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The Head of Planning
Horsham District Council

Our ref: 6224

By Electronic submission

24 October 2025

Dear Sir/Madam

DC/25/1210 Southwater Business Park, Jubilee House Worthing Road Southwater West Sussex RH13 9JB - Installation of a fence around the perimeter of the property.

We have been instructed by the applicants for the above application to advise them on how to address the issues raised about the visual impact of the fence. We have been provided with a copy of the email from Halima Chowdhury to Abbie Clarke dated 17th October 2025 in which Halima wrote "*having reviewed this case file there is concern relating to the proposed development. The proposed replacement close board fence adjacent to the highway at a height of approximately 1.90m would be out of keeping with the prevailing characteristic of the street scene. If the following amendments can be made then the proposed development can be viewed more favourably:*

- *Please reduce the height of the proposed fence to remain the same height as the existing fence. To improve security of the site it is recommended that alternative design of boundary treatment should be explored either plant hedgerows behind the proposed fence to soften the street scene or amend the boundary treatment to comprise of low retaining wall with railing above and hedgerow behind."*

As the long-standing planning consultants to the applicants, we know how they operate and the needs of the business and it is necessary to provide some more context to the proposed development to enable you to make a balanced judgement on the application. The submission is for the erection of the fence around the property but no context has thus far been provided of the proposed use and why the fence is needed.

We will start by considering the planning history of the property which is set out below:

- DC/10/0233 Change of use of 2 rooms to Osteopathic clinic D1 use (non residential) in addition retain B1 usage (Business) Application Permitted on 30.03.2010

- DC/10/1583 Part change of use from B1 (office) to Hair Salon, D1 (Clinic) and D2 (Dance/exercise studio) on part first floor and creation on part of ground floor of retail display area, associated with Hair salon on first floor Application Permitted on 12.10.2010

- DC/11/0276 Advertising consent sought for 2 No. fascia signs Application Permitted on 11.04.2011

- **DC/15/1091 Change of use of building from mixed use (Class A1/B1/D1 & D2) to Class D1 on ground floor and Class B1 on first floor**. Application Permitted on 22.07.2015

- DC/16/0349 The existing [defective] chimney is to be removed down to ridge height and capped off with a lead sheet flashing to match the adjacent flashing Application Permitted on 31.03.2016

- DC/16/1952 Variation of Condition 3 and 4 to previously approved application DC/15/1091 Application Permitted on 18.10.2016

- DC/17/0007 External alterations to facade of building Application Permitted on 23.02.2017

We have highlighted the most important approval as we believe this refers to the most recently established use of the building. A recent officer's report (DC/19/2325) for storage containers on the site helpfully explained that the use in 2019 was for a church (Lifespring Church) who operated their administration/offices from Jubilee House. Application DC/16/1952 confirmed how the building operated, notably the function of the D1 use:

> Kings House was purchased in 2015 by Kings Church Horsham with the intention of increasing the range of community services provided, as well as for the administrative centre to support the 9 staff and additional volunteers. The use of the space by Kings Church seeks to meet the needs of all members of the community, with various activities envisioned including counselling, training, social events, kids/young adult clubs etc. The proposed variation to the opening conditions are outlined within the supporting cover letter to be vital to achieve the applicant's vision of providing a wide range of services to the local community.

The old D1 use class – set below – was subsumed into the new E use class in 2020.

- **D1 Non-residential institutions -** Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court. Non-residential education and training centres

Both the approved D1 and B1 uses have now been subsumed into the new E class. Why is this relevant? Because the applicant intends to operate the premises as a children's nursery under the Class E(f) provision set out below.

The planning history and submitted evidence provide clarity of the continued use of the site for the Use Class B1 and D1, now Use Class E, purpose. This lawful use falls under Article 3 of the Town and Country Planning (Use Classes) Order 1987 ("the Use Classes Order") as amended by Schedule 2, Part A, Class E (Commercial, Business and Service) of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 which states:

> *"**Use, or part use, for all or any of the following purposes**—*
> *(a) for the display or retail sale of goods, other than hot food, principally to visiting members of the public,*
> *(b) for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises,*

(c) for the provision of the following kinds of services principally to visiting members of the public— (i) financial services, (ii) professional services (other than health or medical services), or (iii) any other services which it is appropriate to provide in a commercial, business or service locality,
(d) for indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public,
(e) for the provision of medical or health services, principally to visiting members of the public, except the use of premises attached to the residence of the consultant or practitioner,
(f) for a creche, ***day nursery or day centre, not including a residential use, principally to visiting members of the public,***
(g) for— (i) an office to carry out any operational or administrative functions, (ii) the research and development of products or processes, or (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit."

There is no requirement to apply for any change of use to the building, for reasons set out above, but that doesn't mean that there will not be a change in the operation of the building and how it will function moving forward. The children's nursery use requires security for the children, hence the current application for the close boarded fence around it. The fence is fundamental and essential to the future use of the building as a nursery.

Now that the future use is clear, the Council therefore have an obligation to consider the proposed development in this context and apply the usual planning balance of whether the benefits/needs outweigh the identified harm.

The Horsham Distrct Planning Framework (November 2015) is the current Local Plan and contains policies that actively support community and educational uses of buildings. Policy 42 refers to inclusive communities and states that "Positive measures which help create a socially inclusive and adaptable environment for a range of occupiers and users to meet their long-term needs will be **encouraged and supported**". Policy 43(1) states that "The provision of new or improved community facilities or services will be **supported**". We have highlighted the important words. This isn't a generic policy, this is a positive support (presumption in favour) of providing such facilities.

