

## Worthing Planning Committee

<b>Date:</b>	<b>Wednesday 22 July 2015</b>
<b>Time:</b>	<b>6:30pm</b>
<b>Venue:</b>	<b>Gordon Room, Worthing Town Hall, Chapel Road, Worthing</b>

**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](mailto:heather.kingston@adur-worthing.gov.uk) before noon on Tuesday 21 July 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 Wednesday 1 July 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.

- 4.1 *The Victoria Parkview, 7 Madeira Avenue*    4.2 *99 Littlehampton Road*
- 4.3 *Littlehampton Book Services Ltd*                      4.4 *51 South Street, Tarring*

**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. Local Validation List for Adur and Worthing Councils 2015**

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

**7. Developer Contributions SPD**

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**Part B - Not for publication - Exempt Information Reports**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  
22 July 2015

Agenda Item 4

Ward: ALL

Key Decision: Yes / No

**Report by the Director for Economy**

**Planning Applications**

- 1**  
Application Number: **AWDM/0467/15** Recommendation – **Approve**  
Site: **The Victoria Parkview, 7 Madeira Avenue, Worthing, West Sussex**  
Proposal: **Change of use from former residential care home (C2 Use Class) to form 10 bedroom HMO (House in Multiple Occupation) (Sui Generis)**
- 2**  
Application Number: **AWDM/0169/15** Recommendation – **Approve**  
Site: **99 Littlehampton Road, Worthing, West Sussex**  
Proposal: **Retention of use of part of ground floor as beauty salon (retrospective)**
- 3**  
Application Number: **AWDM/0946/15** Recommendation – **Delegate Authority to Officers to approve subject to no new adverse material issues arising from the remaining consultation period**  
Site: **Littlehampton Book Services Limited, Faraday Close, Worthing, West Sussex**  
Proposal: **Temporary steel building for storage purposes situated northwest of site**
- 4**  
Application Number: **AWDM/0806/15** Recommendation – **Approve, subject to there being no adverse material comments received during the consultation period**  
Site: **51 South Street, Tarring, Worthing, West Sussex**  
Proposal: **Remove existing defective clay tiles to roof and replace with plain concrete tiles (ground and first floor flat)**



**Application Number:** AWDM/0467/15

**Recommendation – APPROVE**

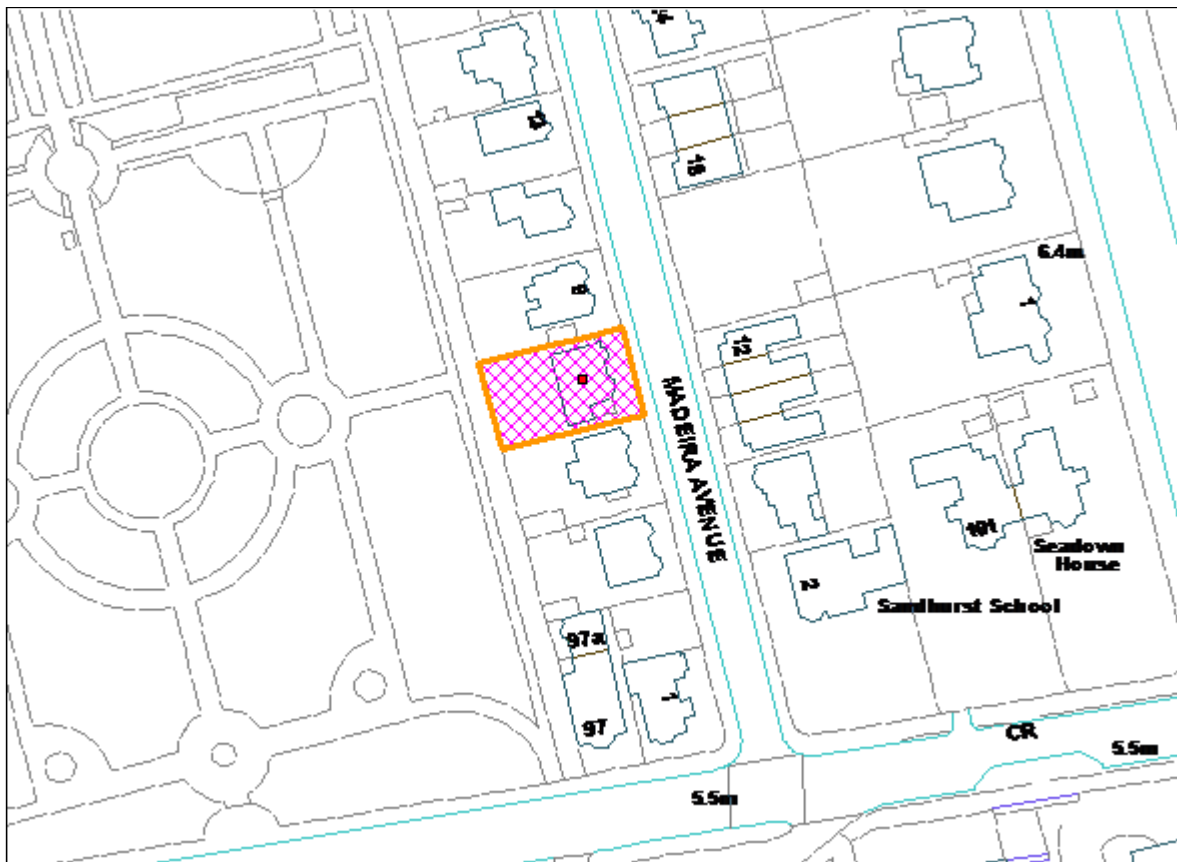
**Site:** The Victoria Parkview, 7 Madeira Avenue, Worthing

**Proposal:** Change of use from former residential care home (C2 Use Class) to form 10 bedroom HMO (House in Multiple Occupation) (Sui Generis)

**Applicant:** Mr Anthony Brown

**Ward:** Central

**Case Officer:** Peter Barnett



**Not to Scale**

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### **Proposal, Site and Surroundings**

The application relates to a two storey detached Victorian house which was formerly in use as a residential care home. It is located on the west side of Madeira Avenue close to its southern end, in a residential area. To the north and south of the site are similar detached dwellings. Beach House Park is to the west.

The application seeks permission to change the use of the building to form a 10 bedroom House in Multiple Occupation (HMO). The proposal will result in 10

affordable rooms to rent, 7 of which will have en-suite WC facilities. There will be 3 communal WC's and 1 communal bathroom, kitchen diner and living room. No external changes are proposed and, because of the previous use as a care home, no internal changes are required either.

There is one off street parking space available at the front of the building.

### **Relevant Planning History**

WB/1151/89 - Change of use to residential care home – approved 1989

### **Consultations**

**West Sussex County Council:** No objection from a transport/highways aspect subject to conditions requiring cycle parking. Comments that WSCC Parking Standards advise that a HMO should provide 0.5 parking spaces per room/unit, with this in mind the applicant should be providing 5 parking spaces. The applicant proposes to retain the two already in situ; we would seek clarification if the remaining 3 spaces could be provided off street. Madeira Avenue and nearby roads are subject to a proportion of on street parking. Whilst it is likely that the proposal will add to on street parking in the area, the scale of the development is not such that a highway safety concern would result. The Local Planning Authority (LPA) may wish to consider the implications to on street parking and may wish to consider it necessary for the applicant to arrange for a Parking Capacity Survey to be carried out given the amount of comments in the representation letters regarding parking in the vicinity of the site.

The property is situated in a sustainable location, within walking distance of East Worthing Station and bus stops; hence there is no such reliance as such on the use of the private car.

Following receipt of the first parking survey, they comment that they would have expected the parking survey to have been undertaken early in the morning or late evening when residents are more likely to be at home, however due to the current use of the property and the application for change of use to a House of Multiple Occupation the Local Highway Authority would not see this application as having a severe impact on the highway network so would not object to this application.

A second parking survey was therefore submitted with further surveys being carried out in 0700 hours and 1830 hours. Following receipt of the survey, West Sussex County Council commented that based on the results, their advice had not changed and they did not wish to raise any objection to the application.

**Adur & Worthing Councils:** The **Environmental Health** officer comments that the property will not require a licence under the mandatory licensing regime, but it will still be subject to The Management of Houses in Multiple Occupation (England) Regulations 2006, as well as the provisions of the Part 1 of the Housing Act 2004 (Housing Health and Safety Rating System).

The property has ten bedrooms and seemingly will cater for a maximum of 10 people, but this is not confirmed. The plans indicate no additional kitchen or washing facilities. We expect to see at least one bathroom with a fixed bath or shower for every five occupants. Whilst there are basins and one room has an en suite bathroom, there would need to be an additional communal shower or bathroom for residents to use.

We expect to see a sink and drainer for each 5 occupants, although a dishwasher can be accepted in place of a second sink. There should be an electric or gas hob with four rings and an oven with a grill per 5 occupants. For each hob there should be an electrical extractor fan. There should be a single cupboard (wall or floor mounted, but not the cupboard beneath the sink) per person. There should be a large fridge freezer per 5 occupants

It is difficult to make specific observations from the current plans and should Planning Permission be granted then the Private Sector Housing team will want to inspect this property and ensure that it is free from serious hazards.

The **Housing** Officer has no objections. From a homeless perspective this additional accommodation would benefit the town because there is currently a shortage of this type of accommodation available for single homeless people. We would, therefore, be particularly supportive if there was some way in which a condition could be imposed stating that the landlord must accept nominations of tenants through the council for a set period of time. This would help to reduce the numbers of homeless people in the borough and would free up spaces in the homeless hostels for other people coming through the system. We are currently working with another landlord in the area who is prepared to work with the council on this basis.

The **Planning Policy** Officer has no objections. Although the submitted planning statement highlights that Policy 8 states 'The Core Strategy will deliver a wide choice of high quality homes to address the needs of the community', the overall aim of this Policy is to redress the imbalance in the housing mix that has dominated recent new development namely smaller flats to meet the needs for family housing. However, there are no development plan policies directly relating to HMOs and can therefore confirm there are no policy objections to the proposal as submitted.

The **Safer Communities** Officer advises that, as far as she is aware, the site is not within an area that causes any particular issues with anti-social behaviour. However, HMOs are problematic when the mix of persons living there is wrong and the management of an establishment is not well run.

She advises that the areas around Rowlands Road and the high concentration of HMOs there is not only causing issues but that the people occupying the properties are very transient and this further diminishes the community make-up.

**Sussex Police:** Our local approach is now that any requests from the Council's planning department, about anti-social behaviour matters, should be pushed directly to the Council's ASB team which they can liaise directly with. Otherwise, it is duplication of work. For this area it is the Adur & Worthing Council's Safer

Communities Team. We want to keep a neutral approach and we will only highlight issues if there are significant concerns about a planning application where we feel that we have no choice but to comment. Therefore, there are no comments from us on this one.

