



## **DELEGATED APPLICATIONS - ASSESSMENT SHEET**

### **APPLICATION NO./ADDRESS:**

DC/19/2297

50 Wantley Hill Estate, Henfield, West Sussex, BN5 9JS

### **DESCRIPTION:**

Retrospective application for a change of use of swimming pool to mixed commercial and residential use.

### **RELEVANT PLANNING HISTORY:**

No previous planning history.

### **SITE AND SURROUNDS**

The application site comprises of 50 Wantley Hill, a semi-detached two storey dwelling with associated garden space to the south-west of Wantley Hill Estate. The site is accessed off a cul-de-sac shared with 5 other dwellings, with the swimming pool subject of this application sited at the south-western extent of the application site, extending ~10m along the southern site boundary. The site is found within the defined built-up area of Henfield.

The swimming pool, inclusive of associated hardstand, is situated immediately adjacent to the western and southern site boundaries with Nos 45 and 46 Wantley Hill. A timber structure with polycarbonate roof and tarpaulin sides has been erected to cover the swimming pool. It is understood that the tarpaulin sides can be removed, and that the structure does not feature any permanent walls.

The site is found within a residential context, comprised almost entirely of semi-detached two storey dwellings of comparable character/design to No.50. By virtue of the Estate layout, siting and orientation of No.50 relative to its surrounds, it is noted that the application site falls within a particular dense part of the Estate, with the rear/side amenity spaces of several dwellings found adjacent to the application site.

### **DETAILED DESCRIPTION**

Planning permission is sought for the use of an existing swimming pool for mixed commercial and residential use.

On the information available to the Authority it is evident that commercial operations have occurred from the application site previously, and are ongoing. This application, therefore, is retrospective in nature and consent is sought for the regularisation of an existing mixed residential/commercial use.

It should be noted that permission is sought solely in respect of the use of land, and for no associated operational development (physical alterations). While the presence of a timber structure is noted, as described above, this does not form part of this application and is not material to the determination of the Authority as to the use of land.

### **RELEVANT PLANNING POLICIES**

**The National Planning Policy Framework (NPPF)**

### **Horsham District Planning Framework (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 24 - Strategic Policy: Environmental Protection

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

Policy 32 - Strategic Policy: The Quality of New Development

Policy 33 - Development Principles

Policy 38 - Strategic Policy: Flooding

Policy 40 - Sustainable Transport

Policy 41 - Parking

Policy 42 - Strategic Policy: Inclusive Communities

Policy 43 - Community Facilities, Leisure and Recreation

### **Pre-Submission Henfield Neighbourhood Plan 2017-2031 (2019)**

Henfield Neighbourhood Plan has recently undergone public consultation under Regulation 14. The Council is considering responses received and continues to support the development of the Neighbourhood Plan in order to progress to submission stage. Given the current level of preparedness, and extent of unresolved objections against individual policies of the Neighbourhood Plan, it is considered that the relevant policies of the Neighbourhood Plan could only be assigned limited weight at this time.

The following policies of the Pre-Submission Neighbourhood Plan are deemed of relevance to this application:-

Policy 1 – A Spatial Plan

Policy 4 – Transport, Access and Car Parking

### **Henfield Parish Design Statement**

#### REPRESENTATIONS AND CONSULTATIONS RESPONSES

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)

#### Consultations:

**HDC Environmental Health:** No objection, subject to conditions. The Council's Environmental Health Department considered that the noise impacts of development could be satisfactorily controlled subject to appropriate conditions restricting hours of commercial operation to daytime hours and limiting weekend operations, together with conditions restricting the total number of participants at swimming lessons.

**WSCC Highways:** No objection. The Local Highways Authority (LHA) considered that the proposal would not unacceptably impact on highway safety or severely impact on the operation of the highway network.

The LHA Officer noted that the site would not accommodate any vehicular parking provision, with anticipated car parking demand to be accommodated on-street. The LHA considered that the presence of parking restrictions in the vicinity of the site would prevent any consequential impact on highway safety, though invited the Authority to consider the amenity impacts of 'nil' parking provision.

The accessibility of the site to public transport services on London Road was noted, and the LHA invited the applicant to consider the introduction of cycle parking facilities so as to reinforce the sustainability of the site.

**Henfield Parish Council:** No objection, subject to conditions as recommended by Environmental Health.

Representations:

54 letters of representation were received in connection with the proposal, 49 of which were received in support of the proposal and 5 were received in objection to the proposal.

