road; those on the eastern side being set back significantly from the road (approximately 12m beyond the 8m wide highway verge).
- 6.28 A number of local residents have raised concerns with regard to the impact that the change of use will have on their privacy and amenity in terms of noise from the use and overlooking from the proposed works. Residents have raised concerns that the proposal will introduce a business use into an otherwise residential location.
- 6.29 The proposals incorporate two small single storey rear extensions, first floor rear extension, insertion of two dormer windows into the front elevation at first floor level, insertion of a dormer window into the rear roof slope at first floor level, removal of front chimney stack on front elevation and replacement of high level windows on the front elevation with full height glazing. Given the distances to the neighbouring properties, it is not considered that the works proposed to facilitate the change of use will have an adverse impact on the privacy of the occupiers of the neighbouring residential properties.
- 6.30 In terms of noise from the proposed nursery use, local residents have noted that the use of the public house was relatively low key and did not cause an adverse impact of their amenity. It should be noted however that whilst the most recent use of the building as a public house may have been low key, the use of the building was as a public house and the planning authority would have had no control over the hours of use or its use more intensively. Although residents have raised concerns that the proposal will introduce a business use into an otherwise residential location, the fact that a public house has been operating from the site for a significant period of time means that the principle of a commercial use in this location has been established.
- 6.31 The Council's Environmental Health team has raised no objections to the change of use subject to conditions in order to mitigate any adverse environmental impacts. These conditions include issues such as control of waste, noise and dust during construction works, restricting the hours of opening and the use of the nursery and controlling external lighting. The applicant is proposing to operate between the hours of 07.30am to 6.30pm Monday to Friday and has advised that from experience elsewhere not all of the children will arrive and depart at the same times but with there being staggered arrivals and departures over a period of approximately 2½ hours during both the mornings and afternoons/evenings.
- 6.32 With the conditions as recommended by the Council's Environmental Health team, it is not considered that the change of use would have an adverse impact on the privacy and amenity of the occupiers of the neighbouring residential properties, and the proposal therefore complies with the requirements of policies 32 and 33 of the HDPF.

#### Impact of proposed works on the character and appearance of the streetscene

- 6.33 The proposals incorporate two small single storey rear extensions, first floor rear extension, insertion of two dormer windows into the front elevation at first floor level, insertion of a dormer

window into the rear roof slope at first floor level, removal of front chimney stack on front elevation and replacement of high level windows on the front elevation with full height glazing.

- 6.34 The extensions and alterations would appear subservient to the existing building and are in keeping with the scale of the existing building and those adjoining the site. The proposed extensions are to the rear of the building and will be largely unseen from public vantage points. In terms of the dormer windows proposed to the front elevation, these will break up the large, unbroken expanse of pitched roof and add some interest to this elevation.
- 6.35 The proposals also incorporate changes to the car park. A total of 17 spaces are provided – the same number as existing and maintaining the same vehicular access point. However the car park is rearranged in order to free up space immediately adjacent to the building for that area to be used as part of the nursery garden. A cycle stand with capacity for six bicycles will be positioned at the front of the site and a self-closing gate will be installed within the existing wall to the front of the building.
- 6.36 In terms of the alterations to the car park area, the Council's Arboriculturalist has no objection to the application as submitted. There is one protected tree on the site, a silver birch, located in the far western corner. A number of the parking bays will be relocated close to this birch tree. The Council's Arboriculturalist has advised that the works proposed are acceptable and that the tree can be satisfactorily protected during the construction phase. In addition to works beneath the canopy of the birch tree, a large sycamore tree to the rear of the existing public house is to be removed. The Council's Arboricultural Officer has raised no objection to its removal.
- 6.37 Therefore, it is considered that the works to the building in order to facilitate its change of use to a children's nursery are acceptable and will not have a significant adverse impact on the character and appearance of the building or the wider streetscene. The proposal is therefore considered to comply with the requirements of policies 32 and 33 of the HDPF.

#### Other considerations

- 6.38 Concerns have been raised by a number of local residents about the appropriateness and suitability of the site to accommodate 80 children. The applicant has advised that they are required to work within the relevant legislation and regulations of Ofsted and that there are specific requirements in terms of running and operating a childcare facility. The relevant legislation and regulations relate to the structure of the day, the number of children within any one area and the ratios of staff to children at any one time.
- 6.39 The applicant has advised that the 'Statutory Framework for the Early Years Foundation Stage' published by the Department for Education details minimum indoor space requirements for nurseries. This document details that for children under 2 years old the space requirement is 3.5sqm per child, for two year olds the requirement is 2.5sqm per child and for children between three and five years old the requirement is 2.3sqm per child. The applicant has therefore advised that the property provides the opportunity to accommodate some 80 children. In terms of outdoor space, the document details that providers must provide access to an outdoor play area or if that is not possible ensure that outdoor activities are planned and taken on a daily basis. Whilst a limited level of space is to be provided, the applicant has advised that this is sufficient for their purposes and allows for small groups of children to take part in planned and regulated activities with activities set up in areas around the garden.