## **Representations**

35 letters of objection received from the occupiers of 2A, 3, 4, 6, 8, 9, 10, 11, 12, 13, 15, 17, 22, 23, 27, 30, 34, 50, 52, 62 Madeira Avenue, 79 Marine Parade, 1 St George's Gardens Church Walk, 5 Ash Grove and from a Planning Consultant representing the occupiers of 5 Madeira Avenue.

- Increased noise and use of garden– previous nursing home use was quiet
- Parking problems will increase – Madeira Avenue is already overcrowded as there are not enough spaces to serve current occupants of street, particularly at evenings and weekends
- Existing residents are on waiting list for a permit
- Adding 10 new residents and their visitors will make parking situation worse
- Already suffer from users of Splashpoint parking in Madeira Avenue
- Only enough space for 1 car on site, not 2
- No provision for bicycles or motorcycles on site
- Care home occupants would not have had their own cars and staff would have been aware of lack of parking
- Loss of privacy
- 1 Madeira Avenue has already been converted to an HMO which has caused problems with noise, litter and anti-social and intimidating behaviour
- HMO tenants are transient and do not integrate into community
- Students or lower paid workers will occupy property
- HMO properties are poorly managed, not maintained and fall into disrepair
- Negative impacts can result in areas where there are concentrations of HMOs – other authorities state that they should be no closer than 100m apart but 1 Madeira Avenue is closer than this
- Increased fear for safety of elderly residents in the street
- Increased rubbish and refuse/bins left in street/smells
- Out of keeping with family housing in Madeira Avenue
- Contrary to policy 8 of Core Strategy which favours family homes
- No valid reason to change the use – previously poorly run care home does not mean a future care home owner would manage it in such a way
- Lack of justification as to why an HMO is only viable use of property
- Care home only closed in December 2014 and has not been on the market very long
- May cause deterioration in appearance of street
- Infrastructure and local services cannot cope and will be further overstretched by this and future Aquarena redevelopment
- Increased fire risk – increased congestion on road could obstruct emergency vehicle access
- Permission for HMO at 2 Queens Road should not be seen as setting a precedent as there were different circumstances with that case, such as it had previously been a guest house



- Parking survey should have been carried out at a time when residents are at home, not in the middle of the day
- Second parking survey does not include any photographic evidence to support its findings
- This HMO will not require a license and any regulation or checks will be minimal
- Extent of local objection must be taken into account - existing residents do not want this development to go ahead
- Need for caretaker/resident supervisor if approved
- Would be better if converted into flats
- Pre-application advice was not sought
- Loss of property value
- While the property may be managed, there will still not be any assessment in terms of the actual tenants themselves who may well satisfy all of the tests nor will there be any control over the actual visitors who may come to visit those tenants at the premises, and there will not be any resident manager within these premises to assess the actual activities of the potential tenants and the visitors to the building.
- Future residents are highly unlikely to secure any parking spaces within the area
- There is a requirement to provide 5 spaces on site which cannot be met
- The applicant could sell the property and someone else could manage it in an irresponsible manner
- Shocked that the prospective purchaser of the property has paid £800,000 for the property considering when Robert Luff were selling this property it was actually "under offer" at £550,000. It is not necessarily a planning factor in assessing how much they purchased the property for but it is nevertheless true that this property could equally be used as a single family dwelling.
- How far back will potential occupants history be checked?
- What thresholds will be applied for meeting these checks?
- Who will verify accuracy of documentation?
- What checks will be carried out if occupant has lived overseas or not been employed during the vetting period?
- What international credit checks will be conducted?
- Will ID checks be conducted?
- What re-screening policy is in place?
- What reassurances can be provided about the management of the HMO should permission be granted?

### **Relevant Planning Policies and Guidance**

Worthing Core Strategy 2006-2026 (WBC 2011): Policy 7, 8, 11  
 Worthing Local Plan (WBC 2003) (saved policies): H18, TR9, RES7  
 Supplementary Planning Document 'Space Standards' (WBC 2012)  
 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***

The proposal will result in the loss of a care home. The previous care home was closed down following receipt of an “inadequate” Care Quality Commission Report in January. There is no policy relating to the retention of care homes in the Core Strategy and it is considered that Worthing is well served by such facilities. Consequently, there is no policy objection in principle to its loss.

There are no Development Plan policies directly governing the provision of HMO accommodation. In these circumstances the National Planning Policy Framework advises that proposals should be supported unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Historically, planning practice has been to protect good quality HMO/bedsit accommodation where it exists, but to generally discourage extensive new market provision in favour of self-contained flats or studios (including, where suitable, family accommodation in recognition of established housing priorities), or, where appropriate, socially managed institutional provision.

The applicants have submitted a Planning Statement in support of the proposed change of use which explains why they consider alternative uses would not be viable. The previous care home use was rated as ‘inadequate’ before closure and the applicant’s agent argues that it is not viable to reinvest in the care home to bring it up to standard. It was a 9 bed care home and the income generated by it would not cover the additional staff required by current legislation.

Use as a family home would require extensive refurbishment works which would be prohibitively costly. The existing building’s layout reflects its former use as a care home, with bedrooms, en-suite and separate toilets, bathrooms and a lift. The cost of removing the lift and re-shaping the layout is estimated at £250,000, making its conversion to a single dwelling unviable.

Conversion to 3 x 3 bed flats is physically possible, but again total revenue from such a conversion is not seen as viable. A guest house would also not be viable due to the extensive renovation works required. The agent argues that the market for guesthouses in Worthing is diminishing in the face of competition from budget hotel operators such as Travelodge and Premier Inn. He quotes examples such as the closure of the former Mayfair Hotel, Cavendish Hotel and Queens Lodge (converted to HMO use) in support of this argument.

In his view the use of the building as a regulated HMO is the best use of the property, in terms of financial viability and in providing small affordable residential accommodation to meet a local need.

Comments have been raised about the sale value of the property although it should be noted that this not a material planning consideration. The applicant's agent has confirmed that the sale price increased due to competition.

It is recognised that HMOs/bedsits do meet a rising market demand for low cost, basic residential accommodation and to this extent, is consistent with Core Strategy Policy 8 which commits to delivering a wide range of choice of high quality homes to address the needs of the community. The cost of accessing home ownership; the shortage of social housing to rent; economic hardship, together with changes to the housing benefit system have all contributed to increased demand for this type of lower quality accommodation. The demand for such accommodation in and around the town centre is evidenced by the increased registration of HMOs by Environmental Health Officers and granting of recent planning permissions at 2-4 Southey Road and 2 Queens Road. Provision would contribute marginally to meeting the Borough's housing provision target in Core Strategy Policy 7.

#### ***Residential amenity – effect on existing dwellings***

The proposal involves no significant external physical works and so the relationship between neighbouring properties would remain unaffected.

The main potential for impact would be the way in which the accommodation is to be used. The property was formerly in use as a care home. This would have generated a certain level of activity on a daily basis through staff comings and goings, deliveries and visitors. The proposed HMO would be relatively large. However, the intensity of activity associated with an HMO is not necessarily likely to be significantly greater than the care home use.

There are concerns locally over potential impacts upon the predominantly residential character of Madeira Avenue through anti-social behaviour problems. Concerns have been exacerbated by the use of 1 Madeira Avenue at the southern end of the street, approximately 30m away. That property has a lawful guest house use but is understood to be used as a 'halfway house' providing temporary accommodation for those in need. While there may be problems associated with that property, the risk of antisocial behaviour problems generally relates directly to the quality of the management.

Following representations received during the application on this matter, the applicant's agent has submitted further information in support of the proposal. They state that the applicant has "considerable experience of owning and managing private rental properties" and has a portfolio which includes care homes. His intention is to provide "good quality, well-managed private rented accommodation in order to retain longer term tenants." The building is to be "refurbished and redecorated and kept to a high standard of maintenance. "

The applicant's agent has confirmed that the property will be managed by Robert Luff & Co, a well-established local estate agent. A letter has been submitted by that firm confirming that tenants will have to pass a strict referencing procedure including background checks, previous tenancy history, affordability, employment history, any outstanding financial commitments and a requirement to have a UK bank account and eligibility to work in the UK. They hope to retain tenants for years rather than months and will provide 7 days a week management service to keep the property to a high standard.

The property would also be regulated under The Management of Houses in Multiple Occupation (England) Regulations 2006, as well as the provisions of Part 1 of the Housing Act 2004 (Housing Health and Safety Rating System).

The applicant has advised that he would be very pleased to work with the Council's Housing team to accept Council-nominated tenants. His agent has stated, *"What would be imperative though is that every prospective tenant is put through the same strict referencing and tenancy requirements that would be carried out by Robert Luff & Co. The issues raised by local residents in response to the planning application indicate that the premises must be a neighbourly one and on this basis the applicant would welcome suitably disposed persons who would meet the referencing procedures. Tenants nominated by the Council would be welcome on this basis."*

While the Housing Officer has referred to possible use of a planning condition to require the applicant to only accept Council-nominated tenants, it is not considered that such a condition would be reasonable or necessary. An alternative, which would be of more benefit in the long term, would be a condition requiring a management plan for the premises which would ensure that the property is well managed, even if the current applicant sells the property on. Such a condition could also include a commitment to work with the Council. A management plan would help to prevent anti-social behaviour and would help to avoid the potential problems identified by the Safer Communities Officer.

The applicant's agent has suggested that a management plan should cover the following aspects:

- Management company and responsibilities;
- Access and Security;
- Risk Assessment;
- Building and Garden Maintenance;
- Duties of residents.

The applicant's agent goes on to state:

*"To reiterate these premises will be managed by Robert Luff & Co. who will have the ability to terminate contracts should tenants cause disturbance. In the hypothetical event that residents should cause noise and disturbance to neighbours, then such neighbours would have to follow the normal channels of complaints to the managers, Council, Safer Neighbourhood Team and indeed the Police. It must be noted that noise and disturbance from neighbours is not isolated to tenants in HMO's and could be experienced from tenants who would occupy a family property*

*or indeed one that has been split into flats. The above condition would give the Council some additional controls to those exercised by their Environmental Health teams over current or future operators.”*

In terms of other planning controls, whilst some authorities have policies governing HMOs, the Council has no Development Plan policies which specifically seek regulation of HMOs and other uses such as care homes/hostels and facilities for vulnerable groups on such grounds.

That said, the issue of neighbour amenity, including anti social behaviour, is a legitimate concern on all applications and is subject to the general tests of saved Worthing Local Plan Policy H18 and The National Planning Policy Framework. However, from the information submitted with the application, and with the use of a management condition as referred to earlier, it would appear that the proposed accommodation would be well managed and therefore less likely to result in future concerns over residential amenity. Accordingly, a refusal along these lines is not considered to be justified.

