

Worthing Planning Committee

Date:	Wednesday 3 June 2015
Time:	6:30pm
Venue:	Gordon Room, Worthing Town Hall, Chapel Road, Worthing

Committee Membership: Councillors Kevin Jenkins (Chairman), Vicky Vaughan (Vice-Chair), Noel Atkins, Edward Crouch, James Doyle, Diane Guest, Nigel Morgan, and Paul Yallop

NOTE:

Anyone wishing to speak at this meeting on a planning application before the Committee should register by telephone (01903 221006) or e-mail heather.kingston@adur-worthing.gov.uk before noon on Tuesday 2 June 2015.

Agenda

Part A

1. Declarations of Interest / Substitute Members

Members and Officers must declare any disclosable pecuniary interests in relation to any business on the agenda. Declarations should also be made at any stage such an interest becomes apparent during the meeting.

If in doubt contact the Legal or Democratic Services representative for this meeting.

Members and Officers may seek advice upon any relevant interest from the Monitoring Officer prior to the meeting.

Any substitute members should declare their substitution.

2. Confirmation of Minutes

To approve the minutes of the Planning Committee meeting of the Committee held on 27 April 2015, which have been emailed to Members.

3. Items Raised Under Urgency Provisions

To consider any items the Chair of the meeting considers urgent.

4. Planning Applications

To consider the report by the Director for the Economy, attached as Item 4.

5. Public Question Time

To receive any questions from Members of the public in accordance with Council procedure Rule 11.2.

(**Note:** Public Question Time will last for a maximum of 30 minutes)

6. Enforcement Reports

To consider the reports by the Director for the Economy, attached as Item 6.

7. Car Park North of 60-66 Queen Street, Worthing

To consider the report by the Director for the Economy, attached as Item 7.

Part B - Not for publication - Exempt Information Reports

None

For Democratic Services enquiries relating to this meeting please contact:	For Legal Services enquiries relating to this meeting please contact:
Heather Kingston Democratic Services Officer 01903 221006 heather.kingston@adur-worthing.gov.uk	Caroline Perry Solicitor 01903 221086 caroline.perry@adur-worthing.gov.uk

Duration of the Meeting: Four hours after the commencement of the meeting the Chairperson will adjourn the meeting to consider if it wishes to continue. A vote will be taken and a simple majority in favour will be necessary for the meeting to continue.



Planning Committee
3 June 2015

Agenda Item 4

Ward: ALL

Key Decision: Yes / No

Report by the Director for the Economy

Planning Applications

1

Application Number: AWDM/0398/15 Recommendation – Approve

Site: Brooksteed Alehouse, 38 South Farm Road, Worthing, West Sussex

Proposal: Removal of Condition 5 of approved application AWDM/1169/13 'No vertical drinking'; variation of condition 4 opening times Sunday-Thursday 11:30-22.00 hours, Friday-Saturday 11:30-22:30 hours; variation of condition 9 to allow seating for 16 at the premises' front forecourt until 1900 hours only

2

Application Number: AWDM/0624/15 Recommendation – Approve

Site: Central Pavilion, Beach House Park, Lyndhurst Road, Worthing, West Sussex

Proposal: Change of use from clubhouse to restaurant/cafe (Use Class A3) on the ground floor with associated function space at first floor. New raised decking for use as external seating area to front.

3

Application Number: AWDM/1789/14 Recommendation – Refuse

Site: 1 – 3 Warwick Street, Worthing, West Sussex

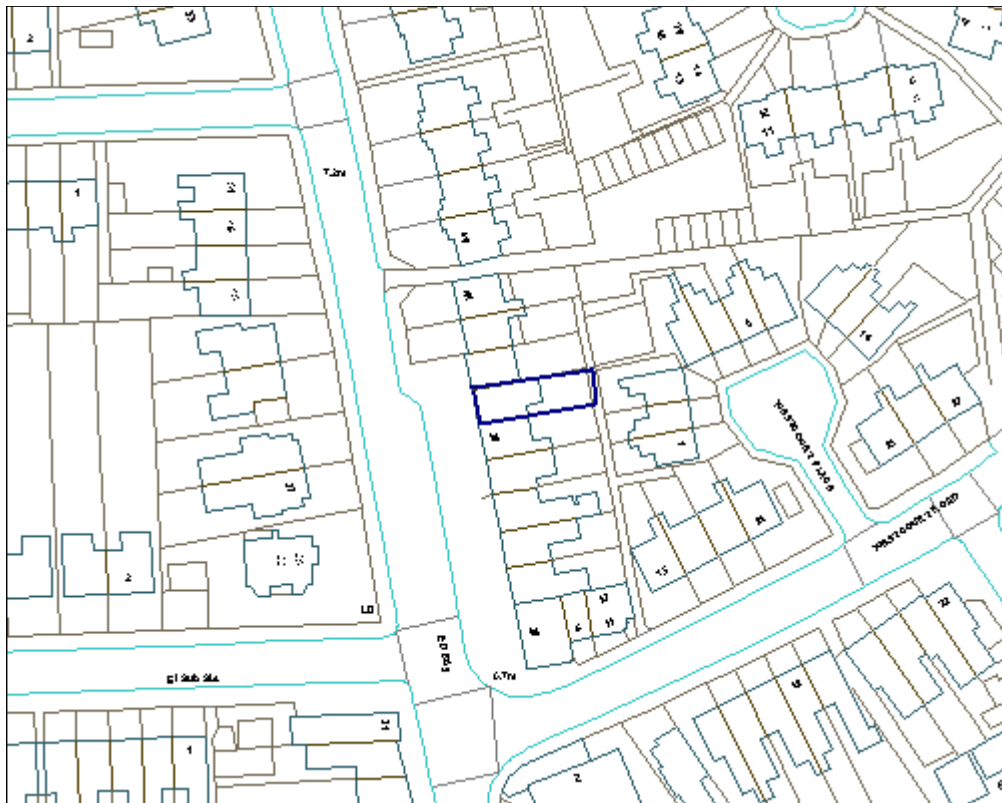
Proposal: Installation of replacement external self-service machine for HSBC

Application Number: AWDM/0398/15 Recommendation – APPROVE

Site: Brooksteed Alehouse, 38 South Farm Road, Worthing

Proposal: Removal of Condition 5 of approved application AWDM/1169/13 'No vertical drinking'; variation of condition 4 opening times Sunday-Thursday 11:30- 22:00, Friday-Saturday 11:30-22:30; variation of condition 9 to allow seating for 16 at the premises' front forecourt until 1900 hours only

Applicant:	Mr Nicholas Little	Ward:	Gaisford
Case Officer:	Gary Peck		



Not to Scale

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Proposal, Site and Surroundings

This application seeks the removal or variation of conditions imposed upon the permission granted under reference AWDM/1169/13 which allowed the change of use of the site to a 'micro pub'.

The conditions proposed to be varied are those relating to the hours of use of the premises and a restriction upon external seating and the condition to be removed is that which currently requires all customers to be served at a table. The wording of the conditions is detailed in the planning history section below.

The application site is located on the eastern side of South Farm Road and is the second northernmost in the parade of commercial premises. The parade forms part of the Core Zone of the designated South Farm Road Neighbourhood Shopping centre in the Core Strategy Policy which extends onto the opposite side of the road to the south and across the railway and level crossing (some 90 ms away). The parade is two storey and built in the inter war years. All the parade units benefit from a deep forecourt, and beyond this, a long parking bay. Most of the units use the forecourts for parking. A residential flat is above the unit as is the case with the others in the row.

Other than the parade, the surroundings are primarily residential, including opposite to the application site where semi-detached properties occupy some larger than average sized plots in the general area, while to the north the nearest residential property is next door but one to the application site with further residential uses beyond. To the rear of the site are residential properties in Westcourt Place, a cul-de-sac: the properties on its western side and therefore nearest to the application site, have short rear gardens.

To the south, beyond Westcourt Road are the level crossing gates and Worthing railway station is a short distance to the east and therefore easily accessible to the application site.

Relevant Planning History

Planning permission was granted in 2013 (AWDM/1169/13) for the change of use of a then hairdresser's to a 'micro pub'. The permission was subject to several conditions including:

The micro-pub hereby permitted shall only be open for trade and business between 11.30 to 14.00 hrs and 17.00 to 21.30 hours on Tuesday to Saturday (inclusive) and between 11.30 and 14.00 hrs on Sunday, Bank and Public Holidays.

No bar shall be installed and no vertical drinking shall take place on the premises. Beverages shall be served only to customers seated at a table.

There shall be no tables or chairs in connection with the approved use of the building on the front forecourt of the premises.

Consultations

West Sussex County Council:

The existing hours of opening are duly noted. The extended hours will evidently give rise to the site generating vehicular traffic over an extended period. However, the number of movements would not be anticipated to be particularly significant and would not be expected to exacerbate any existing issues, nor warrant an objection

on the basis of safety or capacity. Whilst the Planning Authority will no doubt wish to consider matters of amenity for local residents, no highway objection would be raised. Any additional tables and chairs will require a licence from WSSC's Legal Services department.

The ***Environmental Health Officer*** commented:

The micro pub currently has permission to be open between 11:30 - 14:00 hours and 17:00 - 21:30 hours Tuesday to Saturday and 11:30 - 14:00 hours on Sundays/bank/public holidays. This application seeks to extend these opening times to Sunday to Thursday 11:30 to 21:30 (with drinking finishing by 22:00) and Friday/Saturday 11:30 to 23:00 (with drinking finishing by 23.30). I assume the application therefore seeks opening until 22:00 Sunday to Thursday and 23:30 Friday/Saturday.

When planning permission was originally granted the hours of operation were restricted in order to fit the business model for a micro pub and to protect residential amenity. It was also felt reasonable to restrict the use of the premises to a micro pub to keep it distinct from other types of drinking establishments within the broader A4 Use Class. These longer opening hours in my view change the character of the business from a micro pub to a more traditional pub. Of particular concern is the use into the late evening and any associated noise, mainly from people arriving and departing and from smokers (who currently use the rear of the premises to smoke). This is a relatively quiet mixed residential and commercial area, meaning noise is likely to be noticeable to residents. Therefore I cannot support the hours applied for.

I am particularly concerned at the proposal for external seating for up to 32 customers. The original planning permission specifically prevented external tables and chairs to ensure noise from customers did not affect residential amenity (Condition 9). The potential noise from up to 32 customers will in my view adversely affect residential amenity, particularly during the evening and adds to the perception that this is a traditional pub rather than a micro pub.

Should you be minded to grant planning permission then I recommend the following be attached to any permission granted in order to protect nearby residential amenity.

The hours of opening be restricted to 11:30 to 22:00 hours Sunday to Thursday and 11:30 to 22:30 Friday/Saturday;

External seating is restricted to cater for up to 16 customers only;

The hours of use of any external seating is restricted to 11:30 to 19:00 hours, after which time the seating shall be rendered inaccessible by customers.