#### Conclusion

- 6.40 Whilst the loss of the public house is regrettable, it is not considered that its loss can be resisted. The property was marketed for approximately 6 months prior to being sold to the applicant and during this time there were no offers made by public house operators. There are a



number of public houses within the vicinity and the applicant, through viability assessments, has demonstrated that the use of the property as a public house is no longer viable. The application proposes a nursery use, which is a community use in its own right, therefore whilst the proposal results in the loss of a public house it would result in the re-provision of a different type of community use. Whilst the need for a nursery does not have to be demonstrated for the proposal to be acceptable in planning terms (it is primarily about the acceptability of the use) Officers are satisfied that there is a need. Furthermore officers are mindful that a public house can change to an alternative use (A1 – retail, A2 professional services and A3 – food and drink) without the need to planning permission and this would result in the loss of a community facility. In terms of highway safety given the advice of WSCC Highways it is not considered that a reason for refusal on these grounds could be substantiated. The proposal would not result in any significant adverse harm to visual or neighbouring amenity. The proposal is therefore considered to accord with relevant planning policies, and is acceptable in planning terms.

## 7. RECOMMENDATIONS

7.1 It is recommended that the application be delegated for approval to the Head of Development to consider whether the requirement of WSCC highways to provide a parking survey if there is a problem with on street parking can be the subject of a condition or is required to be the subject of a legal agreement, and subject to appropriate conditions as suggested below:

### 1 List of plans

2 **Standard Time Condition:** The development hereby permitted shall be begun 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-Commencement Condition:** No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for, but not be limited to:

- i. working hours
- ii. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding, where appropriate
- v. the provision of wheel washing facilities if necessary
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
- viii. assessment to identify any asbestos contained within the building and controls put in place to ensure safe removal and disposal

Reason: As this matter is fundamental in order to consider the potential impacts on the amenity of occupiers of neighbouring residential properties during construction and in accordance with Policy 33 of the Horsham District Planning Framework (2015).

4 **Pre-Commencement Condition:** No development shall commence, including demolition pursuant to the permission granted, ground clearance, or bringing equipment, machinery or materials onto the site, until the following preliminaries have been completed in the sequence set out below:

- All trees on the site shown for retention, as well as those off-site whose root protection areas ingress into the site, shall be fully protected by tree protective fencing affixed to the ground in full accordance with section 6 of BS 5837 'Trees in Relation to Design, Demolition and Construction - Recommendations' (2012).
- Once installed, the fencing shall be maintained during the course of the development works and until all machinery and surplus materials have been removed from the site.
- Areas so fenced off shall be treated as zones of prohibited access, and shall not be used for the storage of materials, equipment or machinery in any circumstances. No mixing of cement, concrete, or use of other materials or substances shall take place within any tree protective zone, or close enough to such a zone that seepage or displacement of those materials and substances could cause them to enter a zone.

Reason: As this matter is fundamental to ensure the successful and satisfactory retention of important trees and hedgerows on the site in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 5 **Pre-Commencement (Slab Level) Condition:** No development above ground floor slab level of any part of the development hereby permitted shall take place until a schedule of materials and finishes and colours to be used for external walls, windows and roofs of the approved building(s) has been submitted to and approved by the Local Planning Authority in writing and all materials used in the construction of the development hereby permitted shall conform to those approved.

Reason: As this matter is fundamental to enable the Local Planning Authority to control the development in detail in the interests of amenity by endeavouring to achieve a building of visual quality in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 6 **Pre-Occupation Condition:** Prior to the first occupation (or use) of any part of the development hereby permitted, full details of the hard and soft landscaping works shall be submitted to and approved, in writing, by the Local Planning Authority. The approved landscape scheme shall be fully implemented in accordance with the approved details within the first planting season following the first occupation of any part of the development. Any plants, which within a period of 5 years, 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 a satisfactory development that is sympathetic to the landscape and townscape character and built form of the surroundings, and in the interests of visual amenity in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 7 **Pre-Occupation Condition:** The use of the building as a children's nursery permitted shall not commence unless and until provision for the storage of refuse/recycling has been made for the use in accordance with details to be submitted to and approved in writing by the Local Planning Authority. These facilities shall thereafter be retained for use at all times.

Reason: To ensure the adequate provision of recycling facilities in accordance with Policy 33 of the Horsham District Planning Framework (2015).

- 8 **Pre-Occupation Condition:** The use of the building as a children's nursery shall not be commenced until the car parking spaces serving the use have been constructed and made available for use in accordance with approved drawing number SK-05d. The car parking spaces permitted shall thereafter be retained as such for their designated use.

Reason: To provide car-parking space for the use in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 9 **Pre-Occupation Condition:** The use of the building as a children's nursery shall not commence until cycle parking facilities have been constructed and made available for use in accordance with approved drawing number SK-05d. The cycle parking facilities shall thereafter be retained as such for their designated use.

Reason: To ensure that there is adequate provision for the parking of cycles in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 9 **Pre-Occupation Condition:** The use of the building as a children's nursery shall not commence until a self-closing gate has been installed in accordance with approved drawing nos. SK-05d and NK/SCG/1. The gate shall be retained as such thereafter.

Reason: To ensure that the development does not create a highway safety hazard in accordance with Policy 40 of the Horsham District Planning Framework (2015).

- 10 **Regulatory Condition:** No external lighting or floodlighting shall be installed other than that shown on the approved plans. Any external lighting that is installed with the permission of the Local Planning Authority shall be maintained in accordance with the approved details.

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

- 11 **Regulatory Condition:** Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), the premises hereby permitted shall be used as a children's day nursery only and for no other purposes whatsoever, (including those falling within Class D1 as defined in the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) without express planning consent from the Local Planning Authority first being obtained.

Reason: Changes of use as permitted by the Town and Country Planning (General Permitted Development) Order or Use Classes Order 1987 are not considered appropriate in this case due to (insert with reasons) under Policy 33 of the Horsham District Planning Framework (2015).

- 12 **Regulatory Condition:** The premises shall not be open for trade or business except between the hours of 0730 and 1830.

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

Background Papers: DC/17/1704