### ***Accessibility and parking***

The site only contains one off street parking space and there are strong concerns amongst residents that the proposal will cause a significant worsening of parking problems already experienced in the street. Madeira Avenue is within a Controlled Parking Zone with permit parking in place during 9am to 6pm Mondays to Saturdays. Residents have stated in their objections that many of them are still on the waiting list for a permit and in the evenings and at weekends the road becomes very congested, with users of Splashpoint in particular parking in the street. The addition of 10 residents plus visitors to the application property will cause further problems in their view.

The applicant has carried out a parking survey, initially during the daytime when the street would not be expected to be as heavily parked, and a second survey during early morning (7am on a Friday) and early evening (6.30pm on a Thursday). The results show 11 spaces were available within a 200m radius within Madeira Avenue on each occasion, as well as availability on adjoining roads.

West Sussex Highways have not objected to the proposed change of use. The previous use of the property as a care home would have been likely due to have generated a number of vehicular movements and a demand for parking by staff and visitors. The proposed use is not considered to be likely to result in a significant increase in demand. In terms of alternative uses, if this property was converted to a family home it could accommodate 6 or more bedrooms and if it was converted into flats the property could accommodate 3 flats with a minimum of perhaps 6 bedrooms. Such alternative uses would generate potential parking requirements which would also not be able to be accommodated within the site curtilage.

Furthermore, the site is in a sustainable location, close to the town centre and within walking distance of East Worthing Station and bus stops. There is therefore a reasonable expectation that there would be less reliance on the use of the private car. The future residents would also have to apply for a permit like any other

resident. Finally, the applicant has confirmed that cycle parking is to be provided within the existing outbuildings in the rear garden.

While the concerns of residents are understood, it is not considered that a reason for refusal based on the lack of parking provision on site is justified or sustainable.

### **Recommendation**

### **APPROVE**

#### **Subject to Conditions:-**

1. Standard time limit
2. Approved Plans
3. The change of use hereby approved shall not commence unless and until details of the cycle parking and domestic waste storage have been submitted to and agreed in writing by the Local Planning Authority and provided in accordance with any such approval. The agreed facilities shall be retained thereafter.
4. Use shall not commence unless and until a management plan has been submitted to and approved in writing by the LPA. The approved plan shall thereafter be implemented and adhered to.
5. No new windows shall be inserted in the upper floor of the side elevations of the building.

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22<sup>nd</sup> July 2015

**Application Number: AWDM/0169/15**

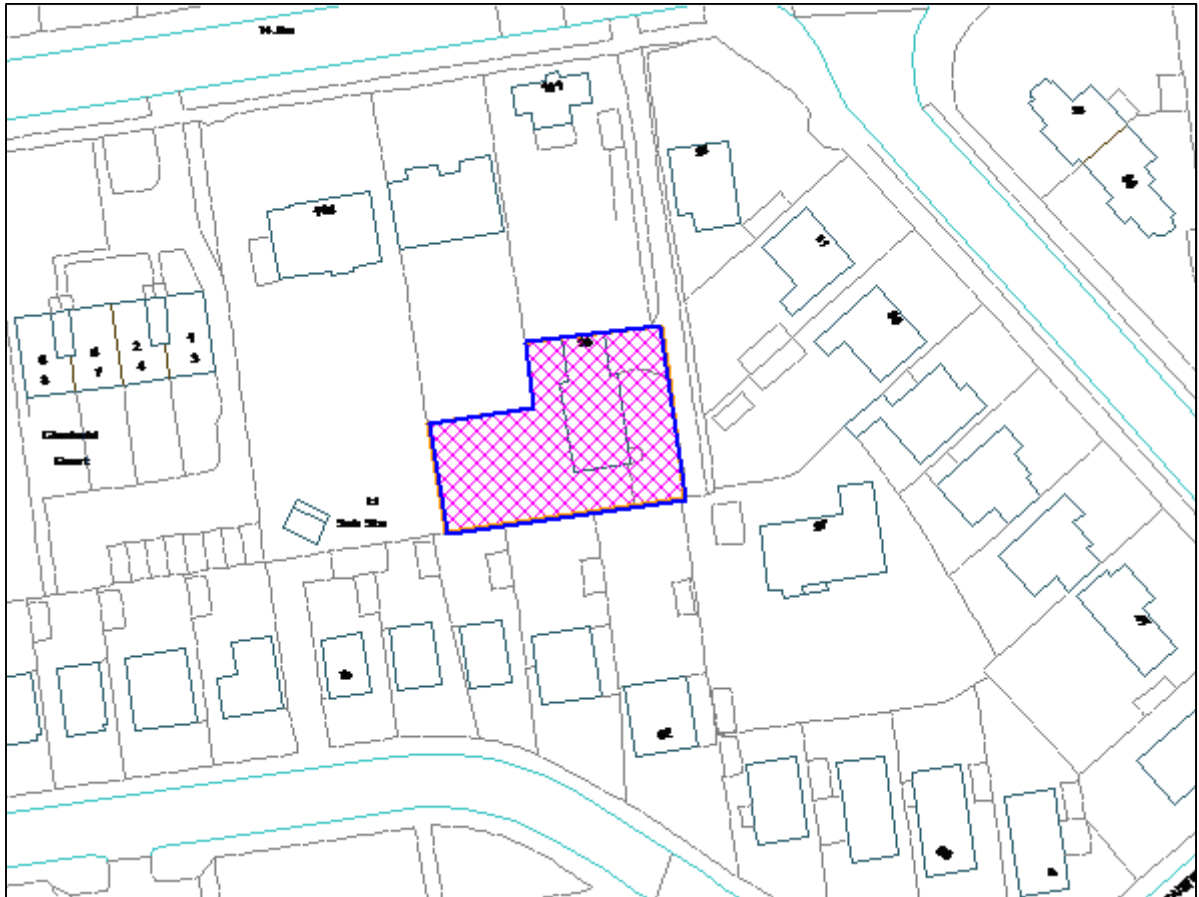
**Recommendation – Approve**

**Site: 99 Littlehampton Road, Worthing, BN13 1QU**

**Proposal: Retention of use of part of ground floor as beauty salon (retrospective)**

Applicant: Miss Emma Hopper  
Case Officer: Marie O'Keeffe

Ward: Tarring



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Councillor Smytherman has requested that this application be determined by Committee.

### **Site and Surroundings**

No. 99 Littlehampton Road is a two bedroom bungalow built in a backland position on the south side of Littlehampton Road very close to the junction with Lindum Road to the east.

It sits behind No. 101 Littlehampton Road and shares its access with No. 97 Littlehampton Road further to the south east.

In 1980 planning permission for a single storey extension (granny annexe) was granted to the then owner for a bedsitting room, bathroom and kitchen. This permission was granted on a personal basis to the applicant, Mr White, for his occupation, and enabled his daughter and young family to move into the main dwelling. The same planning condition established that, upon Mr White moving out, the extension reverted to ancillary residential accommodation. This remains the lawful use of the extension in planning terms.

The main dwelling has two parking spaces (at the northern end). It has been suggested that an attached former garage at the northern end has been converted to living accommodation, and, certainly, the characteristic garage door has been removed and brick and glazed infill introduced. A third forecourt parking space was created when the extension was built at the southern end.

It is not known exactly when the Whites vacated but the current owner of the bungalow rented out the extension as a separate dwelling (contrary to the 1980 planning permission) for some time before allowing her daughter, the current applicant, to begin her beauty salon business from the site in October 2013.

There are no parking restrictions on this part of Lindum Road and restrictions on the junction with Littlehampton Road are limited to the west side of the bellmouth. Most of the houses in the adjacent part of Lindum Road benefit from off-street parking. Buses run along Littlehampton and Rectory Roads and there are several schools nearby.

The property is not in a Conservation Area and is not a Listed Building. There are no protected trees on the site.

## **Proposal**

Planning permission is sought to continue this unisex beauty salon business (Vanilla Pod Beauty) within the annexe extension to the dwelling at No. 99 Littlehampton Road. Such a use is typically classified as *sui generis*- i.e. not falling into any of the formal categories.

A range of treatments are advertised on the web site – from botox injections, laser teeth whitening, spray tan, manicure and pedicure to massage and pamper parties. Since moving in the applicant has made some modifications to the internal layout. There are now two treatment rooms as well as the reception area and WC. There is no internal door into the bungalow and the annexe benefits from a separate entrance although the drive is shared with the bungalow. The extension measures approximately 35 square metres, including porch.

The applicant works from the site 6 days a week. The operational hours given on the web site are 9am to 4.30pm on Mondays; 6pm on Tuesdays; 6.30pm on Wednesdays; 8pm on Thursdays; 7pm on Fridays and 4pm on Saturdays.

A second therapist works 3 days a week and a third works for 2 hours on alternate Wednesdays. The salon has just taken on a fourth member of staff, an apprentice



who will work 30 hours per week and will be a receptionist and receive training in some treatments.

The applicant has advised that, following complaints from a neighbour, staff and clients now park in Lindum Road instead of the access drive.

### **Planning History**

351/80 – Erection of single storey extension at side to provide bedsitting room. Granted 22.4.80

### **Consultations**

**Highways:** No objection.

*'With 4/6 cars parking in Lindum Road in connection with this business in any given hour I do not require a parking survey. A parking capacity survey would show the number of available spaces only.'*

*If the main issue is unsafe parking on the junction of Lindum Road we could ask the applicant to give clear parking instructions to her clients in all of the advertising. Preventing parking on junctions can only be controlled by enforceable parking restrictions which could be applied for at a cost to the applicant. However this is a lengthy process and the justification for doing this does not seem reasonable given the nature of the application.'*

*Would you consider conditioning the number of treatments the business can offer in the future; to prevent any increase in parking associated with the business.'*

### **Representations**

Seven letters of objection received, from residents of Lindum Road and from Nos. 95 and 97 Littlehampton Road summarised as follows:

- 6 days a week up to 30 cars per day are parked on Lindum Road as a result of this business. They park on pavements, grass verges, across our drives, turn in our drives and throw rubbish in the street. The site has no parking for clients.
- Because the site itself has no off street parking staff and clients are forced to park on Lindum Road. They park on both sides of the road and cause great difficulty in entering or exiting our drives and obscuring our views.
- Clients and staff park as close to the junction with Littlehampton Road as possible. This is a very busy wide junction but Lindum Road narrows quickly beyond it. Cars entering from the east often do so at speed. The business related parked cars increase the risk of an accident happening.

- It is impossible to safely turn right out of the driveway at 95 Littlehampton Road due to Vanilla Pod related parked cars on Lindum Road. An accident will occur.
- The related parked cars on Lindum Road, close to the junction with Littlehampton Road, make it dangerous for school children to cross safely.
- Emergency vehicles visiting or using Lindum Road will have great difficulty due to the cars parked as a result of this business.
- This business offers a very extensive list of treatments and has grown in scale. It should be being run from commercial premises and not from this bungalow in a residential area. The Council should be able to help them relocate to more suitable commercial premises.
- A business like this should not be down a private lane in a residential area with no parking spaces. It is too big a concern for the site.
- I have great concern that health and safety and Environmental Health regulations have not been properly followed for the safety of customers and more importantly nearby residents.
- The applicant is required to upkeep the front garden area. This has not happened.