Representations

9 letters of support for the application have been received on the following grounds:

- the use does not cause any detriment to the character of the area
- the proposed changes will be line with other businesses
- support should be given to a successful business

- the current conditions restrict capacity at the premises
- the applicant has shown respect to neighbours in the operation of the business

4 letters of objection have been received on the following grounds:

- this is the wrong location for a micro pub
- increased noise and disturbance caused by the outside seating
- loss of privacy
- the original conditions were imposed to safeguard amenity
- with the proposed changes, the premises would no longer be a micro pub
- if the original conditions were not acceptable, the applicant should have contested them at the time

Relevant Planning Policies and Guidance

Saved Local Plan policies (WBC 2003): RES7,
 Worthing Core Strategy (WBC 2011): Policies 6 & 16
 National Planning Policy Framework (CLG 2012)

Relevant Legislation

The Committee should consider the planning application in accordance with: Section 70 of the Town and Country Planning Act 1990 (as amended) that provides the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations

Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning Assessment

The key issue in the determination of this application is the effect of the proposals upon the character and amenities of the surrounding area and neighbouring properties having regard to the requirements of a now established and seemingly successful business.

The previous committee report for the original change of use to a micro pub stated:

There is a recognised potential conflict between residential uses and drinking establishments (Class A4) which can give rise to noise and disturbance through late night activity as well as anti-social behaviour. In this case, while the application site is in a row of A-class uses, it is otherwise surrounded by residential properties including a flat above the unit itself. However, the proposed micro-pub concept is aimed at a specialist market and the nature of the use clearly differs from the pubs which typically dominate town centres...Given the proximity of residential properties, it is not considered that...later opening hours could be justified at this stage and that a condition should be imposed to restrict the opening hours...it would

be open to the applicant to apply to submit an application to vary the condition in due course. Supporting information indicates that micro pubs usually operate without nuisance but this would depend on various factors and your officers feel that this could only be properly assessed once the premises was open. A balance needs to be struck in order protect to the amenities of neighbours as well as supporting a new local business, the latter aim of which is supported in both local and national planning policy.... the supporting information raises the possibility of tables and chairs being provided on the front forecourt during the warmer summer months (subject to licensing approval). The Environmental Health Officer has raised concerns regarding this aspect and since the area in question provides parking for the premises, which is shown to be retained on the application form, it is considered at present that there should not be any tables or chairs placed on the front forecourt

As stated above, it is open to the applicant to apply to vary the conditions imposed upon a particular planning permission and as further stated above the contention that micro pubs usually operate without nuisance could be most realistically tested once the premises had opened.

The business appears to have been a success and part of the reason for the application is that customers are often been turned away because of lack of capacity at the premises due to the seating restrictions. National and local planning policies are supportive of business and therefore where possible a business such as this should be encouraged.

This does not, however, negate the need to protect the amenities of neighbouring properties or the character of the surrounding area and while the business seems to be operating without undue detriment at present, this must partly be due to the restrictive planning conditions imposed with the very intention of protecting such amenity.

As previously, there remains a necessity to take a balanced approach in the determination of the application.

Dealing firstly with the requirement to serve customers at a table and that they must be seated, it is apparent that this does restrict the capacity of the business and therefore it would seem that potential customers are turned away because of this restriction. This is perhaps exacerbated by what are, compared to other comparable businesses, restricted opening hours. The lack of operational hours for the premises coupled with a restriction on capacity, therefore, would seem to inhibit the overall potential of the business

The current opening hours of the micro pub are permitted to be between 11.30 to 14.00 hrs and 17.00 to 21.30 hours on Tuesday to Saturday (inclusive) and between 11.30 and 14.00 hrs on Sunday, Bank and Public Holidays. The proposal is to remain open during the afternoon on each day, extend the hours of use, including drinking up time, to 22.00 hours on Sunday to Thursday and 23.30 hours on Friday and Saturdays.

The comments of the Environmental Health Officer are noted as he raises concern as to the extent of the revised opening hours. He has suggested that the hours of

opening be restricted to 11:30 to 22:00 hours Sunday to Thursday and 11:30 to 22:30 Friday/Saturday (this would include any drinking up time). Your officers have considered this suggestion, against the hours of use applied for by the applicant and consider it to be a reasonable balance, given that there will be a gain in the hours of opening each day, primarily through the ability to open on Mondays, in the afternoons, throughout the day on Sundays and a later closing time each day. At present, it is felt that in that context to allow the premises to remain open until 23.30 hours would be excessive.

In respect of the outside seating, again the comments of the Environmental Health Officer can be considered of relevance. There is currently the ability to sit outside of the adjoining premises to the south (Spice Thai Kitchen) with permission being granted at that premises in 2014 for the installation of 4 No. fixed bench tables on private forecourt (8 seats per table) and removable barriers also on forecourt. In visual terms people occupying table and chairs outside of a commercial premises is more attractive than the car parking which takes place outside of the other units. Again, the previous restriction imposed on the micro pub was in part to assess the impact of the operation upon the surrounding area once opened.

However, again, to go from a situation of outside seating being restricted by condition to 32 being sat outside is excessive and has the potential to impact adversely upon the amenities of the surrounding area. While there is an argument that the micro pub should be subject to the same restrictions as Spice Thai Kitchen (thus allowing 32 customers to be sat outside) as stated in the report for the Spice Thai kitchen application '*the amenity impact of outdoor drinking is usually very different to that of alfresco dining.*' The Environmental Health Officer has suggested that the numbers be reduced to 16 and that the external seating only be used up until 1900 hours. This again appears to be a reasonable compromise.

Both the suggested revisions have been discussed with the applicant who is prepared to accept the changes to the submitted application and has expressed a wish to continue to work with neighbours to ensure that the business does not adversely affect the surrounding area.

Returning the request to remove the condition preventing vertical drinking, your officers have observed the impact of this condition and consider that there is justification for it to be removed. The size of the premises is limited and therefore the requirement for all customers to be seated is a limiting impact upon the business which would seem at times to result in potential customers being turned away. Equally, because of the limited size of the premises, the number of additional customers within the building that could be accommodated within the building would also be relatively limited and therefore is not considered likely to result in material harm to the amenities of the neighbouring properties. If outside seating is allowed, then it is important that vertical drinking is still prevented in that area.

In conclusion, it is apparent that the applicant has made a successful start to the business and there is some scope to alter the conditions originally proposed to enable this success to continue. However, as stated in the Environmental Health Officer's comments, there remains a requirement to ensure that the micro pub

concept is not lost to the detriment of surrounding neighbours and accordingly it is felt necessary to amend some parts of the application as outlined above.

Recommendation

To GRANT permission

Subject to Conditions:-

- 01 The micro-pub hereby permitted shall only be open for trade and business between Sunday-Thursday 11:30-22:00 & Friday-Saturday 11:30-22:30 to include any 'drinking up' time.

Reason: *To safeguard the amenities of the occupiers of neighbouring properties having regard to saved policy RES7 of the Worthing Local Plan.*

- 02 No vertical drinking shall take place on the outside seating area. Beverages shall be served only to customers seated at a table at the outside seating area.

Reason: To accord with the micro-pub model and to safeguard the amenities of nearby residential occupiers.

- 03 There shall be no more than 16 customers seated in the external area and the hours of use of such seating area shall be restricted to 11:30 to 19:00 hours, after which time the seating shall be rendered inaccessible to customers.

Reason: *In the interest of amenity having regard to saved policies H18 and RES7 of the Worthing Local Plan.*

3rd June 2015

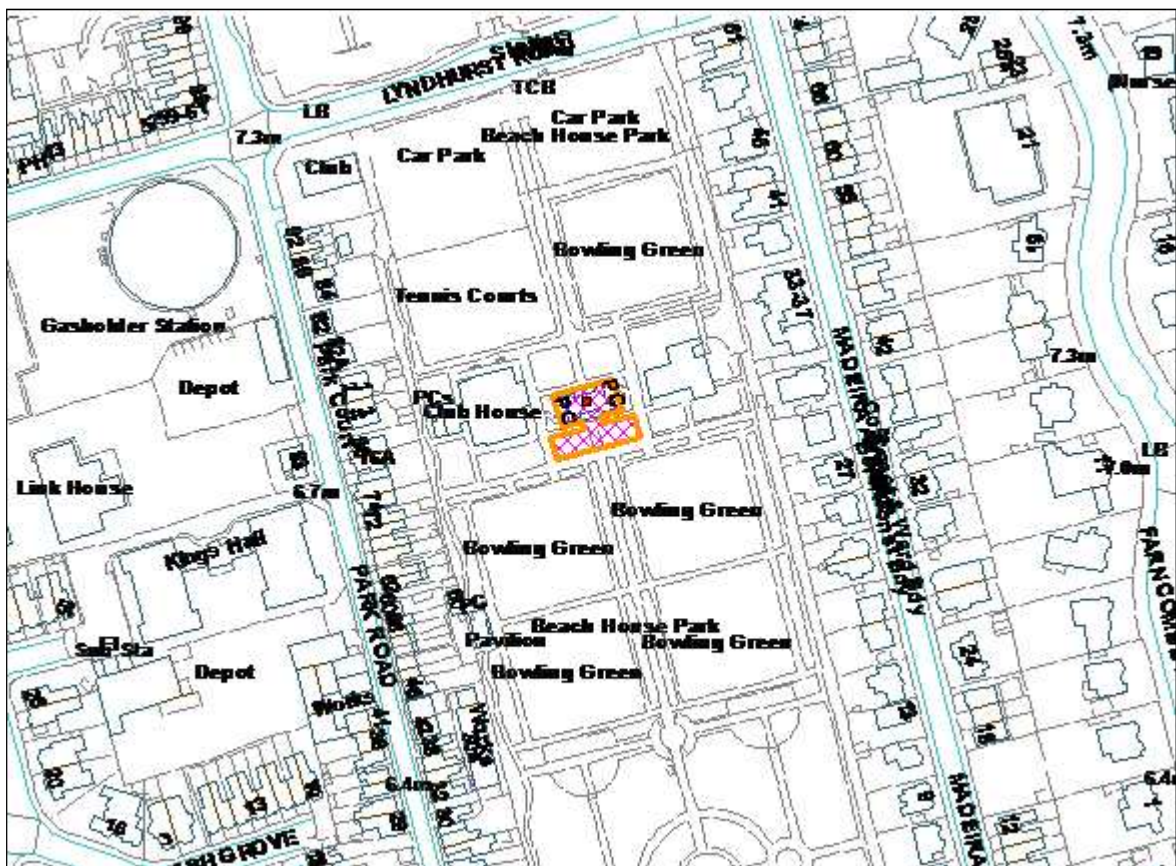
Application Number: AWDM/0624/15

Recommendation – APPROVE

Site: Central Pavilion, Beach House Park, Lyndhurst Road
Worthing, West Sussex

Proposal: Change of use from clubhouse to restaurant/cafe (Use Class A3) on the ground floor with associated function space at first floor. New raised decking for use as external seating area to front.

Applicant:	Mr Seamus Kirk	Ward:	Central
Case Officer:	Peter Barnett		



Not to Scale

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Proposal, Site and Surroundings

The application relates to the pavilion in Beach House Park which was originally constructed in 1925 as a clubhouse for the Bowling Club. The last use of the building was by the Council’s Parks section as a base for the Park Attendant and as an occasional venue for meetings. It is now vacant. It is owned by Worthing Borough Council.

The site is centrally positioned within the park between the bowling greens to the north and south. It is equidistant (at a distance of approximately 47m) between properties in Madeira Avenue to the east and Park Road to the west. To the west of the application site is the clubhouse while to the east is the now open site of the former park café which was destroyed by fire in 2009.