The main material comments received in support of the proposal can be summarised as:

- Lack of alternative swimming pool facilities, and need for such a facility in Henfield;
- Location and siting of swimming pool promotes accessibility by local residents, reduces number of overall vehicle movements and limits travel outside of Henfield;
- Proposal supports public health and wellbeing;
- Noise disturbance arising from commercial activities is substantially similar to domestic/private use;
- Physical dimensions of pool limit intensity of use;
- Pool is not used by more than 6 persons at any one time;
- Proposal supports development of a local business;
- Proposal supports needs of disabled persons;
- Benefits to social cohesion;

The main material comments received in objection to the proposal can be summarised as:

- Noise disturbance arising from ongoing commercial operation, resulting sleep disruption, changes in behaviour and loss of enjoyment of neighbouring amenity spaces;
- Absence of pre-existing controls on hours of operation and duration/intensity of operation;
- Loss of privacy;
- Proximity and relationship between pool and adjoining neighbouring garden spaces;
- Residential character of Wantley Hill and inappropriateness of a commercial use;
- Increased traffic and pressure for parking spaces;

Further comments have been received addressing the dedication of the applicant and the visual impacts of the existing timber structure. This application concerns a change of use of land, and the respective merits of the proposal must be assessed on an objective standard against the provisions of the Development Plan. Whilst the Authority has no view on the dedication of the applicant, the ability or standard of business operated by the applicant is not material to the merits of the proposal as a permanent change of use of land. Similarly, while comments regarding the appropriateness of the existing timber structure are noted, such operational development is not material to the application to be determined.

Member Comments:

None received

HUMAN RIGHTS

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 the application. Consideration of human rights is an integral part of the planning assessment set out below.

PLANNING ASSESSMENT

**Principle of Development:**

Policy 2 of the HDPF (2015) seeks to maintain the District's rural character, whilst ensuring community needs are met through sustainable growth and suitable access to services and local employment. The Development Plan seeks to focus development around the key settlement of Horsham, and allows for growth in the rest of the district in accordance with the identified settlement hierarchy, and by

continuing to support the sustainable development of settlements through development of an appropriate scale which retains the existing settlement pattern.

Policy 3 of the HDPF (2015) classifies Henfield as a small town/larger village, possessing a good range of services and facilities, strong community networks and local employment provision together with reasonable public transport services. Such settlements provide support to smaller settlements in the vicinity, but rely on larger settlements to satisfy some of their requirements. Policy 3, further, provides that development within a defined built-up area will be permitted of an appropriate nature and scale that maintains the characteristics and function of its respective settlement in accordance with the defined settlement hierarchy.

Policy 43 of the HDPF (2015) provides that the provision of new, or improved, community facilities or services will be supported, particularly where addressing the identified need of local communities as indicated in the Sport, Open Space and Recreation Study (or other relevant studies) or contribute to the provision of Green Infrastructure. Criterion 2 of policy 43 confirms that facilities and services should be located in accordance with the Development Hierarchy and strategic allocations, with sites outside of a built-up area supported only where this represents the only practicable option and where well-related to an existing settlement.

Policy 42 of the HDPF (2015) affords support to the development of a socially inclusive and adaptable environment. Development supporting the long term needs of a range of users/occupiers will be encouraged, with particular account given to the needs of *inter alia* an aging population in terms of housing and health, people with additional needs and the co-ordination of services to fulfil the needs of young people.

Policy 7 of the HDPF (2015) *inter alia* provides that sustainable economic development is to be achieved through the formation and development of home working and home based businesses in addition to the retention and growth of defined key employment areas.

The established spatial strategy and hierarchy approach of the Development Plan, set out under policies 2, 3 and 4 of the HDPF, directs development to defined-built up areas where best supportive of, and supported by, pre-existing infrastructure, services and amenities. The application site is located within an existing settlement and benefits from its proximity to surrounding residential development and public transport services on High Street, approximately ~100m west of the application site. As suggested within many of the representations received, including pre-existing clients of the applicants business, the site is conveniently accessible on foot to the surrounding neighbourhood and further negates the necessity for travel outside of Henfield.

Policy 43 affords support to the development of community facilities in accordance with the development hierarchy, especially where addressing the identified need of local communities. While it is evident that the swimming pool subject of this application is in private ownership and is not accessible to the general public, and therefore cannot be regarded as a community facility, there is no pre-existing public swimming pool in Henfield. From the representations received it is evident that there is a demand for such a facility, and that the proposed use would continue to serve a community need.

Furthermore, while the economic impetus of the proposed use would be considered modest, some weight must be assigned to the development of a home based business in accordance with policy 7 of the HDPF.

On balance it is considered that the principle of development is acceptable in this instance, subject to consideration on all other material grounds, including parking and noise disturbance. The application site is located in a sustainable location for development and does satisfy a community demand for such a facility. Whilst constituting a noticeable intensification of use, especially in relation to the existing planning unit, the proposed use is not fundamentally of a scale or nature that would materially influence the settlement characteristics of Henfield as set out under policy 3 of the HDPF.