**The Chair of the Tarring Neighbourhood Watch and Community Forum** has also objected as follows:

*'Parking problems and obstructions have been evident at the junction of Littlehampton and Lindum Road caused by customers seen coming and going from the premises. The constant coming and going of customers from early morning to mid evening is causing a noise nuisance and disturbance to residents in Lindum Road. Customers have been observed parking on pavements, kerbs and verges which is unsightly, damaging and obstructive. No parking is available 'on site' for customers. The inevitable use of chemical and other hazardous material is of great concern to local residents. The area is wholly residential and this commercial venture is not suited to this location. The Worthing area has a plethora of vacant retail and commercial site where such businesses can be more suitably located. I urge you to deny this application.'*

**Councillor Smytherman** comments:

*'I have now managed to retrieve a photo taken by Mrs Loveland showing the parking situation in Lindum Road.'*

*I am also concerned that since your request for information from the applicant they have clearly instructed their clients to park elsewhere and therefore a Highway survey will be of little use as things have improved since the issues have been raised with Planning.'*

*As County Councillor I would like to formally object to the premises being open on Sunday's and Bank Holidays as parking is much more difficult for residents as they have their own visitors at that time.*

*I would also request that if the Committee are minded to grant this retrospective application then conditions be imposed on the number of clients at any one time and hours of use due to the residential nature of the site.*

## **Planning Appraisal**

The Committee may grant planning permission for development carried out before the date of the application in accordance with Section 73A of the Town and Country Planning Act 1990 (as amended).

Save that the development will have already commenced, this is a conventional planning application, and the Committee should consider the planning circumstances existing at the time of the decision 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 which requires the decision to be made in accordance with the Development Plan unless material considerations indicate otherwise.

The Core Strategy, including Worthing Saved Local Plan policies, comprises the Development Plan here but the Government has accorded the National Planning Policy Framework considerable status as a material consideration which can outweigh the Development Plan's provisions where such plan policies are out of date; or silent on the relevant matter or at variance with the National Planning Policy Framework.

The Council's self-assessment of the Core Strategy's Conformity with the National Planning Policy Framework demonstrated that, in many respects, the Council's key Development Plan conforms closely to the key aims and objectives of the Framework. However, it is acknowledged that in response to the requirements of the Framework and informed by local evidence it is clear that the Council needs to assess the housing delivery strategy set out in the current Development Plan. Work is currently being progressed to address this and the Council is in the process of agreeing a revised Local Development Scheme which commits the Council to undertake a full review of the Core Strategy and progress a new Local Plan for the Borough.

The main issues for consideration in this application are;

- the principle of use- the loss of residential accommodation and the importance of the business to the local economy and whether this commercial use is appropriate in this location;

- Traffic and parking and related highway safety issues;
- Neighbour amenity i.e. noise and disturbance.

As such the proposal should be principally assessed against saved Worthing Local Plan Policies H18 and TR9 and Core Strategy Policies 3, 4, 9, 16, Space Standards Guide to Residential Development and Sustainable Economy Supplementary Planning Documents; West Sussex County Council Parking Guidance and The National Planning Policy Framework and allied Practice Guidance.

***Principle of business use and loss of residential accommodation***

The National Planning Policy Framework has a principal goal of delivering a strong competitive and sustainable economy and states that;

*The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.*

*To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.*

*Local planning authorities should ‘facilitate flexible working practices such as the integration of residential and commercial uses within the same unit.’*

Core Strategy Policy 3 has the main aim of *Delivering sustainable economic growth by ensuring that the right conditions are created.*

The business is successful and popular, employs 4 staff and it exemplifies the small business entrepreneurship encouraged by the Government.

It is certainly desirable in the vast majority of instances for business use to locate in commercial centres and trading estates, especially as some lower order centres are struggling and such businesses can often improve such centre’s offer and viability.

However, many low impact small businesses, such as certain B1 office uses or beauty salons, can and do, co-exist amicably in residential areas, even suburban areas. This may be indicative of structural changes to the economy and can help with start-up costs. In many cases planning permission is not even required if the use remains ancillary to the main dwelling and the impact is minimal. In the past, a number of such businesses have grown to scale where required a planning application is necessary and have been granted permission, including a beauty salon at No. 12 Parklands Avenue (WB/06/0753/FULL).

At least the site is advantageously located, close to a main road and a number of local facilities and is not remote from local shops. It is also served by a reasonable bus service and is inconspicuously sited at the rear of backland dwelling. The scale of operation is effectively limited by the size of the annexe, supplemented by the safeguarding conditions referred to below.

The economic benefits of supporting such a business will weigh heavily in any judgement.

Turning to loss of part of a residential dwelling, as a residential annexe, it meets the notional standard for a studio apartment identified in the adopted Space Standards Supplementary Planning Document and successfully provided linked and independent self-contained accommodation for most of the period since the early 80's.

Certainly, the establishment of this business in the annexe deprives the Borough of part of a bungalow in a pleasant residential suburb. Such a loss is regrettable but, even so, a 2 bed bungalow with converted garage (likely additional bedroom) and substantial garden would remain. It is arguable this still comprises a family house for the purposes of Core Strategy Policy 9 and allied Supplementary Planning Document Guide to residential development which protect family houses, especially given its history of use and garage conversion. On the other hand, the opportunity to reinstate use as a residential annexe would be lost at a time when these are growing in popularity and importance to support extended families.

### ***Traffic and Highway safety***

It is clear from the representations received in response to this consultation that the traffic, and in particular the cars parking on Lindum Road in connection with this business use, has increased. Cars are being parked close to the junction with Littlehampton Road predominantly on the east side and close to neighbours' driveways but avoiding the junction itself. Neighbours consider both the level and nature of this parking to be causing a traffic hazard for them entering and exiting their drives and for other road users and pedestrians at the junction of Littlehampton Road.

The Highway Authority visited the site and do not object to this application. Initially, they asked for a traffic survey of available on street parking spaces in the area to be undertaken. As most, if not all, houses in Lindum Road have off street parking there are many on street parking spaces available on Lindum Road. This availability combined with the relatively low number of spaces required by staff and clients of the business in any given hour (4/6) meant the Highway Authority withdrew their request for a survey. The main problem for neighbours appears to be that clients and some staff are parking as close to the junction with Littlehampton Road as possible, rather than further down the road, and causing an obstruction to visibility for residents as a result.

The limited parking restrictions at Lindum Road were honoured at site inspection times and so it appears the on-street parking complained of is not therefore illegal (subject to highway code). The Highway Authority does not consider a significant traffic safety hazard is being caused by the associated parked cars. They also do not consider the level of associated parking justifies requiring the applicant to pay for parking restrictions to be added to Lindum Road in the vicinity of the junction. Here it is noted that Lindum Road is relatively wide and performs a role of more

than simply an access road; and most of the drives at the northern section of the road are on the west side anyway.

The Highway Authority's suggestion is to encourage the applicant to publish advice to her clients about parking further down Lindum Road. This could only ever be advice however, as securing such by condition would be problematic at best due to the impracticality of enforcement. It is worth noting that the bellmouth junction is wide and allows cars to leave/enter Lindum Rd faster than, say, a traffic clamed junction design such as with tighter radii. However, physical traffic engineering would be still more costly and even more difficult for the Highway Authority to justify.

At least it would seem that the earlier problem of parking outside the site or within the narrow access road to the site and causing an obstruction to residents of No. 97 Littlehampton Road has stopped as a result of clients parking in Lindum Road.

In the absence of a Highway Authority objection a refusal on highway grounds could not be sustained and it is relevant that the test in the National Planning Policy Framework and allied Practice Guidance set for refusing application on highway grounds is;

*Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

It is worth noting however, that the site does not operate to capacity at present. Currently the applicant works full time 6 days a week. She has just employed an apprentice who will work 30 hours a week and will be trained to undertake certain treatments. There is a part time therapist 4 days per week and a fourth member of staff for 2 hours on alternate Wednesdays. Time and staff are currently available to intensify the use of the two treatment rooms. Vehicle movements may increase as a result. Consequently if planning permission were granted, conditions are recommended limiting the use to the two existing treatment rooms and a maximum of 4 clients per hours. Likewise, Sundays and Bank Holiday working would be prevented and the hours of use are restricted to those identified on the website, as confirmed by the applicant and not the extended hours on the form.

### ***Other neighbour amenity issues***

In amenity terms, operating a small scale or ancillary business from a residential dwelling is normally acceptable where it does not impact upon the residential character of an area and where it will not result in intrusive noise or other disturbance to adjoining neighbours.

Neighbours have not referred to other nuisance issues from this use. The activity itself is quiet and noise from footfall to and from the site has not been identified as problematic by neighbours.

Operating hours appear to be not unduly unsocial.

The premises are discreetly sited and do not radiate the ambience of commercial use.

At present the business is operating from an extension to the main bungalow which is occupied by family members. Were the business to be sold to another user, or were the main bungalow sold to another family conflict could occur. It is therefore considered necessary to make this permission personal to the applicant Miss E Hopper if planning permission were to be granted and only whilst a family member occupies the main dwelling.

## **Conclusion**

The issues here are finely balanced with loss of residential accommodation set against helping a small business and no significant amenity uses have been identified. Whilst neighbours have raised concerns over highway safety, the Highway Authority does not consider these sufficient to resist the application and control over the hours of use and number of clients may be secured by condition. In these circumstances, it is recommended to grant planning permission subject to the safeguards set out in the conditions below.

## **Recommendation**

Grant planning permission subject to the following conditions:

1. Conform with Approved Plans
2. Personal to Miss E Hopper and whilst a family member lives in the main bungalow and grant permission to revert to living accommodation ancillary to the bungalow if said circumstances change.
3. Operate Mon –Sat only, no Sundays or Bank Holidays.
4. Hours of use limited to Mondays and Saturday 9am to 4pm, Tuesdays 9am to 6pm, Wednesdays 9am to 6.30pm, Thursdays 9am to 8pm and Fridays 9am to 7pm.
5. No more than two treatment rooms, max 4 clients per hour.