The building has two floors. On the ground floor there is a central space with rooms to either side. Public toilets are situated on the eastern and western ends of the building, but these have been closed for some time. At first floor there is a central space previously used for functions and meetings. It has an external terrace at first floor level on both the north and south sides. It is the focal point of the park and has a strong Arts and Crafts character. It has been formally identified as a building of Local Interest.

The application is proposing to change the use of the building to a café/restaurant (Use Class A3) on the ground floor with a meeting/function room at first floor. A large raised deck is proposed in front of the pavilion (south side) to accommodate external seating. The existing external toilet doorways are to be blocked up. New toilets are to be provided within the building as part of the conversion works, including a unisex wheelchair accessible WC.

The existing temporary ramp to the north entrance is to be removed and a new ramped access to the south entrance is to be provided within the new decked area. The deck will cover the lawn area in front of the pavilion, measuring 7.7m by 28m and raised by 0.3m with a 1.1m high timber balustrade around the outside. Existing trees are to be retained and accommodated within openings within the decking.

Opening hours being sought are stated as being 8am to 11pm every day. The building is shown as providing 35 covers inside, with a further 120 covers outside.

Consultations

Adur & Worthing Councils: The *Environmental Health* officer has commented that the applicant was recently granted a Premises Licence under the Licensing Act 2003. This contains a large number of operating conditions designed to reduce the impact of activities on the neighbours. He recommends that any permission granted restricts the use of the outside area from 8am to 10 or 11pm in order to reduce the impact on the amenity of nearby residential properties. He is not sure where the designated smoking area is and the suggested hours may impact on this.

A condition is attached to the Premises Licence regarding the volume of music. However music has recently been deregulated under the Licensing Act 2003, meaning music (live and recorded) are now exempt activities in premises licensed to sell alcohol for consumption on the premises. Therefore he recommends that a boundary noise condition is attached to any permission granted in order to protect residential amenity from music within the premises.

He also recommends there is a condition stating there will be no external music.

The *Parks and Foreshore Manager* is to be reported.

The ***Estates Manager*** is to be reported.

The ***Tree and Landscape*** Officer has no concerns following clarification by the applicant.

Representations

3 letters of objection received from the occupiers of 15 Madeira Avenue, 46 & 72 Park Road raising the following concerns:

- No objection to a daytime café for park users but the site is unsuitable as a night-time venue
- Will result in noise and nuisance for neighbouring residents, particularly as alcohol is to be sold
- Experienced noise from previous café in the park that burnt down
- Function rooms generate high volumes of noise, particularly in the summer when windows are open

Relevant Planning Policies and Guidance

Worthing Core Strategy 2006-2026 (WBC 2011): Strategic Objective 2 (Revitalise Worthing's Town Centre and Seafront), Strategic Objective 6 (Deliver High Quality Distinctive Places), Policy 3 (Providing for a Diverse and Sustainable Economy), Policy 5 (The Visitor Economy), Policy 11 (Protecting and Enhancing Recreation and Community Uses)

Worthing Local Plan (WBC 2003) (saved policies): H18

National Planning Policy Framework (March 2012)

Relevant Legislation

The Committee should consider the planning application in accordance with: Section 70 of the Town and Country Planning Act 1990 (as amended) that provides the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations; and Section 38(6) Planning and Compulsory Purchase Act 2004 that requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

Planning Assessment

Principle

There was formerly a café in the park, to the east of the pavilion, but this was destroyed by fire in December 2009. Permission was granted for a replacement in 2010 but it was never implemented (WB/10/0415/WBR3). The proposed use would be similar to the previous use of the café and it is considered that the proposal is acceptable in principle.

Visual amenity

There would be no material change to the external appearance of the pavilion. The blocking up of the toilet doors on the west elevation and their replacement with a brick and render recessed infill to match the existing building would be a minor alteration only.

The main alteration is the formation of the large decked seating area to the south of the building. The proposed timber and balustrade will be stained dark brown to match the areas of exposed timber framework and existing first floor terrace on the building. While the decking will result in the loss of an area of formal lawn, it would have only a limited visual impact and will complement the building.

Residential amenity

The suggested opening times on the application form are 8am until 11pm every day. Objections from residents in Park Road and Madeira Avenue have been received to late night opening on the grounds of the potential for noise and disturbance causing a loss of amenity. They state that noise from the former café did cause disturbance in this otherwise quiet area.

The previous café was located much closer to the eastern boundary and therefore had greater potential to cause disturbance. The pavilion, by contrast, is centrally located and is around 47m from the nearest residential boundary. The approval for the replacement café in 2010 contained a condition restricting the opening hours to 7am to 10pm on Sundays to Thursdays and 7am to 11.30pm on Fridays and Saturdays. In addition, outdoor usage was limited to daylight hours between 8am and dusk each day. The replacement café was to have been in the same position as the previous, i.e. much closer to the eastern boundary than the current site.

An alcohol licence has already been granted for the premises up until 11pm every day. Live music and recorded music is also permitted to be played up until the same time. A number of conditions are attached to the licence in the interests of safeguarding amenity and these include a requirement that the level of music played within the premises shall not exceed a level of 55dB LAeq, measured at a height of 1.5m at any position on the boundary of the park. Further control prohibits vertical drinking with alcohol only supplied by waiter/waitress service to persons at a table as an ancillary to food.

The previous requirement to close the outside area at dusk would have meant closure no later than around 10pm in midsummer. The applied for hours would therefore mean a potentially significant increase in people sitting outside, although in reality this is more likely to occur during summer months. The pavilion is also further from the park boundaries than the previous café.

On balance, it is considered that the requested hours are appropriate but it is recommended there should be no use of the terrace before 8am or after 10pm on any day. The Environmental Health Officer has also recommended that a condition be added preventing any music to be played outside and to control the level of

noise from music played indoors. It is considered that with such conditions in place, appropriate control will exist to prevent a loss of residential amenity.

Trees

The proposed decking will be constructed around two trees (Beech and Laurel) located within the lawn area. The decking is to be cut out to a width of 2.5m around the base of the trees to ensure that the decking is kept clear of the raised root buttresses of the Beech and the low crown of the Laurel, and to enable rainwater to continue to reach them. Foundations will be kept to a minimum depth and dug by hand. The decking will be kept clear of leaf debris to prevent the boards from becoming slippery. On this basis, there is no objection to the proposal in terms of the impact on the trees.

Conclusion

The proposal will bring this attractive building back into use and will provide an enhanced focal point for park users. It will replace the former café building which had previously existed for many years but at a distance further from residential properties. The proposed control over opening hours and outside activity should protect the amenities of residents and on this basis it is considered that the application can be supported.

Recommendation

APPROVE

Subject to Conditions:-

1. Standard 3 year time limit
2. Approved Plans
3. Materials and finishes to be agreed
4. Use as a café/restaurant (Use Class A3) with associated function room
5. Opening hours 8am to 11pm every day. No outside activities/use of terrace before 8am or after 10pm on any day.
6. Trees to be protected during construction and all foundations to be dug by hand

3rd June 2015

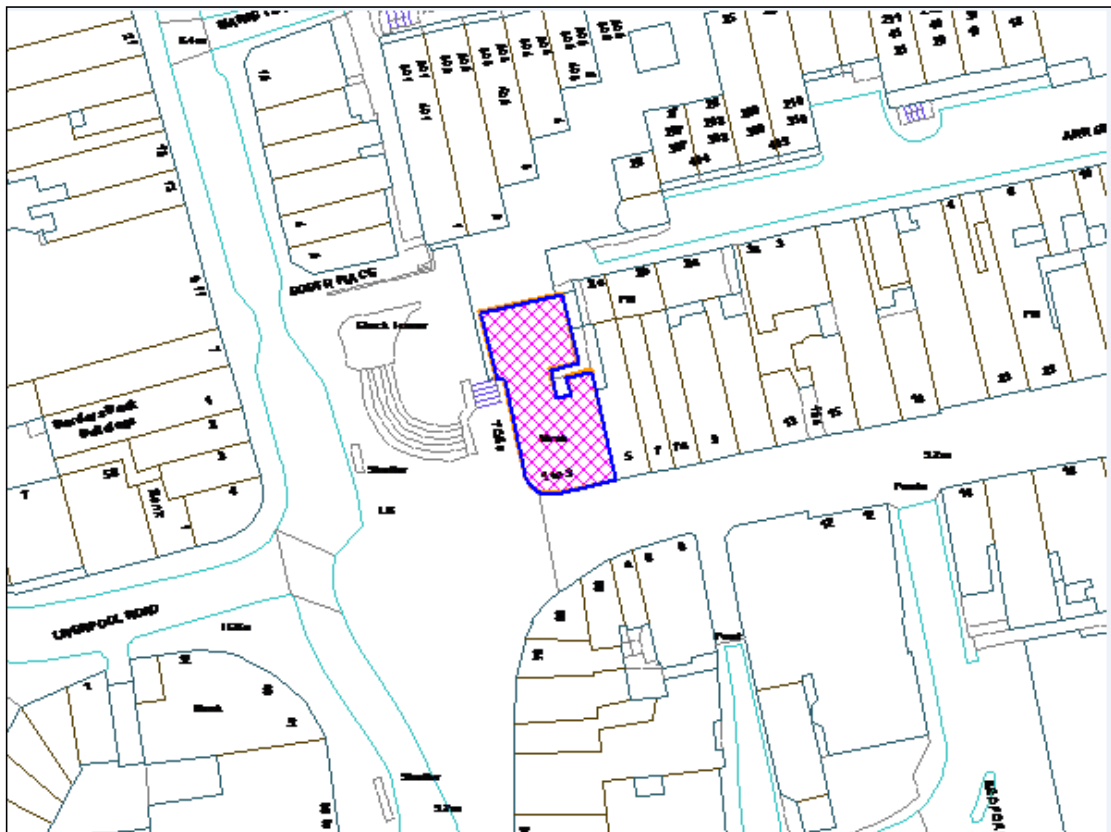
Application Number: AWDM/1789/14

Recommendation – REFUSE

Site: 1-3 Warwick Street, Worthing, West Sussex, BN11 3DE

Proposal: Installation of replacement external self-service machine for HSBC

Applicant:	ASBC Group	Ward:	Central
Case Officer:	Rebekah Smith		



Not to Scale

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Proposal, Site and Surroundings

The site relates to a prominent corner building at the junction of Warwick Street with South Place within the pedestrianised part of the town centre. The building is a Local Interest building with an exterior stone finish and occupied by HSBC. The site is within the South Street Conservation Area and is immediately adjacent to 5 Warwick Street, a Listed Building.

Permission is sought for the installation of a replacement ATM in the west elevation of the building. The existing machine is sited within the window openings and its external face is fractionally forward of the surrounding glazing, framed by the lower glazing framework. The proposed machine would require a similar opening in the

framework measuring approximately 0.67 metres in width by 0.61 metres in depth (slightly smaller than the existing machine) and with a curved profile to the top and bottom. The face of the proposed machine would be sited forward of the surrounding glazing by approximately 0.38 metres which the applicant has stated is to make the new ATM more accessible to wheelchair users.

Relevant Planning History

Planning application 10/0748/Full granted permission for the installation of the ATM to the lower section of the second full height window within the existing recess on 26 October 2010.

Consultations

Conservation Area Advisory Committee: Objection raised as the installation of a more prominent cash machine would not enhance the building or the Conservation Area. They comment that no reason is given as to why this new machine needs to project further from the building façade.