#### **Character and Amenity:**

Policy 33 of the HDPF *inter alia* provides that development will be required to ensure a design that

avoids unacceptable harm to the occupiers/users of nearby property and land by reason of overbearingness, loss of privacy, overshadowing and/or disturbance.

The application site is situated within a densely populated neighbourhood of Henfield, and possesses a clearly residential character. The swimming pool is located immediately adjacent to the common boundary with Nos 45 and 46 Wantley Hill Estate (being situated ~17.5m to the north of their respective rear elevations), and is additionally found in close proximity to the private amenity spaces of Nos 47, 48 and 51 given the orientation and layout of surrounding dwellings.

The swimming pool, although covered from the elements, is contained within an insubstantial structure that would not be considered to provide any effective sound attenuation that may mitigate or eliminate possible noise disturbance arising from a commercial use of land. It is accepted that the character of likely noise disturbance arising from the commercial use of the swimming pool would be substantially similar to that arising from a domestic use, as highlighted within the received representations, however, the likely duration and intensity of use would be considered significantly different. It is considered unlikely, for example, that the existing pool would be in regular and prolonged use on a daily basis, neither involving incidental movements by persons and vehicles that would be expected of a commercial operation. In this regard the proposal would represent a notable change in the character of the application site, and surrounding acoustic environment. While no acoustic survey or noise impact assessment has been undertaken in connection with the proposal, it is considered, given the absence of any effective sound attenuation and proximity/density of surrounding development, that noise arising from typical teaching activities, such as talking, splashing, shouting and vehicle arrivals/departures, would be more than negligible.

These adverse impacts must be considered in relation to the duration/frequency of commercial use, and as to whether any conditions could appropriately prevent unacceptable harm to neighbouring amenity. In this regard it is noted that the applicant has sought to describe the intended commercial use of the pool at S.5 of the submitted application form, with lessons held between 09:00-17:45 Monday-Tuesday, Fridays 09:00-18:15 and Saturdays 09:00-12:00 in addition to 12 'party' events per annum on Saturday afternoons between 13:00-16:00. The applicant confirms that outside of these hours the pool will remain for domestic personal use, including Sundays, public or Bank Holidays.

Teaching activity would, therefore, occur for approximately 30 hours per week in a schedule which would, mainly, reflect standard weekday working hours. The proposed teaching use would not extend into evenings, statutory night-time or involve significant operation at weekends, where noise would have the greatest potential to result in sleep disturbance and adversely influence the enjoyment of neighbouring land/property. It is, further, noted that the proposed pattern of operation would afford periods of respite to neighbouring occupiers due to the absence of commercial operation on Wednesday and Thursdays, in addition to Sundays and public holidays.

It is, though, acknowledged that the application site falls within an area possessing a clear residential character, and that the duration of existing/proposed use represents a significant intensification of use in relation to the existing residential unit. A commercial use of the swimming pool for ~30 hours per week, potentially supporting up to 6 attendees in successive half-hour lessons, represents a form of use verging on the threshold of what may be considered appropriate to a 'mixed' residential/commercial use, without resulting in creation of an independent planning unit on an individual basis.

Given the absence of any sound attenuation, and the proximity of the proposed use to existing garden and living spaces, it is considered that there is a reasonable prospect of disturbance to neighbouring occupiers during hours of operation that could materially effect a change in behaviour and the enjoyment of neighbouring land/property, as revealed in the representations received. Such noise disturbance would likely be exacerbated by a perceived loss of privacy arising from activity immediately adjacent to existing boundary treatments, though it is acknowledged there is a limited degree of inter-visibility between the application site and surrounding dwellings due to the height of existing boundary treatments.

A refusal of planning permission would, however, only be justified where a proposal would amount to unacceptable harm to the amenities of neighbouring occupiers. In this instance it is considered that a

condition restricting hours of commercial operation to teaching hours as described in S.5 of the submitted application form would afford adequate respite to neighbouring occupiers, and would avoid disturbance during weekend/evening hours. It is further considered that conditions restricting the number of attendees, requiring the submission and approval of a noise-management plan addressing conduct and management responsibilities for the control of noise and restricting the use of public address equipment/music in association with the commercial use would further minimise noise disturbance and afford control to the Authority as to the future management of noise activities. Subject to such conditions it is considered that the proposed use for teaching activities would not exceed a threshold of unacceptable harm, and the proposal would not prove contrary to policy 33 in this regard.

It is not, however, deemed appropriate to facilitate further 'events' in addition to the main commercial use. 12 events is equivalent to three months operation, if restricted to Saturday afternoon operation as proposed, with the nature of such 'parties' likely to give rise to a disproportionate concentration of events during summer months and school summer holidays. Noise disturbance from such events would, furthermore, likely exceed that associated with standard teaching activities, and given that such events would follow standard teaching hours, would erode periods of respite afforded to neighbouring occupiers. It is considered, therefore, that the cumulative impact of 'events' in addition to teaching activities would result in unacceptable harm to the amenities of neighbouring occupiers, and that if it is the applicants intention to host commercial events such events should occur within the standard proposed operating hours of the business.