Without the fence, the nursery will not be able to operate from the site as it will not have the required secure environment for the children. Whilst policy 33 (development principles) refers to the visual impact of development, it also refers to the need to provide safe environments and incorporate measures to prevent crime or antisocial behaviour. This, in a single policy, demonstrates that there is a conflict (or should we say balance?) between safety and visual impact.

The National Planning Policy Framework (NPPF) has a whole chapter (8) dedicated to promoting healthy and safe communities with paragraph 96 stating the decisions should ensure that places are "are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion". Paragraph 98 states that *"to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

a) ***plan positively*** *for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;"*

"Plan positively" again provides a positive presumption.

Now that the Council is aware of the proposed use of the premises, this use must be factored into the decision making and inform the judgement of the application as a clear public benefit which outweighs the visual harm of the fence.

There is a variety of boundary treatments in the area, including commercial palisade fencing elsewhere on the business park. There is a close board fence already at the site. Close board fencing is commonplace in urban areas and is surely preferable to commercial style fencing. Whilst we understand that the Council would want to see a reduced height fence, this is simply not an option because it doesn't provide the safe environment required for the children.

As a further consideration, Schedule 2, Part 2, Class A of the General Permitted Development Order (GPDO) 2015 (as amended) allows for fence of up to 2m in height as long as it isn't adjacent to a highway or (for a school) a 2m high fence "provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons".

Class A – gates, fences, walls etc

Permitted development

A. The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure.

Development not permitted

A.1 Development is not permitted by Class A if—

(a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed—

(i) for a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;

(ii) in any other case, 1 metre above ground level;

(b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;

(c) the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or

(d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.

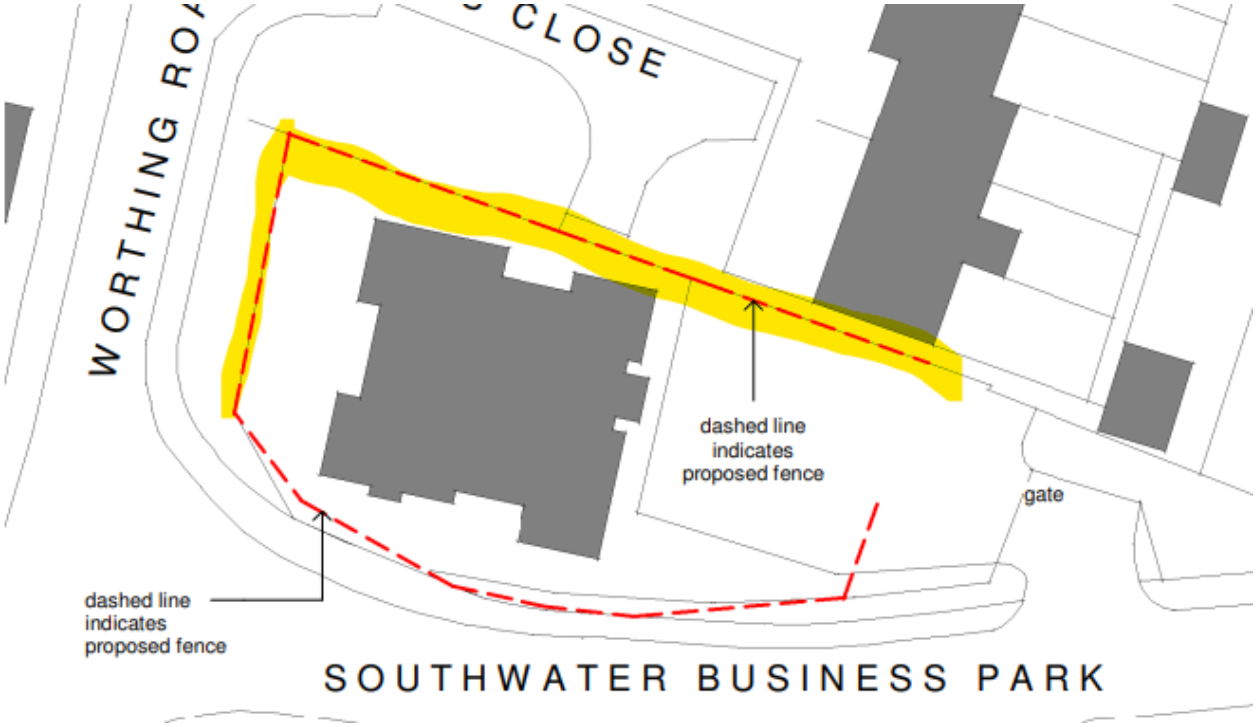
Interpretation of Class A

A.2 For the purposes of Class A, "school" includes—

(a) premises which have changed use under Class S or T of Part 3 of this Schedule (changes of use) to become a state-funded school or registered nursery as defined in paragraph X of Part 3; and

(b) a building permitted by Class C of Part 4 of this Schedule (temporary buildings and uses) to be used temporarily as a school, from the date the local planning authority is notified as provided in paragraph C.2(b) of Part 4.

Given the definition of a school in A2(a) includes a registered nursery, subject to the highway safety test, the fence would be permitted development anyway. Failing this, we calculate that almost two thirds of the fence – highlighted below – would not be adjacent to the highway and would not, therefore, require planning permission anyway.



Factoring all the above including the general policy support for the nursery use, the need to ensure safe environments and the Permitted Development opportunities that present a clear fall back of what would/could happen if planning permission is refused, we believe that there is a compelling case for planning permission to be granted for the development, as submitted.

Should you wish to discuss, please feel free to contact the writer.

Yours faithfully
BELL CORNWELL LLP

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