Representations

None received.

Relevant Planning Policies and Guidance

Worthing Core Strategy 2006-2026 (WBC 2011): Policy 16
Worthing Local Plan (WBC 2003) (saved policies): RES7, H18
National Planning Policy Framework (March 2012)

Planning Assessment

The determining issues relate to the impact of the proposed self-service machine on the character of the building and the Conservation Area and on the setting of the adjacent Listed Building. Given the scale and nature of the proposals there would be no significant impact on the amenities of neighbouring occupiers.

The application site is an attractive locally listed stone building within the South Street Conservation Area and provides an attractive backdrop to the clearly defined public space known as South Place at the Warwick Street, South Street and Chapel Road junctions and is a prominent building within the streetscene. No.5 to the east is a three storey Grade II listed building with a modern shopfront. Adjoining the site on the north side is the side wall of the Guildbourne Centre.

There is an existing ATM set within the glass, framed within the window framework and set back from the stone columns and cills. Unlike the other windows the stone base and cills have been recessed providing access to the ATM. The proposed replacement machine would be positioned with its front face and surround forward of the window by approximately 0.39 metres. The machine would sit prominently between the columns and appear to cantilever out from the glazing effectively floating 0.15 metres above the stone cill. This positioning would appear awkward in its relationship with the recipient building and would represent an incongruous

addition to the building. Whilst it is important to make facilities such as ATMs accessible to all where possible, it should not be at the expense of causing harm to the character of the building. Although the effect on the adjoining Listed Building is minimal due to the visual separation from this west elevation, the proposal would fail to preserve or enhance the character of the locally listed building within which it would be installed and the character of the South Street Conservation Area.

Recommendation

REFUSE for the reason(s):-

The proposed self-service machine would, by reason of its positioning forward of the surrounding glazing, represent a visually discordant form of development integrating poorly and out of character with the architectural character of the Local Interest Building. As such the proposal would fail to preserve or enhance the character of the South Street Conservation Area. The proposal therefore conflicts with Policy 16 Worthing Core Strategy 2011, and the policies of the National Planning Policy Framework 2012.

3rd June 2015

Local Government Act 1972

Background Papers:

As referred to in individual application reports

Contact Officers:

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Howard.barnes-moss@adur-worthing.gov.uk

Schedule of other matters

1.0 Council Priority

- 1.1 As referred to in individual application reports, the priorities being:-
- to protect front line services
 - to promote a clean, green and sustainable environment
 - to support and improve the local economy
 - to work in partnerships to promote health and wellbeing in our communities
 - to ensure value for money and low Council Tax

2.0 Specific Action Plans

- 2.1 As referred to in individual application reports.

3.0 Sustainability Issues

- 3.1 As referred to in individual application reports.

4.0 Equality Issues

- 4.1 As referred to in individual application reports.

5.0 Community Safety Issues (Section 17)

- 5.1 As referred to in individual application reports.

6.0 Human Rights Issues

- 6.1 Article 8 of the European Convention safeguards respect for family life and home, whilst Article 1 of the First Protocol concerns non-interference with peaceful enjoyment of private property. Both rights are not absolute and interference may be permitted if the need to do so is proportionate, having regard to public interests. The interests of those affected by proposed developments and the relevant considerations which may justify interference with human rights have been considered in the planning assessments contained in individual application reports.

7.0 Reputation

- 7.1 Decisions are required to be made in accordance with the Town & Country Planning Act 1990 and associated legislation and subordinate legislation taking into account Government policy and guidance (and see 6.1 above and 14.1 below).

8.0 Consultations

- 8.1 As referred to in individual application reports, comprising both statutory and non-statutory consultees.

9.0 Risk Assessment

- 9.1 As referred to in individual application reports.

10.0 Health & Safety Issues

10.1 As referred to in individual application reports.

11.0 Procurement Strategy

11.1 Matter considered and no issues identified.

12.0 Partnership Working

12.1 Matter considered and no issues identified.

13.0 Legal

13.1 Powers and duties contained in the Town and Country Planning Act 1990 (as amended) and associated legislation and statutory instruments.

14.0 Financial implications

14.1 Decisions made (or conditions imposed) which cannot be substantiated or which are otherwise unreasonable having regard to valid planning considerations can result in an award of costs against the Council if the applicant is aggrieved and lodges an appeal. Decisions made which fail to take into account relevant planning considerations or which are partly based on irrelevant considerations can be subject to judicial review in the High Court with resultant costs implications.

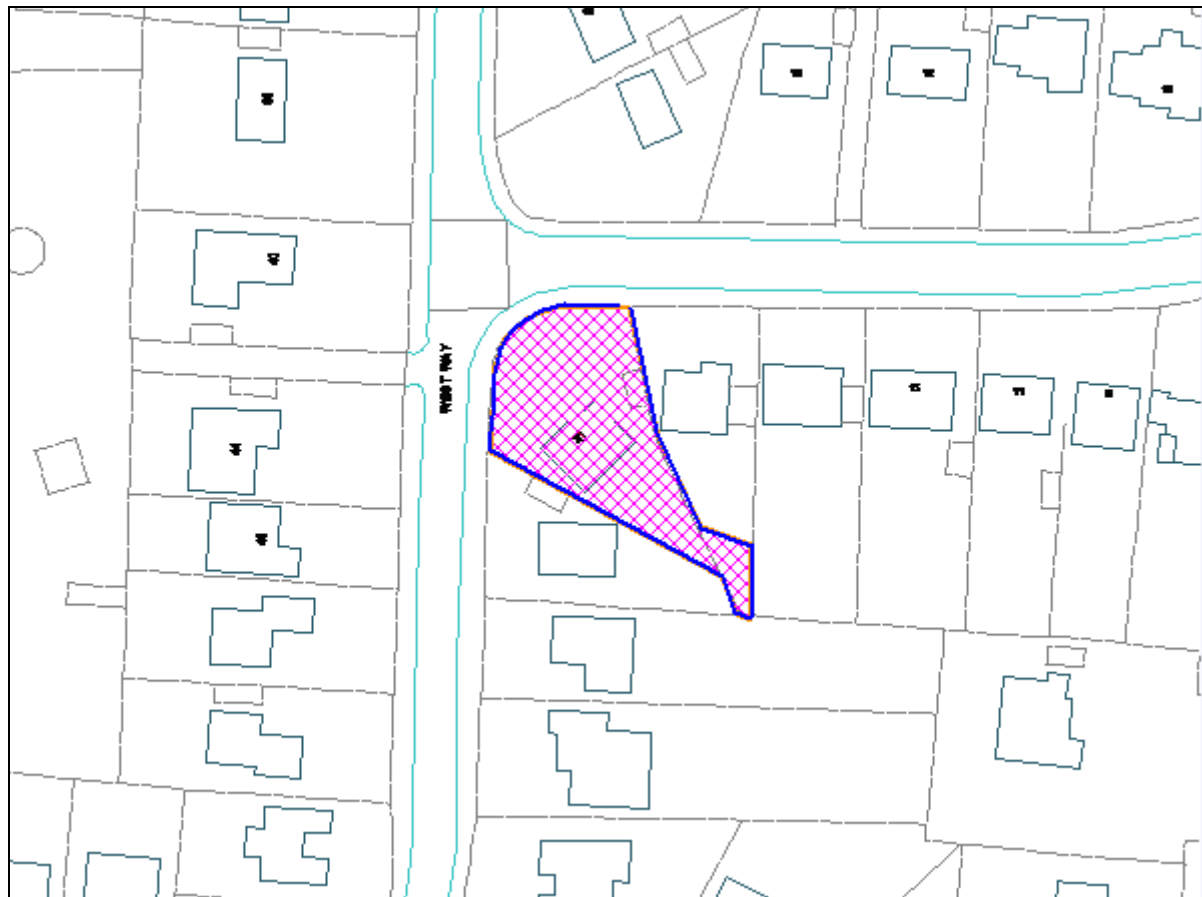
Report by the Director for the Economy

ENFORCEMENT REPORT
UPDATE

1

21 West Way, Worthing

Non – compliance with Planning Enforcement Notice to require the demolition of an unauthorised garage



Not to Scale

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1. THE SITE AND THE BREACH OF PLANNING CONTROL

The site at 21 West Way comprises a large corner plot with an extended, detached white painted house set facing the corner of West Way.

There is a relatively detailed recent planning history in relation to the garage which is the subject of this report.

The property owner first applied for planning permission for the construction of a detached garage late in 2007. This application was refused, under delegated authority, in February 2008. A revised application was submitted on 5th June 2008. Whilst the revised application was under consideration your Officers received a complaint (on 26th June 2008) that a garage (the subject of the pending application) was in the process of being constructed at no. 21 despite the pending application and the refusal of the previous application. Despite advice from your officers, the property owner continued to construct the garage.

Following the refusal of the revised application on 28th July 2008 your Officers contacted the property owner to establish his intentions in respect of the unauthorised construction of the garage and given the two applications which had been refused.

A further application was submitted in March 2011 which was also refused on 26th May 2011. This refusal to grant planning permission was appealed to the Planning Inspectorate (unlike the previous decisions) however the appeal was dismissed on 20th February 2012.

The comments of the Inspector included:

'...the fact that the garage is on higher ground than the appellant's existing house makes it stand out obtrusively. So too does the extent to which it extends forward of the appellant's house and the neighbouring property...the harm identified is most apparent in views from the south-west across the front garden of the appeal property...the garage also appears intrusive when seen from the north-east...adding weight to the harm identified is the construction of the garage walls in oak weather boarding...even in this area of varied housing styles this makes it stand out even more incongruously'

The Inspector concluded that the retention of the garage would therefore fail to comply with Local Plan policy. He also noted that *'there is considerable support among local residents for retaining the garage...however I remain firmly of the opinion already expressed'*

An enforcement notice had previously been served on 28th June 2011 requiring the removal of the unauthorised garage. The service of the enforcement notice was appealed separately to the Planning Inspectorate and the appeal was also dismissed (by a different Inspector to that which dealt with the planning application appeal) and the enforcement notice was upheld

The Inspector in respect of the Enforcement Notice made similar comments to the previous Inspector:

'Due to its elevation and the slope of the plot the eaves and ridge height of the outbuilding are similar to the adjacent two storey host dwelling...on approach from the east along West Way it projects significantly in front of the set back of both 19 and 21 West Way and other dwellings in that section of road. It also appears as a prominent feature in the street scene of West Way from the west. The prominence of the outbuilding is emphasised to a degree by its external elevations being clad with oak weather boarding which is at odds with the appearance of nearby dwellings.'

The Inspector also concluded that the retention of the garage conflicted with Local Plan policy and hence the Enforcement Notice was upheld.

The Inspector was also made aware of local support for the scheme and particularly that off-road parking was needed to avoid parking on the road. The Inspector commented *'...the Council has responded that the need for off-street parking could be satisfactorily provided in an alternative manner to the appeal scheme. I have no reason to differ from that view.'*

The enforcement appeal decision was issued on 7th December 2011. The enforcement notice therefore took effect on this date. The compliance period specified within the notice was one month and compliance with the notice was therefore due on 7th January 2012.

Your officers were made aware of the applicant's medical circumstances as a request from an agent then acting for the applicant was made that the compliance period to remove the garage was extended. This was agreed to by officers, albeit that the garage had now been in situ for over 3 years and had been the subject of unsuccessful appeals.