## **Background Papers**

Observations by the Highway Authority  
Representations by Members of the Public

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22<sup>nd</sup> July 2015





Application Number: AWDM/0946/15

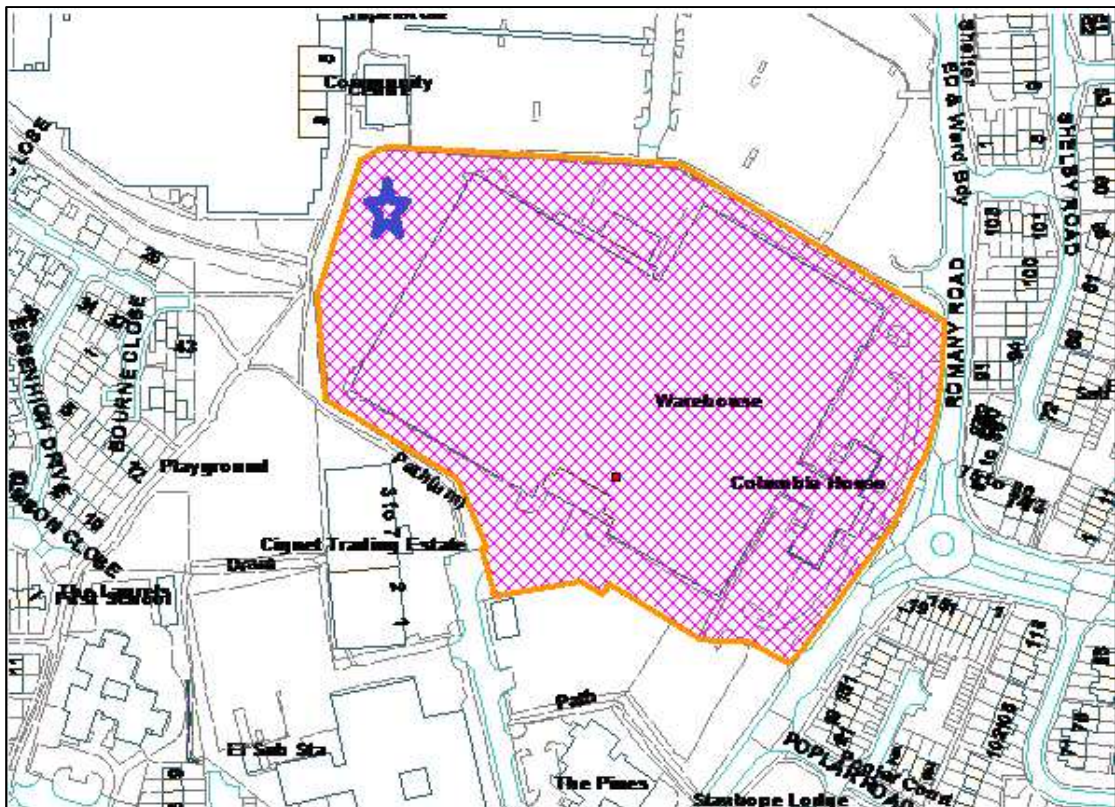
Recommendation – Delegate Authority to Officers to approve subject to no new adverse material issues arising from the remaining consultation period.

Site: Littlehampton Book Services Limited Faraday Close Worthing West Sussex

Proposal: Temporary steel building for storage purposes situated northwest of site

Applicant: Mr Larry Greenway  
Case Officer: Peter Devonport

Ward: Northbrook Ward



Not to Scale

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### Site and Surroundings:

The site relates to Littlehampton Book Services Limited's premises in West Durrington on the north-west fringes of the urban area.

This long established business site (formerly occupied by Nissans) is part of a designated industrial trading estate in the Core Strategy which also incorporates the Cignet Trading estate (including Eurotherm and Compass Travel bus depot) and Pines Adult Training centre to the south. To the north sits the District centre,

including Tesco's superstore, whilst open countryside (National Park) and new residential estates are located to the north west beyond a public park and New Road/Romany Road and residential estates to the east. It operates one way system with ingress from Faraday Close and egress from Romany Road.

The site is substantial (2.6 hectares) and comprises a very large warehouse (approx. 25,000 sq ms floorspace); 10 ms tall; 182 ms long and 144 ms wide) behind a smaller office building (Columbia House) with curtilage space used for parking and servicing, though the New Road/Romany Road frontage is soft landscaped. The terrain is largely flat.

The part of the site subject of the application proposal is an area in the NW curtilage currently used for the storage of loose pallets within the servicing yard. It is bounded by a substantial palisade security fence and tall screen tree planting (10 -12 ms high) and frequently bushes set on a bund.

The whole site is identified as potentially contaminated land (due to history of landfill) but the only part of the site falling in Flood zones 2 or 3 is remote from the area subject of this application.

### **Details of Proposal**

As a major application by virtue of its size, this is required to be determined by Committee. The applicants have requested urgent attention because of the timetable and importance of the proposal to the business.

LBS Ltd are one of the leading book distributor's within the UK, with the LBS media distribution facility handling service orders worldwide.

The proposal is locate a temporary building adjacent to the North East elevation near to the boundary corner, some 3-4 ms off the boundary. The applicants explain that this provides close proximity to the warehouse main access doors to enable fluid stock transfers to take place.

The temporary building is required to house pallets of stock (around 500). The building protects stock from weather and provides a secure area within the facility boundary.

A temporary 5 year period up until the end of February 2020 is sought.

The proposed new temporary building is to be 15 metres in width and 30 metres in length with low eaves of 4.2 metres and shallow roof pitch of 18 degrees. It has been designed as an independent structure from the existing warehouse which will not obstruct the main perimeter service lane.

The visible elevations are single skin steel construction with a PVC panelling roof. A manual roller shutter door is incorporated within the 15 metres width elevation and is 4.8 metres wide by 3.5 metres high.

No allied plant, machinery or lighting is proposed.

Access into the new temporary building is provided by one independent roller shutter doors for fork lifts and other vehicle access. Provision for pedestrian access is provided via two personnel access doors, one to the front of the unit and one to the rear

The proposed building provides 450 sq ms of floorspace.

Operational hours are given as 5am to 10 pm Monday to Friday but the applicants have agreed that access to the building by counter balance trucks will be limited to 8am to 10pm.

The proposed building is “free standing” in that there are no footings required and that the building simply bolted to the concrete surface. The applicants confirm that no services or foundation work is required.

Rain water from the temporary building will be directed over and into the existing storm drain system.

Existing 102 car parking spaces are unaffected. The existing 199 FTE staff is unchanged.

The application is supported by a Design and Access Statement.

## **Consultations**

### **Economic Development Officer**

Littlehampton Books are a major book distributor who moved to Worthing in 1998 and currently have 199 FTE employees. They are based on the industrial estate at Faraday Close, in a 250,000 sqft unit, that previously formed part of Nissan UK.

Littlehampton Books have identified a business critical need for an additional 4,843sqft of warehousing space, to support their output between now and Christmas. The temporary build will be used to house 500 pallets of books, will be access during working hours and will not require electricity or plant.

The Summer 2015 Worthing Commercial Property Register highlights that there are currently seven industrial units available in Worthing, none within the size range of 3,347 sqft and 24,800 sqft.

Economic Development fully supports this application.

### **The Highway Authority**

Comments are awaited and the Committee will be updated.

## **Environmental Health Officer**

If the ground surface was to be broken for foundations/services, etc., then the full potentially contaminated land condition would need to be applied (this begin with a desk top study). As this is not the case, I would recommend addition of the precautionary condition (which to paraphrase, states the developer must contact us if anything suspicious is identified during works).

## **Representations**

None received at time of writing.

The consultation period expires on 30.7.15.

The Committee will be updated at the meeting.

## **Planning Assessment:**

Section 70 of the Town and Country Planning Act 1990 (as amended) 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 requires the decision to be made in accordance with the Development Plan unless material considerations indicate otherwise.

The Core Strategy, including Worthing Saved Local Plan policies, comprises the Development Plan here but the Government has accorded the National Planning Policy Framework considerable status as a material consideration which can outweigh the Development Plan's provisions where such plan policies are out of date; or silent on the relevant matter or at variance with the National Planning Policy Framework.

The Council's self-assessment of the Core Strategy's Conformity with the National Planning Policy Framework demonstrated that, in many respects, the Council's key Development Plan conforms closely to the key aims and objectives of the Framework.

The main issues raised by this proposal are:-

- Principle of business development
- Impact on amenity
- Impact on appearance and the character of the area
- Impact on the environment, land contamination and flooding
- Impact on access /parking

As such the proposal should be primarily assessed against; saved Worthing Local Plan: Policies RES7 and H18; Core Strategy Policies 4, 15, 16 and 17

National Planning Policy Framework and Practice Guidance; and Sussex Noise Guidance and the statutory objectives of the National Park under the 1949 Act.

### **Principle of business development**

The site sits in a designated and protected industrial estate in the Core Strategy.

The principle of such business development is supported within the confines of such a designated, established trading area and the proposal would meet a compelling and urgent need for this very important business to the local economy to function and prosper. Accordingly it would help secure the future of the site and local jobs.

This is underlined by the support of the Economic Development Officer.

It is accordingly welcomed.

The site occupied by the building would be reinstated upon its redundancy.

### **Impact on residential amenity**

The new building is just under 70 ms from the back garden and rear wall of the nearest houses to the west in Varey Road/Bourne Close and screened and buffered by a small park and tree/bush belt which itself is relatively busy as it provides a direct access to the shopping centre. The park and landscaping shield and separate these houses from the site.

No plant or machinery or lighting is proposed and the negotiated access hours are not unsocial.

Usage of the facility is not expected to be significant.

The amenity impact is, accordingly, negligible.

### **Impact on appearance and character of the area and setting of National Park**

The site is within an established industrial area characterised by large buildings and structures and similar temporary buildings have been sited here before and one remains on the northern part of the site. The proposed new building is not excessively large and the design finishes are in themselves acceptable.

Certainly it would not be visible from the main public frontage along New Road/Romany Road.

It is close to the NW boundary but, even with its height, it is unlikely to be visible from any significant vantage points to the north and west, because of the screening provided by the bunded boundary tree planting. Any residual view between trees would be very limited and viewed against the backdrop of the existing industrial buildings. Bearing in mind its temporary nature, no visual harm would result, including to the setting of the National Park.

## **Impact on environment**

The site sits on potentially contaminated land. The Environmental Health Officer has advised that as long as the ground surface is not broken, then a desk top study is unnecessary and precautionary condition is adequate. Measures to address asbestos risks may be addressed by a suitable informative.

The part of the site where the temporary building would sit falls outside of zones 2 or 3 of the Flood Risk area and the development is not classed as vulnerable.

Drainage is unaffected.

No harm to the environment would result. The site would be reinstated to its current condition after cessation.

## **Impact on access /parking**

This is an established site in a sustainable location with adequate parking and servicing areas.

No parking spaces are shown as lost and overall traffic generated on the site is not expected to materially increase.

The comments of the Highway Authority are awaited.

## **Recommendation:**

THAT THE APPLICATION BE DELEGATED TO OFFICERS TO APPROVE, SUBJECT TO THE FOLLOWING CONDITIONS, AFTER THE EXPIRY OF THE CONSULTATION PERIOD AND SUBJECT TO NO NEW ADVERSE MATERIAL ISSUES BEING RAISED.