### **Parking, Highway Safety and Operation:**

The application site possesses a single off-street parking space, which is used to satisfy the residential parking demand of 50 Wantley Hill. Given the layout of the cul-de-sac, and limited availability of space forward of the dwelling's principal elevation, it is considered that there is limited further potential to accommodate additional off-street parking in this instance.

The proposal, therefore, has been considered on the basis of a 'nil' parking provision, with demand for parking arising from commercial operation accommodated by on-street parking in the immediate vicinity. It is noted that the majority of dwellings in the surrounding vicinity benefit from dedicated off-street parking, and although some on-street parking is evident, there is capacity to accommodate additional vehicles a short distance from the application site.

It is furthermore noted, given the conditioned operating hours, that the parking demand for the proposed development would not coincide with the main residential demand for parking spaces during evening and weekend hours. The application site is located in a sustainable location, where access by sustainable means of travel represents a viable alternative to the use of the private vehicle. While, therefore, the proposal may exacerbate demand for on-street parking it is not considered that the detrimental effects of the proposal would go beyond mere inconvenience warranting a reasonable refusal of planning permission.

The proposal does not involve any alteration to highway layout, and represents a modest intensification of use in the context of the publicly maintained highway network. As considered by the Local Highways Authority it is not considered that the proposal would detrimentally influence highway safety and or operation.

### **Conclusions and Planning Balance:**

The application site is located within a defined built-up area that would concord with the spatial strategy and hierarchy approach of the Development Plan and is considered a sustainable location for development, given its association and proximity to existing residential development and public transport services. The proposed use is considered to address a community need for swimming facilities, and negates the need for additional travel/vehicle movements outside of Henfield.

It is considered that the commercial use of the swimming pool would give rise to some noise disturbance to neighbouring occupiers, however, subject to conditions restricting hours of operation to teaching hours only, and designed restrict/manage noise, it is considered that adequate respite would be afforded to neighbouring occupiers and no unacceptable harm would arise in this instance.

It is, further, considered that the proposal would exacerbate demand for on-street parking spaces, but not to an extent that would go beyond mere inconvenience or warrant a reasonable refusal of planning permission.

Overall, it is considered that, subject to the recommended conditions, the benefits of the proposal in satisfying a community need and supporting the development of a home based business would outweigh the harm arising in respect of impacts upon neighbouring amenity. It is, therefore, recommended that planning permission be granted accordingly.

### **Recommendation: Application Permitted**

#### **Conditions:**

- 2 **Regulatory Condition:** The commercial use of the swimming pool hereby approved shall strictly occur between the hours of 09:00-18:15 Monday to Tuesday, 09:00-18:15 Fridays, and 09:00-12:00 Saturdays. The commercial use shall not operate at all on Wednesdays, Thursdays, Sundays, bank or Public holidays. Outside of these hours the pool shall solely be used for purposes incidental to the occupation of 50 Wantley Hill Estate, Henfield, BN5 9JS as a dwelling and for no commercial purposes whatsoever, including use for swimming lessons and parties/events for commercial gain.

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

- 3 **Regulatory Condition:** The total number of pupils attending a swimming lesson shall not exceed 6 individuals at any one time, unless otherwise agreed by way of a formal application.

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

- 4 **Regulatory Condition:** Within a period of 3 months, a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include, but not be limited to, management responsibilities during all operating hours and measures to control noise from all activities and operation at the site. The Noise Management Plan shall be implemented in accordance with the subsequently approved details and complied with thereafter for the duration of the use/development.

Reason: In order to safeguard the amenities of nearby residents, in accordance with Policies 33 and 40 of the Horsham District Planning Framework (2015).

- 5 **Regulatory Condition:** No amplified music or public address system shall be played in association with the commercial use of the swimming pool.

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

#### **POSITIVE AND PROACTIVE STATEMENT**

Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, in order to be able to, where possible, grant permission.

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#### **Plans list for: DC/19/2297**

(The approved plans will form Condition 1 on the Decision Notice of all Permitted applications)

Schedule of plans/documents **approved**:

<b>Plan Type</b>	<b>Description</b>	<b>Drawing Number</b>	<b>Received Date</b>
Supporting Statement		NONE	15.11.2019
Location plan		NONE	15.11.2019
Site plan		NONE	18.11.2019
Photos	Aerial photograph	NONE	11.11.2019

**DELEGATED**

Case Officer sign/initial Giles Holbrook Date: 22.01.2020

Authorising Officer sign/initial Guy Everest Date: 10.02.2020