The property owner then sought to contend that, in fact, the garage did not require planning permission in the first place, and therefore the building comprised permitted development. Your officers took legal advice and confirmed that the building did require planning permission. However, an inspector in dealing with either a planning application appeal or an appeal against an Enforcement Notice would not consider the matter of permitted development. Even though, therefore, your officers had already sought legal advice which indicated quite conclusively that the building required planning permission, it was agreed that a formal application for a Certificate of Lawful Development be submitted, and if refused there would be a further right of appeal.

The application was subsequently refused in September 2013. An appeal was subsequently submitted and only decided by the Planning Inspectorate in February of this year.

The Inspector stated that *'...the appeal was bound to fail from the start and it is a pity that the applicant's agent did not advise Mr Setchell accordingly'* The Inspector noted that the building was illegal and also commented *'that the*

council evidently prepared prosecution proceedings, though for reasons not readily apparent to me these proceedings have not been pursued.'

The Inspector therefore concluded that the refusal of the Certificate of Lawful Development application was well founded.

At the time of writing the enforcement notice still has not been complied with and the unauthorised garage remains in situ.

2. COMMENTS OF THE PROPERTY OWNER

The property owner is aware of the presentation of this report and will have been given the opportunity to attend the meeting and make representations to the Committee.

3. PLANNING ASSESSMENT

The planning merits of the garage are clearly set out in the Inspectors' decisions that are appended to this report which found that the building requires planning permission and adversely affects the character of the area.

Non-compliance with an enforcement notice is a criminal offence for which the property owners could be prosecuted. The Council also has powers to enter the land and to carry out the required works "in default" of the notice.

The property owner has advised Officers of his ill health and explained that this prevents him from achieving compliance with the notice. Given that the building was constructed 6 years ago, Officers have been very sympathetic to these representations and have been extremely reasonable as to the length of time that this matter has remained outstanding in order to give the property owner every opportunity to achieve compliance with the enforcement notice. The property owner has been repeatedly encouraged to seek assistance with the removal of the building so as to enable this matter to be resolved.

Officers appreciate that the property owner is extremely reluctant to remove the garage that he has constructed but given the formal decisions that have been Council and the Planning Inspectorate) in this matter it is the clear view of your officers that under planning law, the property owner must now proceed to comply with the enforcement notice (or in the alternative face prosecution proceedings for failing to do so). Indeed, the Inspector in determining the latest appeal appeared to be surprised that the Council had not proceeded with prosecution proceedings prior to now.

Despite the extended timescales involved your officers remain mindful of the property owners' medical circumstances (it is understood he will be returning to hospital in June) and therefore, again, are prepared to agree a mutually acceptable timescale for these works to be carried out. Unlike previous occasions, every possible appeal avenue has now been exhausted.

The property owner has advised that should he remove the garage he may seek to attempt to replace it with a structure that does not require planning permission. It has been suggested by him that either a mobile home or shipping container could be erected without permission. He has not been encouraged to do this by Officers and has been repeatedly advised to seek formal confirmation (in the form of a Certificate of Lawfulness) that planning permission is not required prior to erecting any further outbuildings (to date no such application has been submitted) as only in specific circumstances would permission not be required in such circumstances. In any event, planning decisions, especially those for which the development concerned has already found to be unacceptable independently on appeal, should not be influenced by what theoretically may or may not be built without the requirement for planning permission.

Should a structure be erected that does not constitute development (as defined by S.55 of the Town and Country Planning Act 1990) it would be outside of the control of the Local Planning Authority and its appearance, design and siting could not be controlled.

5. COMMENTS OF THE DIRECTOR FOR DIGITAL AND RESOURCES

Any comments will be reported verbally at the meeting

6. OTHER IMPLICATIONS

There are no significant direct race relations, equal opportunity, environmental or community safety implications arising in this report.

7. RECOMMENDATION

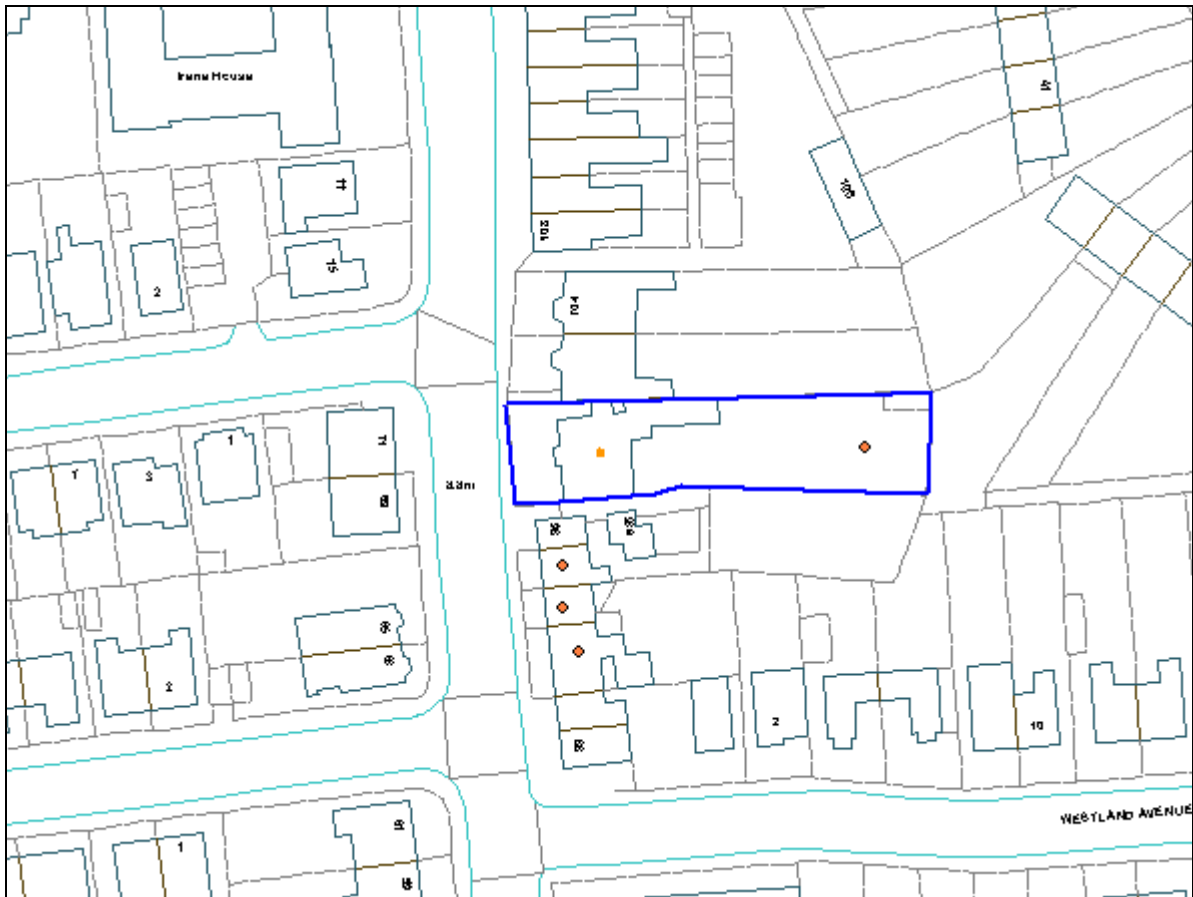
THAT GIVEN THE EXTENUATING MEDICAL CIRCUMSTANCES OF THE PROPERTY OWNER A FURTHER OPPORTUNITY IS GIVEN FOR A SPECIFIC TIMESCALE TO BE AGREED FOR THE REMOVAL OF THE GARAGE. IF NO TIMESCALE IS AGREED (OR IF ANY TIMESCALE AGREED IS NOT ADHERED TO) OFFICERS SHALL PROCEED WITH PROSECUTION TO FACILITATE THE REMOVAL OF THE BUILDING

3rd June 2015

ENFORCEMENT REPORT
UPDATE

The Folly, rear of 100 South Street, Tarring, Worthing

Request for authorisation of expenditure for structural engineers report



Not to Scale

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This is an update to the Enforcement Report presented to the Committee on 4th March 2015, when members resolved that the Head of Economic Growth be authorised to spend in the region of £600 plus VAT (from the Planning Miscellaneous Expenditure Budget) to obtain a detailed report on the condition of the building and works required for its reparation. A copy of the previous report is attached for reference (Appendix 1).

Your Officers attended site with RBS Surveyors but did not enter the land due to the legal advice that had been given. Access was gained to adjoining land and as such RBS Surveyors were able to conduct an inspection which was sufficient enough to provide an initial report and photographs of the folly taken from a ladder with a suitable lens.

This report is available to view at the meeting or in advance at Member's request.

The surveyors recommendation is that a further report is required from a structural engineer with experience in historic buildings, who can advise the best method of stitching/tying the internal walls back together.

As a full survey was unable to be carried out by RBS Surveyors the balance of their invoice was used for them to assist with the process of finding a suitable structural engineer with the relevant experience and expertise.

Two quotes have been received ranging from £950 to £1500 plus VAT. These can be viewed at the meeting or in advance at Member's request.

The quotes have been reviewed by the Design and Conservation Architect who comments as follows: -

"Both quotations appear to cover the works required. The cheaper of the two options (QED) includes reasonable out of pocket expenses, although provision of ladders needs to be factored in. The second quote (Philip Goacher) gives a price range, but even the lower end is still notably more expensive than that of QED"

Planning Service's miscellaneous expenditure budget can be used to meet this further expenditure. Should the owners choose to do the works voluntarily, or should a notice be served which the owners comply with, it is likely that the expenses incurred in the provision of this report will not be recoverable. Should a notice be served that is not complied with and the Council ends up carrying out any works in default of such a notice this sum may be recovered.

RECOMMENDATION

THAT THE HEAD OF ECONOMIC GROWTH BE AUTHORISED TO SPEND £950 PLUS VAT (FROM THE PLANNING MISCELLANEOUS EXPENDITURE BUDGET) TO OBTAIN A STRUCTURAL ENGINEERS DETAILED REPORT ON THE CONDITION OF THE BUILDING AND WORKS REQUIRED FOR ITS REPARATION.

