

<u>No:</u>	BH2016/02586	<u>Ward:</u>	Withdean Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	37 Preston Drive, Brighton, BN1 6LA		
<u>Proposal:</u>	Application for variation of condition 3 of application BH2015/02881 (Variation of condition 2 of application of BH2004/03648/FP (Change of use from house (C3) and Doctors Surgery (D1) to children's nursery for 60 children and bedsit. Erection of part single storey/part two storey rear extension) to state the number of children using the day nursery at any time shall not exceed 80 without the prior approval of the Local Planning Authority) to permit the premises to be open between 07.00 hours and 19.00 hours on Monday to Fridays.		
<u>Officer:</u>	Helen Hobbs, tel: 293335	<u>Valid Date:</u>	07.07.2016
<u>Con Area:</u>	PRESTON PARK	<u>Expiry Date:</u>	01.09.2016
		<u>EoT/PPA Date</u>	
<u>Listed Building Grade:</u>			
<u>Agent:</u>			
<u>Applicant:</u>	Mr Roger O'Hara 37 Preston Drive Brighton BN1 6LA		

1. RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.
Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Floor Plans Proposed	WFL/P104	A	16 November 2015
Floor Plans Proposed	WFL/P105	A	16 November 2015
Floor Plans Proposed	WFL/106	A	16 November 2015
Existing Floor Plans	WFL/P104	A	16 November 2015
Existing Floor Plans	WFL/P105	A	16 November 2015
Existing Floor Plans	WFL/P106	A	16 November 2015
Other	MANAGEMENT PLAN OUTDOOR SPACE		1 April 2016
Location Plan			5 August 2015
Cycle storage details			7 June 2016
Other	TRAVEL PLAN		7 July 2016

- 2 The number of children using the day nursery at any time shall not exceed 80 without the prior approval of the Local Planning Authority.
Reason: To prevent over intensive use of the premises, disturbance to neighbouring properties and adverse impact upon the character of the area and to comply with policies SU10, QD27 and HO26 of the Brighton & Hove Local Plan.
- 3 The day nursery shall not be open or in use except between the hours of 07:00 and 19:00 hours on Mondays to Fridays. The day nursery shall not be in use at any time on Saturdays, Sundays or Bank Holidays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10, QD27 and HO26.
- 4 The rear garden shall not be in use by children attending the day nursery except between the house of 09:00 to 17:00 on Mondays to Fridays.
Reason: To safeguard the amenities of the locality, avoid disturbance to neighbouring residential properties and to comply with policies SU10, QD27 and HO26 of the Brighton & Hove Local Plan.
- 5 Not Used.
- 6 Not Used.
- 7 The development shall be implemented in full accordance with the cycle parking details approved under application **BH2016/01096** and shall be retained as such thereafter.
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
- 8 The development hereby permitted shall be operated in accordance with the measures detailed in the Travel Plan submitted. The Travel Plan shall be reviewed annually thereafter and operated in accordance with any changes as a result of the annual reviews.
Reason: To comply with policy CP9 of the Brighton and Hove City Plan Part One and policy TR4 of the Brighton & Hove Local Plan.
- 9 No amplified music or musical equipment shall be used in the outdoor play area at any time.
Reason: To safeguard the amenities of the locality and to comply with policies SU10, QD27 and HO26 of the Brighton & Hove Local Plan.
- 10 Not Used.
- 11 Not Used.
- 12 Not Used.

- 13 The Old Coach House shown on the approved drawings shall be used for storage ancillary to the day nursery, the residential use and as a staff room/staff facility, only, and for no other purpose unless approved in writing by the Local Planning Authority.
Reason: To safeguard the amenities of the locality, avoid disturbance to neighbouring residential properties and to comply with policies SU10, QD27 and HO26 of the Brighton & Hove Local Plan.
- 14 Not Used.
- 15 Access to the flat roof over the extension shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area.
Reason: In order to protect adjoining properties from overlooking and noise disturbance and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
- 16 The development shall be implemented and used in full accordance with the outdoor management plan approved under application **BH2016/01096**.
Reason: To safeguard the amenities of the locality and in order to comply with policy QD27 of the Brighton & Hove Local Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application site relates to an extended two-storey property, with lower ground floor level, on the northern side of Preston Drove. The property features a detached coach house sited to the rear of the main building. The surrounding area is predominantly residential with Preston Park adjoining to the south. The site lies within the Preston Park Conservation Area. The property is currently in use as a children's day nursery.
- 2.2 The application seeks consent for the variation of condition 3 of application **BH2015/02881** to permit the premises to be open between 07.00 hours and 19.00 hours on Monday to Fridays.

3. RELEVANT HISTORY

- 3.1 **BH2015/02881** - Variation of condition 2 of application of **BH2004/03648/FP** (Change of use from house (C3) and Doctor's Surgery (D1) to children's nursery for 60 children and bedsit. Erection of part single storey/part two storey rear extension) to state the number of children using the day nursery at any time shall not exceed 80 without the prior approval of the Local Planning Authority.
Approved 11/02/16.

