

<u>No:</u>	BH2025/02344	<u>Ward:</u>	Goldsmid Ward
<u>App Type:</u>	Removal or Variation of Condition		
<u>Address:</u>	89 Holland Road Hove BN3 1JP		
<u>Proposal:</u>	Application to vary condition 3 of planning permission BH2017/03438 to permit the number of children attending the day nursery to not exceed 70 at any time.		
<u>Officer:</u>	Michael Tucker, tel: 292359	<u>Valid Date:</u>	22.09.2025
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	17.11.2025
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	11.02.2026
<u>Agent:</u>	Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Young Friends Nursery 89 Holland Road Hove BN3 1JP		

1. RECOMMENDATION

1.1. 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
Location Plan	ADC566/LP		22-Sep-25
Noise Management Plan			8-Jan-26

2. Not used.
3. The number of children attending the day nursery use hereby permitted shall not exceed 70 at any time.
Reason: To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.
4. The use hereby permitted shall not be operational except between the hours of 08:00 and 18:00 on Mondays to Fridays inclusive, with no use permitted on Saturdays, Sundays or Bank Holidays.
Reason: To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.
5. The premises shall be used for the use described by this planning permission only and for no other purpose (including any other purpose in Class E of the Schedule to 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).

Reason: The local planning authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.

6. The operation of the nursery shall be carried out in strict accordance with the Noise Management Plan submitted on the 8 January 2026..

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

Informatics:

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

- 2.1. The application relates to a two-storey building on the eastern side of Holland Road. There is a garage on the southern side. There are residential properties on either side of the application site, but the character of the wider area is mixed, with Hove Junior School, a BT Telephone Exchange and Hove Crown Court on the western side of Holland Road. Originally a dwellinghouse, the building is currently in use as a nursery (Class E) with permission for this use having initially been granted under BH2009/02058.
- 2.2. Subsequent applications increased the number of children permitted to attend the nursery from 12 to 33 and then again to 51.
- 2.3. Planning permission has also been granted under BH2017/03438 for the change of use of the retained studio flat on the upper floor to nursery space, to be incorporated within the existing nursery.

3. PLANNING HISTORY

- 3.1. **BH2017/03438** - Change of use of first floor studio flat (C3) to nursery room (D1). Approved
- 3.2. **BH2013/04249** - Application for variation of condition 7 of application BH2010/03167 (Application for variation of conditions 6 and 8 of original permission BH2009/02058 (Conversion of single dwelling house to form child day care nursery at ground floor level and self-contained flat at first floor level (Retrospective)) to allow an increase in maximum child numbers being looked after on the site at any one time from 33 to 51. Approved

- 3.3. **BH2010/03167** - Application for variation of conditions 6 and 8 of application BH2009/02058, (Conversion of single dwelling house to form child day care nursery at ground floor level and self-contained flat at first floor level - Retrospective), to allow for an increased limit of children at the nursery at any time from 12 to 33 and to allow use of part of the first floor in connection with the nursery. Approved
- 3.4. **BH2009/02058** - Conversion of single dwelling house to form child day care nursery at ground floor level and self-contained flat at first floor level (Retrospective) Approved

4. APPLICATION DESCRIPTION

- 4.1. The application seeks to vary condition 3 of planning permission BH2017/03438 to permit the maximum number of children attending the nursery to increase from 51 as existing to 70 as proposed.