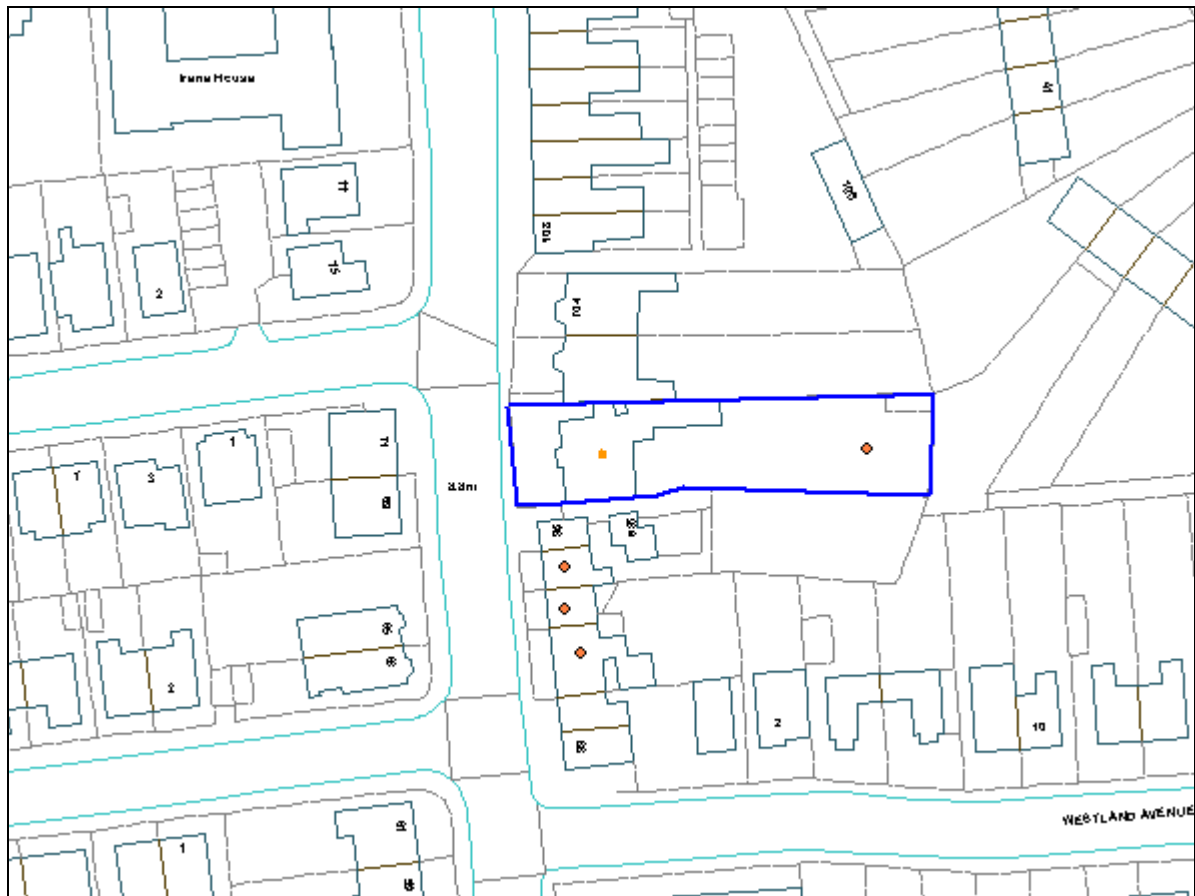
Appendix 1

Report by the Director for Economies

ENFORCEMENT REPORT

The Folly, rear of 100 South Street, Tarring, Worthing

Land detrimental to the amenity of the area and request for authorisation of expenditure for surveyors report



Not to Scale

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1. THE SITE AND THE BREACH OF PLANNING CONTROL

100 South Street, Tarring is a two storey Victorian villa, with central entrance portico and symmetrical ground floor cant bays. In 1893 it was the home of Mr W Osbourne Boyes, a solicitor, who built the 'Folly' at the end of his garden to enjoy the open views across fields to the sea.

The folly is a Grade 2 listed building which is described in the National Heritage List as: -

Folly to rear of No 100 GV II Folly. Early C19 heightened mid C19; altered later C19 and C20. Coursed cobblestone with brick dressings; roof material not visible. A single cell, square on plan, of 2 storeys with basement. Brick quoins to angles and openings, brick band between storeys, eaves cornice and embattled parapet with pitched coping. On lower floors the brick is red, with some blue bricks; on upper floor it is paled and this and the slightly differently-laid cobble indicates that the upper storey is of a different build. Entrance elevation: segmental-arched basement opening; above this, cantilevered stone steps rise to doorway which has C20 stable door below inserted soldier-brick arch window on left. Upper floor has a later, wide, 3-light window with header-brick arch and wooden casements with pointed-arched glazing bars. Rear: a pointed-arched window to ground floor with two 4-pane lights and glazing bars in head; upper storey has segmental-arched casement with pointed-arched window to lower storey; wide 3-light window above as front.

The owners of 100 South Street are reclusive and have not engaged with the Council for many years. The property is not maintained, nor any of the grounds and as such the condition of the folly appears to be deteriorating.

Officers have previously taken enforcement action both under the Town and Country Planning (Listed Buildings and Conservations Areas) Act 1990 and Section 215 of the Town and Country Planning Act. Works were carried out in 2008 in default of a Section 215 notice requiring a car to be removed, vegetation cleared and other improvements made to the front elevation. Works were also carried out at this time to remove overgrown vegetation and to secure and make weather tight the folly.

Recently Officers have received renewed complaints regarding the security and appearance of the property and also suggesting that the folly was being accessed by trespassers and was no longer secure or weather tight. West Sussex Police have carried out a welfare check and confirmed that the residents are well.

Site visits to the property gave Officers cause for concern regarding the appearance of the frontage. The owner occupiers were contacted in this regard and a response was received from a representative who appears to be a medical contact stating that after the front of the property was cleared some years ago, the owners had experienced many acts of vandalism including stone throwing and attempted break ins. Since the plants have been reinstated and grown high enough this behaviour has been thwarted leaving the owners in much needed peace. The letter states that the male occupier has many health problems including low capacity lungs, heart problems and total kidney failure amongst other things. The letter concludes that if we feel it necessary to take action again then this will impact on his health and financial implications of repairing damage.

Photographs of the current appearance of the frontage will be available at the meeting. The folly is accessible from the rear gardens of adjoining properties which has allowed for a ground level inspection of the folly to be carried out. Officers are concerned that the interior of the structure may not be safe – the

wooden floors and ceilings/roof are wet and rotting, cracks have also appeared in the brickwork and merlons have been lost from the rooftop. It may be that scaffold is required therefore to access certain parts of the building. Photographs describing the condition of the folly will also be available at the meeting.

2. COMMENTS OF THE PROPERTY OWNER

Your Officers have written to the owners several times and tried to establish communication with no success other than the response from the representative as summarised above.

All interested parties will have been made aware of the presentation of this report and given the opportunity to make representations to the Committee.

3. PLANNING ASSESSMENT

The Listed Folly

The preservation of this listed folly is considered to be important, it is the only listed folly in Worthing, its design and materials are of significant regard and it is clear that its condition is deteriorating. Your Officers are of the opinion that if this folly is to be preserved, works need to be carried out, whether by the Owners or the Council, to ensure its preservation.

In order to establish what works are necessary your Officers require a report from a qualified surveyor. Whilst Officers are clearly able to identify some of the areas of the building that require improvement, they are not qualified to structurally assess the fabric of the building. The expertise does not exist within the Planning Department to carry out a survey of this building and to make full recommendations as to what works are required and for this reason therefore Officers are seeking the agreement of the Committee to employ external specialists to undertake a survey of the folly and assist in the formulation of a schedule of works.

As with all enforcement cases, and in line with the enforcement concordat, proceedings will begin with a request that the owner carry out the required works voluntarily. Should this request not be fulfilled enforcement powers are available under Section 54 of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) to serve an Urgent Works Notice. This power enables local authorities to execute any works which appear to them to be urgently necessary for the preservation of a listed building in their area. If the building is occupied, the works may be carried out only to those parts not in use (i.e. the folly). The owner must be given a minimum of seven days' written notice of the intention to carry out works, and the notice must describe the proposed works to be carried out (hence the need to be informed by a survey). Section 55 of the Act allows the costs of the works to be recovered from the owner by the authority who carried out the works. The owner must be served a notice requiring him to pay the expenses of the works. Within 28 days of the service of the notice, the owner may appeal to the Secretary of State by making

representations, including that the works are unnecessary or that the amount specified in the notice is unreasonable.

Officers are aware that there are already financial charges, including for the previous works in default registered against this property by Worthing Borough Council and Southern Water. The council tax charge on the property currently stands in excess of £6000. Officers have requested information regarding the charges from Southern Water and any information provided will be reported in a verbal update at the meeting. It may only be possible to recoup further costs should there be sufficient equity in the property.

Alternatively Section 48 of the Act enables local authorities to serve a Repairs Notice on the owner of a listed building specifying those works it considers reasonably necessary for the proper preservation of the building.

If, after a period of not less than two months, it appears that reasonable steps are not being taken for the proper preservation of the listed building, the authority can begin compulsory acquisition proceedings under section 47. It is important to note that serving a Repairs Notice under section 48 does not commit the authority to proceed to compulsory acquisition action under section 47 and the authority can withdraw the Repairs Notice at any time. If the notice is withdrawn, the authority must give notice to the owner of the withdrawal. If compulsory acquisition took place the authority would have to pay compensation.

Access to the folly has historically been made possible from a neighbour's garden and your officers hope that this option would be available again. It has also been suggested by one of the surveyors that some clearance has been undertaken by the neighbouring property on South Street and this may provide sufficient access. It is important to note however that the ability to carry out the survey may be dependent on the goodwill of the neighbours as it is anticipated that access through the property will be refused.

Four quotes have been received to provide such a report at a cost ranging from £430 to £1700 plus VAT.

The quotes have all been reviewed by the Design and Conservation Architect who states "my recommendation would be to accept the quote from RBC Surveyors. This quote covers a building survey report, and a schedule of works for remedial works as requested. The works would be as set out in the RICS standard terms of engagement. The cost at £599 + VAT appears to be reasonable. As we know access is limited and any survey is likely to be visual from ground level".

Planning Service's miscellaneous expenditure budget can cover this expenditure. Should the owners choose to do the works voluntarily, or should a notice be served which the owners comply with, it is likely that the expenses incurred in the provision of this report will not be recoverable. Should a notice be served that is not complied with and the Council ends up carrying out any works in default of such a notice this sum could be recovered.

English Heritage do offer grants to Local Authorities for up to 80% of the cost of works such as these. Whilst your officers are unaware as to the likelihood of any such application being granted, or even whether there are currently funds available, this avenue will be investigated.

The appearance of the frontage

Officers are concerned with regard to the current appearance of the frontage but are also mindful of the representation that has been received on behalf of the owner/occupiers. Powers are available under Section 215 of the Town and Country Planning Act 1990 to require the proper maintenance of land that is detrimental to the amenity of an area, indeed this power has been exercised previously at this property. However officers do not consider that the amenity of a part of their area, or of an adjoining area, is sufficiently adversely affected by the condition of this land at this time to warrant the serving of a Section 215 Notice.

4. COMMENTS OF THE DIRECTOR FOR DIGITAL AND RESOURCES

Section 88(2) Planning (Listed Building and Conservation Areas) Act 1990 (the Act) provides that a local planning authority may authorise a person, in writing, at any reasonable time enter land for the purpose of surveying it to ascertain whether any building on the land is being maintained in a proper state of repair; and in connection with a proposal by the authority to make, issue or serve a notice pursuant to Section 54 of the Act (urgent works) or Section 48 (repairs notice); and thereafter to ascertain whether the notice served has been complied with.

Should admission to the land be refused under section 88, a warrant to enter the land may be obtained from the Magistrates' Court, pursuant to section 88A, which shall be exercised within one month from the date of issue and at a reasonable hour, unless the case is one of urgency.

Section 88B of the Act provides 24 hours' notice must be given to the occupier of the intended right of entry under Section 88 or 88A.

Should works be carried out by the authority as empowered by the Act, and expenses recovered in accordance with the Act, then the authority shall be entitled to recover the costs of the surveyor's fees in accordance with Section 36 Local Government Act 1974.

Section 215 Town and Country Planning Act 1990 provides that if it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice under this section.