1. Temporary planning permission with building removed by 1.2.20 and land reinstated to prior condition.
2. Build in accordance with approved plans.
3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the LPA) shall be carried out until the developer has submitted a remediation strategy to the LPA detailing how this unsuspected contamination shall be dealt with and obtained written approval from the LPA. The remediation strategy shall be implemented as approved.
4. No plant or machinery.
5. Operational hours 5am to 10 pm Monday to Friday with access to the building by counter balance trucks limited to 8am to 10pm.

## **Background Papers**

Comments of Economic Development Officer  
Comments of Environmental Health Officer

22<sup>nd</sup> July 2015

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**Application Number: AWDM/0806/15**

**Recommendation – APPROVE,**  
**subject to there being no**  
**adverse material comments**  
**received during the**  
**consultation period**

**Site: 51 South Street, Worthing**

**Proposal: Remove existing defective clay tiles to roof and replace with plain concrete tiles (ground and first floor flat)**

Applicant: Mike Peckham, Adur & Worthing HIA      Ward: Tarring  
Case Officer: Gary Peck



**Not to Scale**

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### **Proposal, Site and Surroundings**

This application seeks full permission to remove existing defective clay tiles to the roof of the building which serves a ground and first floor flat and replace with plain concrete tiles.

The application is on the western side of South Street at its junction with Ethelred Road and is the northern half of a pair of semi-detached flats. The building is not listed and the site is outside of the Conservation Area. The building is of fair visual quality with an attractive open porch over the front door.

Immediately to the south is West Worthing Baptist Church and opposite to the east is a car dealers.

The application has been submitted by the Housing Department and hence needs to be brought to committee for determination. The tenant has expressed concern about the state of the tiles to various officers of the Council and has requested a swift determination of the application.

### **Relevant Planning History**

There is no planning history relevant to the application

### **Consultations**

Any consultation responses will be reported verbally at the meeting.

### **Representations**

Any representations will be reported verbally at the meeting.

### **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)  
Planning Practice Guidance (CLG 2014)

### **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 application site is not within a Conservation Area, nor is the property listed and therefore the upgrading of existing residential premises is acceptable in principle.

Nonetheless, policy 16 of the Core Strategy still requires a high standard of development.

It is apparent that the existing clay tiles are defective and has caused some degree of anxiety to the occupier. Clay tiles are ordinarily more attractive than concrete tiles but there are a variety of materials in the area and to a certain extent it is apparent that the clay tiles are showing their age in visual terms as well as functionally.

It is stated that the concrete tiles will match in colour and style the existing and so provided this is the case, it is not considered that the proposal would be sufficiently harmful as to warrant a refusal. It is certainly likely that the replacement of the existing tiles will improve the property for the occupiers and in light of the lack of visual harm; it is considered that the proposal is acceptable.

### **Recommendation**

To GRANT permission subject to there being no adverse comments raised during the consultation period

### **Subject to Conditions:-**

- 01 Time Limit
- 02 Materials to match in colour the existing
- 03 Approved Plans

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22<sup>nd</sup> July 2015

### **Local Government Act 1972**

#### **Background Papers:**

As referred to in individual application reports

#### **Contact Officers:**

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## **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.



## **Draft list for the Validation of Planning Applications**

### **Report by the Director for the Economy**

#### **1.0 Summary**

- 1.1 A local planning authority may request supporting information with a planning application. Its requirements should be specified on a formally adopted 'local list' which has been published on its website less than two years before an application is submitted. Local information requirements have no bearing on whether an application is valid unless they are set out on such a list.

#### **2.0 Background**

- 2.1 Since it is in excess of 2 years since the local list was reviewed, it is necessary to review the requirements of the local list. Additionally, as members will be aware, the Community Infrastructure Levy (CIL) will be introduced in Worthing from 1 October 2015. Your officers have consulted with other authorities that are already operating CIL and it is felt necessary that reference to CIL be included within the local list and therefore it is also necessary to revise the list before CIL is introduced.
- 2.2 The local list is prepared by the local planning authority to clarify what information is usually required for applications of a particular, type, scale or location. Government guidance states that information requested with a particular application must be:
- reasonable having regard, in particular, to the nature and scale of the proposed development; and
  - about a matter which it is reasonable to think will be a material consideration in the determination of the application

#### **3.0 Proposals**

- 3.1 Attached to this report is a draft local list and list of documents required with the submission of all planning applications. Members are asked to note the requirements as set out and make any comments where necessary.

## **4.0 Legal**

4.1 These statutory tests are set out in Section 62 (4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act) and Article 11 (3) (c) of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015.

## **5.0 Financial Implications**

5.1 None directly. However, the submission of applications by applicants which lack the necessary information and therefore have to be regarded as invalid on receipt results in additional work for officers which may be reduced if clear guidance is produced for applicants to follow.

## **6.0 Recommendation**

6.0 It is recommended that members note and comment on this report and the appended Local Validation List. Any comments will be forwarded to the Executive Member for Regeneration prior to the documents being adopted for use.

## **Local Government Act 1972**

### **Background Papers:**

- List of documents required for the validation of applications (appended)
- Local Validation List (appended)
- National Planning Policy Framework
- Planning Practice Guidance

### **Contact Officer:**

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# **Local Validation List for Adur and Worthing Councils 2015**





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**PLEASE SEE APPENDIX ONE FOR ADDITIONAL SPECIFIC APPLICATION SUBMISSION REQUIREMENTS**

**LAST UPDATED 10<sup>th</sup> July 2015**

## **Statements of Information**

### **1. Affordable Housing Statement**

Local housing evidence has identified that there is an acute affordable housing need in Adur and Worthing. As such, a mix of affordable housing, including social rent and intermediate housing will be sought to meet local needs on all but the smallest sites.

In Worthing a financial contributions towards affordable housing will be sought on all sites of 10 to 14 dwellings. On all sites of 15 or more dwellings 30% affordable housing will be sought (preferably as on-site provision).

In Adur, on sites of 15 or more dwellings, 30% affordable housing will be sought (preferably on-site). The emerging Adur Local Plan will also address affordable housing policy; the policy may therefore change in due course.

The tenure mix of any affordable housing contribution will respond to local need in agreement with the Councils' Housing Strategy and Enabling Officer.

For further guidance and definitions of affordable housing please see the Councils' website, the National Planning Policy Framework and Planning Practice Guidance:

<http://www.adur-worthing.gov.uk/planning-policy/>

<https://www.gov.uk/government/publications/national-planning-policy-framework>

### **2. Air Quality Assessment (AQA).**

All developments should follow the process contained within the document 'Air Quality and Emissions Mitigation Guidance for Sussex' (current version is 2013 and available to view online). The aim is to avoid development causing new air pollution problems, exacerbating existing problems or exposing people to high levels of air pollution.

Please also refer to Section 24 Traffic Assessment and Section 25 Draft Travel Plan in this document.

### **3. Biodiversity Survey and Report**

The onus is on the developer to determine whether the development will have any significant impact on biodiversity. A survey and report are required for any proposed development which may have an impact on any protected species of flora or fauna or have an adverse impact on biodiversity or geological features. This could include development which involves the removal of vegetation (e.g. trees, shrubs, hedgerows), alteration to water courses, the demolition of older buildings or any works within the roofs of buildings.

Further guidance on the criteria and indicative thresholds which are likely to trigger the requirement for biodiversity and/or geological surveys has been prepared by the Association of Local Government Ecologists and is available on the Natural England website.

<http://www.alge.org.uk/>

<https://www.gov.uk/government/organisations/natural-england>

<http://www.bats.org.uk/index.php>

<https://sussexwildlifetrust.org.uk/>

#### **4. Community Infrastructure Levy (CIL)**

The Government has decided that a tariff-based approach provides the best and most transparent framework to fund new infrastructure from development to support growth. This will be achieved through a standard charge (CIL) levied on new developments according to their size and type.

Following a number of years of preparation, two stages of consultation and a public Examination Worthing Borough Council adopted the Charging Schedule CIL in February 2015. To allow for an adequate period of transition and to allow time for processes to be set up an implementation date has been set for 1<sup>st</sup> October 2015. The levy will be charged on most new residential and retail development (all other uses will be nil charged). Details relating to the rates set and all background documentation can be found on the Councils' website. Planning Obligations will continue to be required through S106 where appropriate for other site based needs.

From the 1st October 2015 planning applications (for Worthing only) that are liable to pay the CIL will need to include an additional 'CIL Information Form' with the application.

Adur District Council has undertaken some evidence work in relation to CIL; CIL in Adur is likely to be progressed following the adoption of the Adur Local Plan. Please see website for future updates.

Details relating to the rates set, all background documentation and further guidance reference should be made to the Councils' website, the National Planning Policy Framework and Planning Practice Guidance:

<http://www.adur-worthing.gov.uk/planning-policy/infrastructure/>

#### **5. Daylight/Sunlight Assessment**

Whilst not considered an appropriate requirement at validation stage, applicants should be aware that a daylight/sunlight assessment may be required during the course of determining an application where it is considered that a development would result in an unacceptable loss of light to adjoining premises. Any assessment would need to be carried out in accordance BRE guidelines (Site Layout Planning for Daylight and sunlight: a Guide to Good Practice – BRE Report 209, 2011).

#### **6. Economic Statement**

This is required where there are employment implications and/or benefits for developments involving the net loss of existing or allocated commercial floorspace in excess of 300 square metres or proposed new business/commercial developments in excess of 1,000 square metres.

## **7. Flood Risk Assessment (FRA) and Exceptions and Sequential Tests**

Planning applications for development proposals of 1ha or greater in Flood Zone 1 and all proposals for new development located in Flood Zones 2 and 3 should be accompanied with a FRA; further advice from the Environment Agency on how to complete a FRA can be found at:

<https://www.gov.uk/planning-applications-assessing-flood-risk#how-to-complete-an-fra>.

This includes proformas for [householder development](#) in Flood Zones 2 and 3, and [water compatible](#), [less vulnerable](#) or [more vulnerable](#) development up to 1ha in Flood Zone 2.

## **8. Foul Sewerage Assessment (FSA)**

A FSA is required for all 'major' developments of 10 or more dwellings (excluding conversions of existing buildings), or where the site is 0.5ha or more and in other cases where the floor area to be created is 1000 square metres or more or the site area is 1 hectare or more. A FSA will also be required for any application where there is a change to the existing sewerage system or the creation of a new one.

## **9. Heritage Statement**

The National Planning Policy Framework (NPPF) states at paragraph 128 that: 'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance'.

Further guidance is available on the Adur & Worthing Councils' website through the following link:

<http://www.adur-worthing.gov.uk/planning/applications/submit-fees-forms/#heritage>

## **10. Historic Environment Record (HER)**

Developers must provide a report on HER if there is any indication of archaeology on an application site. A guidance document for Local Authority Planning Officers or their Archaeological Advisors is available on the Councils' website and this sets out the recommended thresholds at which a Historic Environment Record (HER) search is considered appropriate.