5. REPRESENTATIONS

- 5.1. **Six (6) letters of objection** have been received, summarised as follows:
 - Noise disturbance, already excessive from the current number of children and proposal would make this worse
 - Additional traffic and parking stress
 - Numerous complaints have been made regarding the nursery
 - Commercial rubbish left in bins
 - The nursery is not inclusive
 - Footpaths blocked during pick up/collections
- 5.2. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

Internal:

- 6.1. **City Early Years:** No comment received
- 6.2. **Environmental Health:** No objection

Original comment – There have been complaints from neighbouring residents regarding this premises. The applicant should be required to submit a comprehensive Noise Management Plan as part of this application.
- 6.3. Updated comment – the updated document addresses most of the recommended measures but should include contact details for neighbours to raise complaints.
- 6.4. **Sustainable Transport:** No comment received

External:

None

7. MATERIAL CONSIDERATIONS

- 7.1. 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
- 7.2. The development plan is:
 - Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove City Plan Part Two (adopted October 2022);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013, revised October 2024);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour Joint Area Action Plan (adopted October 2019).

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
CP9 Sustainable transport

Brighton & Hove City Plan Part Two

DM9 Community Facilities
DM20 Protection of Amenity
DM33 Safe, Sustainable and Active Travel

9. CONSIDERATIONS & ASSESSMENT

- 9.1. As this application is made under Section 73 of the Town and Country Planning Act, consideration is limited to those matters which vary compared to the extant permission.
- 9.2. The main issues in the determination of this application to vary condition 3 are the principle of the development, the impact of the proposal on neighbouring amenity, and transport matters. It is also noted that due to the age of the original consent the planning policy context has changed significantly since the development was previously approved.

Principle of Development:

9.3. Policy DM9 of the City Plan Part Two provides support for community facilities, which include nurseries. It is noted that the site has been inspected by Ofsted and approved for up to 70 children and the enlargement of the capacity of the existing nursery to align with this limit would not be contrary to the development plan in principle subject to further considerations set out below.

Impact on Amenity:

9.4. Policy DM20 of the City Plan Part Two states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

9.5. The proposed variation would allow for up to 70 children to attend the nursery at any one time. This would be a significant increase of more than 37% over the existing limit of 51 children.

9.6. The proposal therefore has the potential to result in an increase in the level and intensity of activity on site, as well as the number of comings and goings for pick up and drop off, both of which could in turn have a harmful impact on neighbouring amenity.

9.7. The Environmental Protection team have commented on the application and raised no objection subject to securing a Noise Management Plan by condition. Whilst some ad-hoc management measures were secured under previous permissions on the site, these were not secured as part of BH2017/03438 and securing a dedicated Noise Management Plan for the premises provides an opportunity to set out more detailed, comprehensive and rigorous measures to mitigate for the proposed number of children. This could include staggered playtimes and pick up/drop-offs, supervision protocols and complaints procedures.

9.8. A draft Noise Management Plan has been submitted and updated comments have been received from the Environmental Protection team. The Environmental Protection team have advised that the noise management plan does address most points but have requested that the document includes contact details to raise concerns. However, these details are readily available on the internet and website so it is not considered this information is needed.

Sustainable Transport:

9.9. The proposed increase in children numbers would result in an increase in comings and goings as children are dropped off and picked up. The site is, however, reasonably well located for sustainable travel with a number of bus routes and bus stops in the nearby vicinity and it is noted that the application includes brief details of a survey where only 12% of respondents said they drove to the nursery.

9.10. Accordingly, the proposal is considered unlikely to have an unacceptable impact on highways safety.

Other Considerations:

9.11. Minor revisions to condition 5 are also considered to be necessary to reflect the 2020 update to the Use Classes Order which placed nurseries within the newly created 'E' Use Class. It is considered that this condition remains necessary as other Class E uses may not be acceptable at this site.

Biodiversity Net Gain

9.12. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because:

- It does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat

10. CONCLUSION

10.1. The proposed increase in capacity of the existing nursery would not be contrary in principle to any development plan policy. Whilst there is the potential for an increased impact on the amenity of neighbours, it is considered that this can be satisfactorily mitigated through the Noise Management Plan.

10.2. This application would also not preclude the Environmental Protection department from carrying out an investigation under the provisions of the Environmental Protection Act 1990.

11. EQUALITIES

11.1. Section 149(1) of the Equality Act 2010 provides:

- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

11.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.