The Contract Standing Orders, 8.4.2 provide for contracts less than £5000, formal competitive quotations are not needed, though it is good practice to obtain at least two quotations before a formal purchase order is issued. Value for money must always be considered.

5. OTHER IMPLICATIONS

There are no significant direct race relations, equal opportunity, environmental or community safety implications arising in this report.

6. RECOMMENDATION

(i) THAT THE HEAD OF ECONOMIC GROWTH BE AUTHORISED TO SPEND IN THE REGION OF £600 PLUS VAT (FROM THE PLANNING MISCELLANEOUS EXPENDITURE BUDGET) TO OBTAIN A DETAILED REPORT ON THE CONDITION OF THE BUILDING AND WORKS REQUIRED FOR ITS REPARATION.

(ii) THAT THE CONDITION AND APPEARANCE OF THE FRONTAGE OF THE PROPERTY IS MONITORED AND THAT ACTION IS TAKEN UNDER SECTION 215 SHOULD THE AMENITY OF A PART OF THE LOCAL AUTHORITY'S AREA, OR ADJOINING AREA, BECOME ADVERSELY AFFECTED BY THE CONDITION OF THE LAND DUE TO THE FURTHER DETERIORATION OF THE LAND.

4th March 2015

Schedule of other matters

1.0 Council Priority

1.1 To support and contribute to the health, safety and well-being of the area

2.0 Specific Action Plans

2.1 Matter considered and no issues identified.

3.0 Sustainability Issues

3.1 The location at this level in a flood zone is unsustainable.

4.0 Equality Issues

4.1 Matter considered and no issues identified.

5.0 Community Safety Issues (Section 17)

5.1 None in this context.

6.0 Human Rights Issues

6.1 Article 8 of the European Convention safeguards respect for family life and home, whilst Article 1 of the First Protocol concerns non-interference with peaceful enjoyment of private property. Both rights are not absolute and interference may be permitted if the need to do so is proportionate, having regard to public interests. The interests of those affected by proposed developments and the relevant considerations which may justify interference with human rights have been considered in the planning assessment.

7.0 Reputation

7.1 Decisions are required to be made in accordance with the Town & Country Planning Act 1990 and associated legislation and subordinate legislation taking into account Government policy and guidance (and see 6.1 above and 14.1 below).

8.0 Consultations

8.1 As referred to in the above report.

9.0 Risk Assessment

9.1 As referred to in the above report.

10.0 Health & Safety Issues

10.1 As referred to in the above report.

11.0 Procurement Strategy

11.1 Matter considered and no issues identified.

12.0 Partnership Working

12.1 Matter considered and no issues identified.

13.0 Legal

13.1 Powers and duties contained in the Town and Country Planning Act 1990 (as amended) and associated legislation and statutory instruments.

14.0 Financial implications

14.1 Decisions made which cannot be substantiated or which are otherwise unreasonable having regard to valid planning considerations can result in an award of costs against the Council if the land owner is aggrieved and lodges an appeal. Decisions made which fail to take into account relevant planning considerations or which are partly based on irrelevant considerations can be subject to judicial review in the High Court with resultant costs implications.

Application Number: AWDM/15

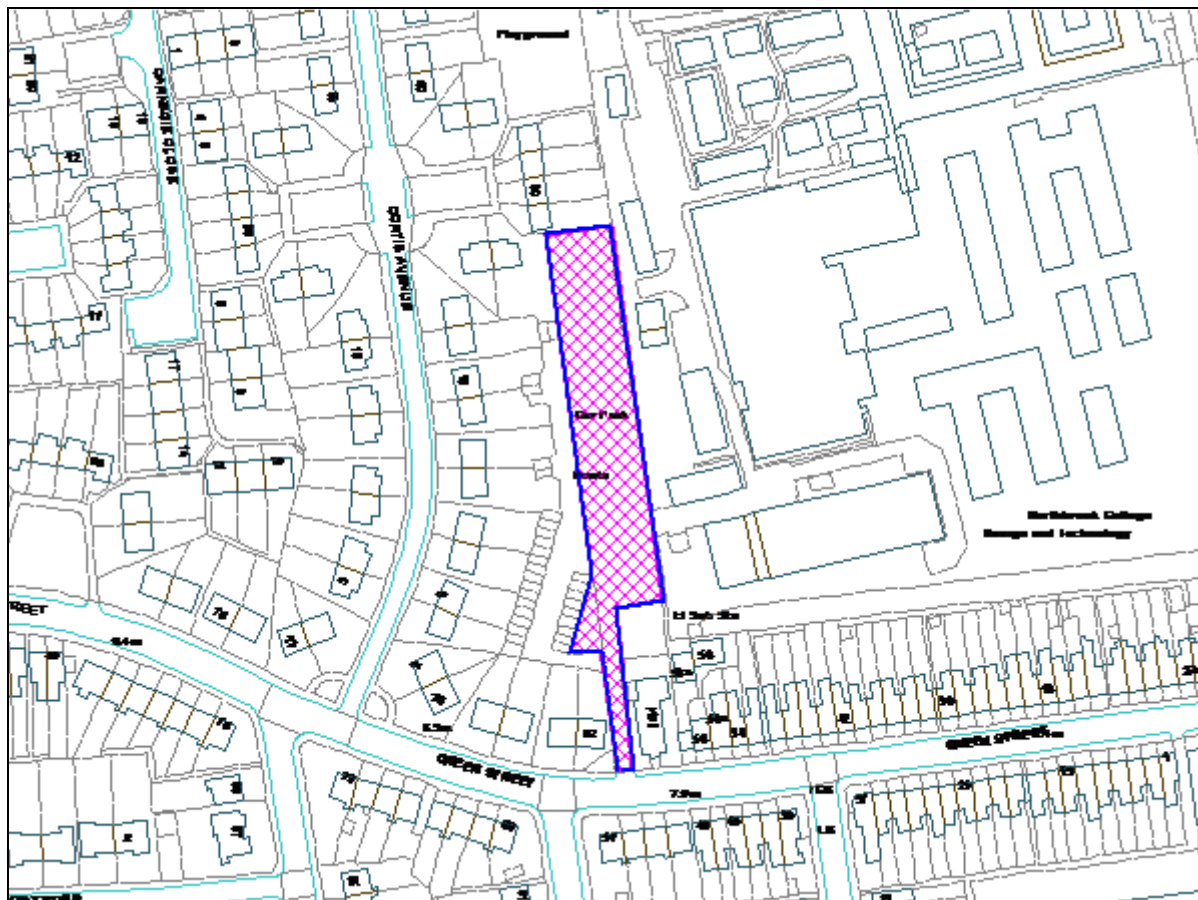
Recommendation – No
Objection

Site: Land at Queen Street Public Car Park, Queen Street, Worthing.

Proposal: Installation of temporary buildings to provide school accommodation for approx 12 months. Existing site is currently used as a public car park (Regulation 3 – County Council Consultation).

Applicant: WSCC Executive Director
Residents Services
Case Officer: Gary Peck

Ward: Broadwater



Not to Scale

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The Site and Surroundings

The application site is an existing public car park located in a backland location immediately to the west of Northbrook College and land recently purchased by West Sussex County Council to build a new secondary school (Bohunt Academy). The site extends to 0.23 hectares (0.57 acres). The car park currently provides 74 car parking spaces and is served by a narrow access from Queen Street. To the south of the site and east of the car park access, is Queen Street Church. To the west of the site is a triangular shaped garage compound and a long access road serving the rear of semi-detached properties in Cortis Avenue. Immediately to the north of the application site is a terrace of two storey properties.

The Proposal

The Borough Council has been consulted on this West Sussex County Council application (Regulation 3) to install temporary buildings on Queen Street Car Park to provide school accommodation for approximately 12 months. The application will be determined by the County Council and the Borough Council has been requested to respond to this consultation by the **12th June 2015**.

The new Academy is currently under construction with a completion date expected to be in May 2016. Bohunt school is due to open in September 2015 initially with two year groups (7 and 8). The school is expected to accommodate approximately 200 pupils. The County Council states, therefore, that there is a need to provide a temporary school for two terms and the car park site, immediately adjacent to the site, would provide an appropriate location.

A total of 14 modular teaching and ancillary buildings are proposed on the site with a small play area located centrally on the site. The 6 larger classroom school units are located along the eastern boundary of the site and include 3 double storey height modular classrooms with internal staircases measuring 16.5 metres by 9.8 metres and 6.5 metres high. The remaining 3 single storey units incorporate kitchen/dining facilities, a main hall and an art/music room. The remaining 8 modular are smaller single storey units (maximum size 9.6m x 3.5m) located along the western boundary of the site and these provide toilets, changing rooms, a library and an IT server/store.

The existing access onto Queen Street is to be retained and a pedestrian access to Northbrook College is shown between the two larger classroom units at the northern end of the site. A 6.5 metre gap is shown from the southern boundary of the site and the supporting statement indicates that this would provide vehicular access to 15 car parking spaces on the permanent school site. A new gate and fence is proposed providing security around the new temporary school site. On a triangular piece of land to the south of the existing car park, space is shown for 20 cycle racks and a temporary bin enclosure.

Background and Relevant Planning History

On the 7th October 2014, West Sussex County Council granted planning permission for a new 900 pupil Academy on land south of the Northbrook College's campus in Broadwater. The Borough Council was consulted on the application and at its

meeting on the 17th September 2014 the Planning Committee raised no objection to the proposal subject to nineteen outstanding matters being resolved. One of these matters related to concerns about the adequacy of using Queen Street Car Park as a drop off point for pupils. In connection with this matter the Planning Committee report stated that,

'There are, however, questions over the suitability of the access to the car park which is narrow. It is 4.3 metres wide and the County Council advises that this is wide enough for two vehicles to pass and suggests that the narrowness will help to reduce vehicle speeds and thereby improve highway safety. Whilst this may be true in some respects there will be occasions when two vehicles will not be able to pass. If this access is busy at peak times it would have the potential to cause highway safety issues with vehicles trying to reverse out into Queen Street. Queen Street is narrow due to a large number of cars parked on street and is sometimes made worse by a car transporter delivering to Caffyns. Queen Street is a busy route at peak times often used for 'rat running' during peak periods and the traffic build up is aggravated by the difficulty of delayed right turn out movements into Broadwater Road. The Puffin crossing may make this more difficult or could on occasions make this right turn manoeuvre easier.

However, Queen Street car park is of concern with the temptation for parents to drop off in Queen Street itself because of the difficulties of accessing the car park. This may not be so serious if vehicles are all travelling eastwards and traffic is at a standstill but it will increase the highway dangers, particularly for cyclists with car doors unexpectedly opening. A representation has been received from a resident of Queen Street who has lived there for 17 years and claims that she has never seen two cars pass within the access to the car park. She also states that because the car park has been used in the way it has, particularly with students using it for daily parking and, all entering in the morning and all exiting in the evening, it has been operating very low and one directional flows. The concern, if fully operational, is that there is not an identified safe refuge or path for pedestrians or cyclists using this narrow access and this will add to the potential for conflict with cars.

It is understood that the potential new sponsor for the Academy has raised some concerns about the proposed parking arrangements and your Officers would prefer the Queen Street Car Park to be used primarily for staff to limit the two way movements along the fairly narrow access and conflict at the junction with Queen Street which is a busy narrow road particularly during the morning peak hour. Irrespective of whether this car park is used for staff or as a dropping off point it is clearly essential to provide the necessary parking requirements for the new Academy and the applicant has been requested to include the car park within the application site so that conditions can ensure that this is available for parking related to the new Academy.'