Locations and boundaries of the Archaeological Notification Areas (ANAs) have been provided to the West Sussex Districts and Boroughs and the South Downs National Park Authority in both GIS format and accompanying PDF report. The thresholds are linked to the ANAs which hold detailed information regarding the potential for as well as known heritage assets.

*(LINK TO 'HER' DOC ON WEBSITE)*

## **11. Land Contamination Assessment**

Applications for development on land that may be affected by contamination should, where appropriate, be accompanied by a preliminary risk assessment which has identified:

- all previous uses;
- potential contaminants associated with those uses;
- a conceptual model of the site indicating sources, pathways and receptors;
- potentially unacceptable risks arising from contamination at the site.

## **12. Landscaping Details**

All full planning applications for 5 or more dwellings or business, commercial and leisure developments of more than 1,000 square metres gross (excluding conversions of existing buildings) must be accompanied by full landscaping details in the form of drawing/s and schedule/s.

## **13. Lighting Assessment**

Applications which include, or are for the provision of, floodlighting in particular in relation to car parks, outdoor leisure facilities and commercial premises particularly in the vicinity of residential properties or open countryside must be accompanied by a lighting impact assessment.

## **14. Noise Impact Assessment**

Applications for developments that raise issues of disturbance by noise to the occupants of nearby existing buildings, and for developments that are considered to be noise sensitive and which are close to existing sources of noise (eg. railway, major roads, industrial sites), should be supported by a Noise Impact Assessment prepared by a suitably qualified acoustician. Further guidance is provided in '*Planning Noise Advice Document: Sussex*'.

<http://www.adur-worthing.gov.uk/media/media,121802,en.pdf>

## **15. Parking Provision**

All full planning applications should be accompanied by existing and proposed block plans to a scale of 1:200 showing parking provision. Provision should normally be in accordance with West Sussex County Council Highways Authority's parking standards:

<http://www2.westsussex.gov.uk/cs/mis/041103ht2b.pdf>

Where under on-site parking provision is proposed, an on-street car parking capacity survey may be required in accordance with the above guidance.

## **16. Planning Obligations (Section 106)**

Planning Obligations (section 106) agreements are used to collect affordable housing contributions (see above) and to deliver site specific impact mitigation requirements without which a development would not be granted planning permission. These requirements must be directly related to the development. Where appropriate, the Councils will expect these requirements to be identified at pre-application stage and

where required a draft planning obligation or at least a draft Heads of Terms shall be submitted.

For Worthing, further information on infrastructure contributions and thresholds (and how they relate to the Community Infrastructure Levy) can be obtained from:

<http://www.adur-worthing.gov.uk/planning-policy/infrastructure/#spd>

An Interim Planning Guidance Note 'Planning Contributions for Infrastructure Provision' was approved by the Council in July 2013 to provide guidance to landowners and developers as to the contributions required towards new infrastructure provision to serve new development.

The document may be found at:

<http://www.adur-worthing.gov.uk/media/media,116034,en.pdf>

## **17. Refuse and Recycling Provision**

Adur and Worthing Council Services provide household waste and recycling services using wheeled bins. Standard properties with a frontage that faces directly onto a street use 140L refuse and 140L/ 240L recycling bins for the collection services. A 240L bin may additionally be used for the collection of garden waste. Other types of accommodation may use shared facilities using these volume capacities for each household unit. A plan should be provided at application stage with all relevant applications which shows how the waste and recycling facilities will be stored on the property and the likely collection method to be used.

Where shared facilities are expected to be provided or where access to the property by dustcart may be difficult, developers should contact Adur and Worthing Council Services for bespoke guidance in advance of an application by contacting [help.aws@adur-worthing.gov.uk](mailto:help.aws@adur-worthing.gov.uk)

## **18. Shoreham Harbour**

Planning applications in the Shoreham Harbour area are required to submit a Sustainability Statement. Adopted guidance for this can be found on the website (this guidance will be updated with the next version of the Shoreham Harbour Joint Area Action Plan):

<http://www.adur-worthing.gov.uk/shoreham-harbour-regeneration/planning-policy-and-guidance/#sustainability-statements>.

## **19. Space Standards**

All applications for new dwellings will be expected to comply with either the national or the local space standards. Adur District Council and Worthing Borough Council both have their individual requirements which are available to view on the Councils' website (please see links below). Applications should demonstrate compliance with the Government's emerging Housing Standards Review once implemented in the planning system:

<http://www.adur-worthing.gov.uk/worthing-ldf/spd-and-guidance/#space>



<http://www.adur-worthing.gov.uk/adur-ldf/spd-and-guidance>

<https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard>

## **20. Statement of Community Involvement**

For all major applications and planning applications for telecommunications equipment, please refer to Worthing and Adur Joint Statement of Community Involvement (Dec 2012):

<http://www.adur-worthing.gov.uk/adur-ldf/statement-of-community-involvement/>

## **21. Structural Surveys**

A full structural survey is required for applications which involve the demolition of a listed building or a building that positively contributes to the character of a Conservation Area where the condition of the building forms part of the justification for its replacement or where extensive conversion works to such a building are proposed to be carried out. Any survey undertaken should be carried out by a qualified surveyor.

## **22. Sustainable Urban Drainage Systems (SUDS)**

Following a ministerial statement on 18th December 2014, from 6th April 2015 the use of Sustainable Urban Drainage Systems (SuDS) will become a material consideration for planning decisions on major applications (10 dwellings or more, or the equivalent). Following the statement and a subsequent consultation, response and changes to schedule 4 of the Development Management Procedure Order, WSCC (as Local Lead Flood Authority- LLFA) will also become a statutory consultee for surface water drainage on major applications from 15th April 2015. This will mean that a statutory duty will be placed on WSCC as LLFA to provide advice to local planning authorities on surface water drainage. This applies to Major development planning applications with surface water drainage only and a response is required within 21 days. The Local Authority will need:

- \* Information demonstrating how surface water will be managed; especially how the system will meet the Defra Non-statutory Technical Standard for Sustainable Drainage Systems,
- \* Details of changes to site topography.
- \* If connecting to existing drainage system; details of connection;
- \* If new surface water systems are proposed; details of the type and nature of the system, its design, specification and location; and
- \* Information and consent for any change or modification to any existing watercourse within the boundary of the development.

For any further information please email: [FRM@westsussex.gov.uk](mailto:FRM@westsussex.gov.uk)

## **23. Telecommunications Development**

A supporting statement is required in connection with all telecommunications development setting out the operational need/requirements, including an analysis of alternative sites which could be considered, ICNIRP compliance and public consultation undertaken.



## **24. Town Centre Uses - Sequential Test and Impact Assessment**

Where an application is submitted for main town centre uses outside of a town centre and not in accordance with an up-to-date Local Plan, it should be accompanied by a sequential test. Where an application for retail, leisure and office development exceeds 2,500 square metres gross of floorspace it must also be accompanied by an impact assessment.

## **25. Transport Issues**

A Transport Statement (accompanied by a Travel Plan Statement) or a Transport Assessment (accompanied by a Full Travel Plan) will be required where the size of development exceeds the thresholds defined for each type of development in the West Sussex County Council (WSSCC) Transport Assessment Methodology, and must comply fully with this guidance. When dealing with public transport issues in the Transport Statement or Transport Assessment, the Local Authority would expect consideration of the availability of public transport over a 24 hour period.

<http://www2.westsussex.gov.uk/roadsandtransport/WSSCC%20Transport%20Assessments%20-%20Guidance%20on%20Methodology%20for%20Developers.pdf>

## **26. Tree Survey**

Required in all cases where trees within the application site or on land adjacent to it could be affected by the development. In addition, an arboricultural statement produced by a qualified arboriculturalist will be required to support any planning application which proposes any development within the root protection zone (as defined by BS 5837:2012) of a tree subject to a Tree Preservation Order or within a designated Conservation Area.

During the processing of the application, the Planning Authority may also require the submission of a professional arboricultural statement in relation to the impact of the development on other unprotected trees within or adjoining the development site if these have amenity and/or ecological value.

The statement should include a plan accurately plotting all relevant trees and a schedule of their species

## **27. Ventilation and Air Conditioning Statement**

Required for all applications for the use of premises for purposes within Use Classes A3 (Restaurants and Cafes), A4 (Drinking Establishments), A5 (Hot Food Takeaways) and D2 (Assembly and Leisure) including change of use and any other applications which require ventilation or extraction equipment to be installed.

For most planning applications for food premises, the details of the ventilation/extraction system including extract hoods, filters, fans and ductwork must be provided, in addition to details of noise emissions from external plant, and external appearance; in some cases this requirement may be able to be relaxed where an application is speculative and/or the end user unknown in which case a more generic statement may be acceptable.

Applications which include air conditioning plant should be accompanied by full details of appearance, siting and noise readings to enable a full assessment of the potential impact on surrounding residential properties.

## APPENDIX ONE

### LIST OF DOCUMENTS REQUIRED FOR THE VALIDATION OF ALL APPLICATIONS FOR ADUR AND WORTHING COUNCILS

This list is a reference for all applicants explaining the documents which the Council will expect to accompany an application, in addition to the correct application form and drawings, in order to validate it. The submission of the correct documents will help avoid delays with validation:

#### APPLICATION FORMS

- The applicant's name and telephone contact number must be provided for the case officer to arrange a site visit in addition to full contact details for the agent including all telephone numbers and email address. The applicant's contact details are redacted on the public copy.
- Before submission, please check whether the site falls within the South Downs National Park as the correct forms must be submitted from the Park website. Links are also available on Adur & Worthing Councils' website.

#### DRAWINGS

- An A4 up-to-date Ordnance Survey (OS) extract plan showing the **existing** site (and not the proposed development) including more than one road name to an accurate scale of 1:1250 must be provided for all applications. The boundary of the application site must be outlined in red and any adjoining land within the applicants' control outlined in blue. A scale bar is also required so that the accuracy of the plan can be checked in addition to the user's OS Licence Agreement number.
- A **proposed** block plan to an accurate scale of 1:200 or 1:500 must be submitted clearly showing the position of the proposal/s to scale and annotated in writing if necessary. If an application has parking issues, existing and proposed parking layouts must be shown to scale on the block plan/s.
- All drawings should include a scale bar and a number of annotated metric dimensions so that their accuracy can be measured and checked.
- Only recognised metric scales and dimensions will be accepted.
- The drawings must not state 'Do Not Scale' as they have to be scanned and measured electronically and the case officer will need to be able to physically measure them.
- All elevations must be annotated with their orientation, ie north, south, east, west.
- All applications, including those for new dwelling/s, whether in outline form or full planning permission, must as a minimum include a drawing showing the distance between the new dwelling/s and all boundaries annotated in writing for the avoidance of doubt. An accurate existing site survey is preferable and is required for all major and larger applications.
- Drawings must be submitted in bold and not greyscale which does not scan adequately.
- All drawings should be clearly numbered and if amendments are submitted, they should have revision letters or numbers so that the previous ones can be easily superseded if necessary.
- Drawings for householder applications should be no larger than A3 size.