BH2010/01863 - Change of use and conversion of existing outbuilding with new single storey extension to form additional nursery accommodation with an increase to 75 children. Approved 5 October 2010. The approved scheme has not been implemented.

BH2004/03648/FP - Change of use from house (C3) and Doctor's Surgery (D1) to children's nursery for 60 children and bedsit. Erection of part single storey/part two storey rear extension. (Resubmission of previously refused application **BH2004/02339/FP**). Approved 23 February 2005. The approved scheme has not been implemented.

BH2004/02339/FP - Change of use from House (C3) and Doctor's Surgery (D1) to Children's Nursery (D1). Erection of single storey rear extension. Provision of external fire escape staircase from second floor level on west side elevation. Refused 15 September 2004.

96/1113/FP - Change of use of one room on ground floor for D1 physical therapy/osteopathy. Approved 19 December 1996.

4. CONSULTATIONS

4.1 Environmental Health: Comment

The premises have been operating as a nursery from 8am until 6pm Monday to Friday. I have no concerns about the increase in hours provided the use of the garden is still controlled.

4.2 Sustainable Transport: Comment

Recommend approval. The Highway Authority would not consider that the extension of opening hours would have an adverse impact on surrounding highway and transportation networks.

Indeed, there is potential for there to be a beneficial impact in terms of spreading peak travel demand associated with the nursery whilst the applicant has stated in support of their proposal that Travel Plan surveys have indicated that the greater flexibility will allow more parents to travel by sustainable modes. Whilst this is not guaranteed, the purpose of the Travel Plan surveys is to identify such issues and develop responses and efforts to do so are therefore welcomed. The revised Travel Plan submitted as part of the application is also acknowledged and has been passed to the council's School Travel team.

5. NEIGHBOURS:

5.1 The occupiers of **10 Bavant Road, 39, 41, 43 (x2) & 49 Preston Drove, 4 & 9 Harrington Villas object to the application on the following grounds;**

- Noise disturbance
- Increase in traffic
- Increase in parking
- Overlooking
- Loss of privacy
- Existing noise disturbance from early refuse collections
- Not in keeping with conservation area
- Concern for the safety of pedestrians

- Controlled parking zones should be extended

6. MATERIAL CONSIDERATIONS

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2 The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
 CP9 Sustainable transport
 CP15 Heritage

Brighton & Hove Local Plan (retained policies March 2016):

TR1 Development and the demand for travel
 TR4 Travel Plans
 TR7 Safe development
 TR14 Cycle access and parking
 TR19 Parking standards
 SU10 Noise nuisance
 QD27 Protection of Amenity
 HO26 Day nurseries and child care facilities
 HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the changes to the approved scheme which are proposed and their impacts with respect to neighbouring amenity and transport.
- 8.2 The applicant proposes to increase the opening hours of the nursery to extend the hours of when parents can drop off children to the nursery. Condition 3 of **BH2015/02881** states that;
- 8.3 The day nursery shall not be open or in use except between the hours of 08:00 and 18:00 hours on Mondays to Fridays. The day nursery shall not be in use at any time on Saturdays, Sundays or Bank Holidays.
Reason: To safeguard the amenities of the locality, avoid disturbance to neighbouring residential properties and to comply with policies SU10, QD27 and HO27 of the Brighton and Hove Local Plan.
- 8.4 The proposed increased opening hours would be 07:00 to 19:00.
- 8.5 There is no objection to the extending the opening hours of the nursery. Environmental Health Officers have raised no objection to the change of hours providing that the rear garden is not used by children attending the nursery except between the hours of 09:00 and 17:00 Monday to Friday. This condition will be reapplied to the consent.
- 8.6 It should be noted that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints to the Environmental Health team be received.
- 8.7 The Transport Officer has stated that the extension of the opening hours would not have an adverse impact on the surrounding highway and transportation networks since the proposal would not result in additional numbers attending the nursery.
- 8.8 It is the view of the Transport Officer that there is potential for the longer hours to improve the current congestion at the site during peak travel. The submitted Travel Plan states that the longer hours would encourage and allow parents to travel to the nursery using more sustainable modes of transport. Whilst this is not guaranteed, the purpose of the Travel Plan survey is to identify such issues and develop responses and efforts to do so are therefore welcomed.
- 8.9 A number of representations have received objecting to the proposal due to the potential for noise disturbance and an increase in congestion. As detailed above the increased opening hours are not considered to cause significant harm to the amenity of neighbouring properties since there would be no similar increase in the time spent in the garden.
- 8.10 The applicant has also submitted a revised Travel Plan. This is updated annually and measures include providing information such as bus and train timetables on a noticeboard; providing a secure area for parents to leave their bikes while they drop children off; provision of a secure place for storing

buggies; providing information on car sharing; and encouraging parents to 'park and walk' to prevent localised congestion. Sustainable Transport raises no objection and is satisfied with the updates to the Travel Plan. A condition is recommended to ensure the Travel Plan proposals are adhered to.

- 8.11 For the reasons outlined, the proposal is therefore considered not to cause significant harm to the character and appearance of the surrounding conservation area, neighbouring amenity or the transport network.

9. EQUALITIES

- 9.1 `None identified