At the Joint Strategic Committee meeting on the 7th October a report was considered in relation to the possible disposal of the Queen Street Car Park. The report stated that,

'There is no merit in introducing charges here as it will simply push users out onto the local streets where we already receive complaints from residents about students.

With the high use by students, it is likely that the College may show interest in purchasing the site. In addition, this site has been identified by WSCC in connection with the new secondary school. To enable any disposal, the Council requires a valuation of the site, both as existing and for development, in order that agreement can be reached with WSCC and an element of undersale properly understood. It is recommended that Members consider selling this car park.'

At the meeting concerns were expressed by local residents about the disposal of the car park and Members acknowledged that it was important to consider the needs of the whole community before any disposal was considered.

To meet the age of transfer timetable and to secure the necessary funding for the project from the Department for Education (DfE) the new Academy has to be open by September 2015. Unfortunately, the County Council has indicated that there is insufficient time to build the new Academy by this date. As a result, the new Academy will have to open in temporary classrooms.

It was originally considered that there would be enough space on the new school site to place the temporary classrooms. However, after further investigation, it became clear that a temporary school would have to be built off-site. An alternative location to the west of the proposed Academy was considered but this was not considered appropriate for many prospective parents who live close to the new Academy site.

At the Joint Strategic Committee meeting on the 31st March 2015 the Borough Council, as landowner of the car park, agreed in principle to a short term lease of Queen Street car park to WSCC/Bohunt to enable the temporary school buildings to be erected, subject to the grant of planning permission.

Planning Assessment

Parking/Highway Considerations

The main issue in this case is the loss of the public car park and the impact of the proposed use on the amenities of local residents. Whilst, the principle of using the car park owned by Worthing Borough Council has been accepted by Joint Strategic Committee (JSC) this was as a landowner and should not in any way prejudice the decision of the Planning Committee on this matter. In this respect it should be noted that whilst JSC resolved to enter into a short term lease to accommodate the temporary school this was subject to the grant of planning permission. Furthermore although JSC also considered the long term use of the car park by the school this was also subject to planning permission being granted. An application has recently been submitted to West Sussex to amend the permission for the new Academy to include the car park for use by staff once the new School opens next year.

The need for the temporary school to open this September has been driven by the tight timetable agreed for the Age of transfer for Worthing and restrictions on the use of Department for Education (DfE) funding for the new Academy. In terms of its location, the new Academy Sponsor, Bohunt has been keen to locate the temporary school next to the permanent site as the majority of parents live within a reasonable distance of the site. In addition the site is close to the Manor Ground providing

additional sports facilities for the new Academy. An alternative location was suggested by the Borough Council (Palentine Park) but this was discounted because of the distance away from the majority of new entrants to the school.

In principle, the temporary use of the car park is considered appropriate provided that car parking and access issues for the new school can be addressed and provision can be made to provide some level of alternative parking for existing users of the car park. The car park has been free to use for many years and it has been used by local residents, Queen Street Church, students and staff at Northbrook College and by the nearby Audi showroom and workshop.

An initial consultation with local residents carried out by WSCC including a survey and considerable concern was expressed about the provision of the temporary school on the car park and the loss of parking spaces for the local community. In response to the question about the temporary loss of the car park for the temporary school 65% did not support the proposal. A petition has been also circulated and at the time of the Joint Strategic Committee in March contained approximately 450 signatures. The petition requests *'Worthing Borough Council not to sell or lease out Queen Street Car Park. We want the car park to remain as a free car park, which is available for the whole of the local community to use 24 hours a day'*. WSCC has attempted to address these concerns by,

1. Indicating that spaces could be made available on the permanent school site (approximately 15) for residents and the Church.
2. Agreeing with Northbrook College that it's car park could be used by those attending Queen Street Church and,
3. Discussing the potential use of the Manor Ground car park by school staff and the possible use of Teville Gate by Audi with the Borough Council.

A number of these matters are difficult to control through the planning process as they are not within the site boundary or control of the applicant. In support of the planning application reference is made to 15 spaces for local residents being provided on the main school site between September and January 2016 but no details are included with the application. The applicant has been requested to include these spaces within the red edged area of the current application and ideally these spaces would be available as soon as possible after the car park has been closed for the installation of the temporary classrooms. A condition can be imposed to secure the provision of these spaces.

Your Officers are aware that there are a number of community organisations that use Queen Street Church and parking particularly during the evenings is of concern with the loss of the Queen Street car park. The agreement of the College to use its car park up to 10.00pm would be beneficial although it is noted that this may not be that attractive to visitors to the Church given that access through the temporary school grounds would not be possible and it would be a relatively long walk round from the College car park to the Church. The use of the College car park may be of greater benefit to the Church once the new school is open and access through the new Academy site can be made available.

The scope to use the 30 spaces at the Manor Ground is being discussed with the Borough Council. The Parks Manager has confirmed that access into the car park can be opened by grounds maintenance staff in the mornings although he would need to arrange for the car park to be closed again at night. This parking would be beneficial for staff at the school and discussions have been held with Audi to see whether they could use some of this parking for its demonstrator cars during the day. It would be important, however, that any use of the car park by Academy staff or Audi does not impact on the use of the car park for cricket matches and further negotiations are required to see how best this parking can be used to its full potential. Audi currently has an agreement with the Council to use Meadow Road for additional parking and this use could be extended if required. Audi has not been interested in any parking at Teville Gate.

Whilst, there are various measures that are being undertaken to mitigate the impact of the loss of the existing public car park, it is likely that there will be increased pressure for on street parking in the streets around the site. This would be for a relatively short period whilst the temporary school is in place but it is recognised that adjoining roads are already heavily parked. The redevelopment of Northbrook's Durrington Campus will result in a number of students moving back to this campus and it is anticipated that this will provide additional capacity in its car park. It will be important that separate agreements are in place between the WSCC and the College to ensure that parking is available both for Church users and local residents.

In terms of the local impact of additional traffic and parking for the temporary school the submitted Travel Plan highlights that many of the new students will gain access other than by car and the following table sets out the different travel modes of students who have requested a place at the new Academy.

Key % Totals	% Y7 modelled	%Y8 modelled	%Combined Modelled
Walking/Bike	67(53/10)	61(36/7)	64 (89/17)
Public trans	7 (6)	13 (9)	9 (15)
Car	24 (22)	27 (19)	25 (41)
D/Know	2 (2)	0 (0)	1 (2)
Total	100	100	100

This Survey was of both staff and prospective pupils and 89% replied. From this Survey it is apparent that a high percentage of trips will be walking and by bike (64%) and only 25% by car (potentially 41 cars). The Travel Plan recognises the congested nature of Queen Street and that it is used as a 'rat run' and, therefore, the school proposes that dropping off areas would be designated away from Queen Street and safe walking routes identified. A plan attached to the Draft Travel Plan suggests dropping off points some distance away from the school site encouraging pupils to finish their journey on foot. Given the problems of dropping off at many existing schools in the town, there is some concern at how successful such an approach might be. However, given the relatively low numbers of anticipated car trips involved and the scope to drop off at Carnegie Road to the north of the site, it is not considered that the

new temporary school would have a significant impact on the local highway network. At this stage, your Officers are not aware of the views of the Highway Authority on this application but clearly the County Council will need to have due regard to any comments received in determining this application. It will be important that a travel plan condition is imposed to encourage sustainable modes of transport to the site and ensure that the situation is monitored during the temporary permission for the school on the car park site.

Residential Amenity

The layout of the site has sought to reduce the impact of the development on adjoining properties in particular by locating the two storey classrooms at the southern end of the site and siting the smaller single storey modular building along the western boundary of the site. The properties in Cortis Avenue are approximately 24 metres away from the western boundary of the site and, therefore, it is not considered that the modular buildings would cause any undue overlooking or overbearing impact. The modular buildings are to be coloured goosewing grey and photographs of the modular buildings demonstrate that they are not unattractive structures, albeit functional in design terms.

The Council's Environmental Health Section has been consulted on the application and its comments will be reported at the meeting. However, the location of the music/art room immediately adjacent to the garden to No. 28 Cortis Avenue does raise some concern and the applicant has been asked to consider relocating the music room away from this property (possibly swapping the unit with No. 5). Members will be updated on this matter at the meeting.

Recommendation

Members are recommended to raise no objection to the WSCC consultation subject to:

- i) The application being amended to include parking for the Church/local residents on the permanent school site.**
- ii) Separate agreements are in place with Worthing Borough Council and Northbrook College to ensure that existing car parks are available to provide compensatory parking.**
- iii) Consideration is given to relocate the music/art room away from the northern boundary of the site.**
- iv) Planning conditions are imposed including:**
 - temporary permission for the modular buildings with the land restored to a car park at the end of the temporary period;**
 - car parking on the permanent school site shall be available prior to the first use of the temporary buildings and retained until at least the end of January 2016;**

- **prior to the first use of the temporary school buildings, a Travel Plan shall be submitted and approved in writing. Thereafter, the Travel Plan shall be implemented and monitored by Bohunt Trust to ensure compliance.**

Schedule of other matters

1.0 Council Priority

1.1 To support and contribute to the health, safety and well-being of the area

2.0 Specific Action Plans

2.1 Matter considered and no issues identified.

3.0 Sustainability Issues

3.1 The school has been located to serve the local community thereby encouraging sustainable travel.

4.0 Equality Issues

4.1 Matter considered and no issues identified.

5.0 Community Safety Issues (Section 17)

5.1 None in this context.

6.0 Human Rights Issues

6.1 Article 8 of the European Convention safeguards respect for family life and home, whilst Article 1 of the First Protocol concerns non-interference with peaceful enjoyment of private property. Both rights are not absolute and interference may be permitted if the need to do so is proportionate, having regard to public interests. The interests of those affected by proposed developments and the relevant considerations which may justify interference with human rights have been considered in the planning assessment.

7.0 Reputation

7.1 Decisions are required to be made in accordance with the Town & Country Planning Act 1990 and associated legislation and subordinate legislation taking into account Government policy and guidance (and see 6.1 above and 14.1 below).

7.2 The provision of a school on the site by September 2015 ensures that WSCC Age of Transfer for Worthing schools can be satisfactorily implemented.

8.0 Consultations

8.1 The Borough Council is a Consultee in this matter with all public consultation being undertaken by the County Council.

9.0 Risk Assessment

9.1 Matter considered and no issues identified.

10.0 Health & Safety Issues

10.1 Matter considered and no issues identified.

11.0 Procurement Strategy

11.1 Matter considered and no issues identified.

12.0 Partnership Working

12.1 The Borough Council is working in partnership with WSCC to deliver the Age of Transfer.

13.0 Legal

13.1 Powers and duties contained in the Town and Country Planning Act 1990 (as amended) and associated legislation and statutory instruments.

14.0 Financial implications

14.1 Decisions made which cannot be substantiated or which are otherwise unreasonable having regard to valid planning considerations can result in an award of costs against the Council if the land owner is aggrieved and lodges an appeal. Decisions made which fail to take into account relevant planning considerations or which are partly based on irrelevant considerations can be subject to judicial review in the High Court with resultant costs implications.