#### SUPPORTING INFORMATION

- If a householder site is within or partly within an Environment Agency flood zone, it must be accompanied by a Householder Flood Risk Assessment form available on the Councils' website or by post on request.

## FEES

- If submitting an application by hard copy, two copies of all application documents and drawings are required for both Adur District and Worthing Borough applications.
- Cheques must be made payable to Adur District Council if the site is within Adur and Worthing Borough Council if in Worthing. If the site is within the National Park, cheques should be made payable to South Downs National Park Authority.
- All details of fee payment must accompany an application including the date paid and receipt reference number.

## GENERAL

- When submitting any amendments or subsequent documents for validation for Planning Portal applications, please email them direct to [planning@adur-worthing.gov.uk](mailto:planning@adur-worthing.gov.uk) or by post and not through the Portal as they arrive as a new application. Please clearly mark the documents for the relevant officer's attention

LAST UPDATED 10<sup>TH</sup> July 2015

## **Developer Contributions Supplementary Planning Document (SPD)**

### **Report by the Director for the Economy**

#### **1.0 Summary**

- 1.1 Worthing Borough Council adopted a Community Infrastructure Levy (CIL) in February that will act as a transparent means of securing money from development to fund the infrastructure required to support growth. Whilst CIL will form the principle mechanism for the collection of developer contributions when it is implemented from October 1<sup>st</sup> 2015 there will still be a role to play for other developer contributions / planning obligations.
- 1.2 To explain the approach that will be taken by the Council and the relationship between the CIL and other contributions a draft Developer Contributions Supplementary Planning Document (SPD) was published for consultation in 2014.
- 1.3 Comments received on the draft, alongside changes made to the planning system at the national level, have informed the changes that have now been made to the SPD. Officers are recommending that the revised document is now adopted to ensure a clear and robust framework for the collection of developer contributions is in place by the time the Council starts to collect CIL in the autumn. When adopted, the SPD will form a material consideration when assessing planning applications in the Borough.

#### **2.0 Background**

- 2.1 In order to create sustainable communities the Council wants to ensure that the necessary infrastructure is put in place to meet the needs of the local community. As such, developers are expected to fund or contribute directly to the necessary improvements so as to mitigate or compensate for the impact of their proposal. These measures are known as 'developer contributions'.
- 2.2 The purpose of the Developer Contributions SPD is to provide guidance to all interested parties about the types of contributions that will be sought and the basis for the charges. The document brings together the Council's approach to seeking contributions from new development to address the cumulative impacts on infrastructure and to deliver affordable housing. It will enable a developer to work out at an early stage what contributions will be required in association with their development.

- 2.3 The Council's ability to collect developer contributions will now be largely achieved through two key mechanisms: the Community Infrastructure Levy (CIL) and Planning Obligations (Section 106 Agreements / Unilateral Undertakings).
- 2.4 On implementation of CIL the regulations restrict the use of Planning Obligations (Section 106 Agreements) to ensure that individual developments are not charged twice for the same infrastructure items. Although CIL will be the dominant means for securing financial contributions from development in Worthing (excluding the South Downs National Park), Planning Obligations, (despite being 'scaled back') will continue to play a key role in relation to affordable housing and certain site specific requirements.
- 2.5 Further information on both CIL and Planning Obligations and an explanation of the relationship between them was set out within the draft Developer Contributions SPD (March 2014). The key aim of the document was to provide interested parties with clarity as to what the Council's approach to developer contributions will be when CIL is in place. It also provided much greater detail on the Council's affordable housing requirements.

#### Consultation

- 2.6 The draft Developer Contributions SPD was published for consultation alongside the draft Charging Schedule for CIL in spring 2014. Consultation was undertaken in line with the Council's adopted Statement of Community Involvement. Although a number of comments were received relating to CIL only four representations were received on the draft Developer Contributions SPD.
- 2.7 Appendix A sets out in a table a summary of the comments received and officer's responses to these. Of the four representations received one supported the document and one simply provided a summary of relevant guidance. Officers agreed with a request from West Sussex County Council to include 'Green Infrastructure' within the list of infrastructure types that may be required through a planning obligation.
- 2.8 The final representation raised a disagreement with regards to the text relating to the provision of off-site affordable housing. It is considered that the existing wording is clear in that it explains that it is agreed that an element of affordable housing could be delivered on an alternative site then this would be in addition to the contribution towards affordable housing that the alternative site would be expected to deliver *in its own right*. The approach will ensure that there is no net loss in the level of affordable housing delivered across all sites that meet with policy requirements.

#### Affordable Housing Threshold

- 2.9 In addition to explaining the relationship between CIL and planning obligations a key aim of the SPD is to provide greater detail and clarity with regards to affordable housing. As explained within the draft SPD it was intended that the requirement for affordable housing would be applied in accordance with Core Strategy Policy 10 which sets a stepped requirement for affordable housing either through on-site provision or by financial contribution depending on set thresholds.

- 2.10 However, since the publication of the draft SPD the Government has introduced changes at the national level that have impacted on this policy. In November 2014 the Government amended Planning Policy Guidance to introduce a threshold of 10 or less dwellings under which S106 contributions can no longer be sought. As a consequence, the Council is no longer able to seek contributions from developments of 6 to 10 dwellings as had previously been required under Core Strategy policy 10. In order to achieve consistency with the new national threshold the policy (as amended) is now incorporated within the SPD.

### **3.0 Proposals**

- 3.1 The revised Developer Contributions SPD is attached to this report as Appendix B. This incorporates the revisions outlined above that have been made to the previous version. In addition to the minor changes made in response to comments that were received on the draft document the most significant amendment relates to the affordable housing threshold which has had to be made to reflect changes to the planning system at the national level. Further minor amendments have been made to provide added clarity.
- 3.2 It is acknowledged that the time it has taken to adopt the SPD following earlier consultation is greater than would usually be the case for this type of document. This is as a result of the timetable for the Examination and adoption of CIL. To ensure that the Council's proposed approach was understood there was clear benefit in consulting on the draft SPD at the time that the Charging Schedule for CIL was published.
- 3.3 The implementation of CIL in October 2015 will change the way in which developers contribute to the provision of infrastructure in the Borough. The adoption of the SPD in advance of that date is important as it will help interested parties understand the different mechanisms which can be used. When adopted, the document will sit alongside the CIL Drafting Schedule and will form a material consideration when assessing relevant planning applications in the Borough.

### **4.0 Legal**

- 4.1 The Planning Act 2008 provides powers for local authorities to apply a Community Infrastructure Levy (CIL) to development proposals to support infrastructure delivery in an area. This came into effect with the CIL Regulations 2010 (as amended). The Department for Communities and Local Government CIL Guidance (April 2013) is statutory guidance that the authority must have regard to.
- 4.2 A fundamental effect of the legislation is that when CIL is implemented Planning Obligations, secured through Section 106 Agreements or Unilateral Undertakings, cannot be used where there have been five or more Planning Obligations in relation to the same infrastructure or type of infrastructure, entered into on and since 6 April 2010. Agreements and Unilateral Undertakings pursuant to Section 106 Town and Country Planning Act 1990 may still be utilised however to secure Planning Obligations not covered by CIL, such as Affordable Housing.

4.3 Planning policy (including the Council's affordable housing policy – as amended) is prepared in accordance with the Planning and Compulsory Purchase Act 2004, the Town and Country Planning (Local Planning) (England) Regulations 2012, the Localism Act 2011, and the National Planning Policy Framework (NPPF) 2012 and Planning Practice Guidance.

## **5.0 Financial implications**

5.1 There will be a cost for each Council in setting up CIL and associated processes. This will largely relate to staff time and the commissioning of consultancy advice to assess viability. In this regard, it should be noted that once the levy is in place the regulations permit up to 5% of the revenue arising from the levy to be used on admin expenses. Costs relating to the setting up of CIL and associated documents have been budgeted for within the Worthing Planning Policy budget.

5.2 Once CIL is adopted (alongside new guidance on Developer Contributions) it is expected that the total funding for infrastructure projects will increase as more developments contribute than those currently liable to pay under the current system.

## **6.0 Recommendation**

**6.1 It is recommended that Members note and comment on this report and the revised Developer Contributions SPD. Any comments will be forwarded to the Cabinet Member for Regeneration prior to the document being approved and adopted by the Council as Supplementary Planning Guidance.**

## **Local Government Act 1972**

### **Background Papers:**

- Appendix A – Summary of Consultation responses
- Appendix B - Revised Developer Contributions SPD (July 2015)
  
- Report to Joint Strategic Committee – 6<sup>th</sup> February 2014
- Draft Developer Contributions SPD (March 2014)
- Charging Schedule for CIL (Feb 2015)

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## **Schedule of Other Matters**

### **1.0 Council Priority**

- 1.1 The efficient collection and distribution of money collected through developer contributions will help to ensure that infrastructure is delivered alongside development to meet the identified needs of new and existing residents and businesses. This will help to contribute towards meeting many Council priorities.

### **2.0 Specific Action Plans**

- 2.1 Matter considered and no issues identified.

### **3.0 Sustainability Issues**

- 3.1 Developer contributions will be collected from developments that are brought forward in line with the Core Strategy and any subsequent review. The Core Strategy, which has been the subject of a formal Sustainability Appraisal, will play a fundamental role in the delivery of sustainable development.

### **4.0 Equality Issues**

- 4.1 Issues relating to race, disability, gender and equality have been considered and it is not felt that the introduction of CIL and the approach to be taken in collecting developer contributions will have an adverse impact on any social group. The infrastructure and services that developer contributions can provide could enhance liveability for all sectors of society and could help to deliver new infrastructure that serves different needs within the community.

### **5.0 Community Safety Issues (Section 17)**

- 5.1 If present facilities are not able to accommodate the additional need generated by development then developer contributions can be used to help fund and support crime prevention measures.

### **6.0 Human Rights Issues**

- 6.1 Matter considered and no issues identified.

### **7.0 Reputation**

- 7.1 The 'early' adoption of a CIL and the associated Developer Contributions SPD for Worthing, when compared to the majority of local authorities in the surrounding area, will help to enhance the Council's reputation.

### **8.0 Consultations**

- 8.1 Consultation was undertaken on the draft Developer Contributions SPD in spring 2014 in line with the Council's Statement of Community Involvement. As set out in this report, the responses received have helped to inform the amendments that have been made to the document.

## **9.0 Risk Assessment**

- 9.1 The forthcoming implementation of CIL will, in some respects, make the collection of developer contributions more complex. Clarification of the Council's approach to the collection of developer contributions (both CIL and S106 agreements) will facilitate understanding for developers, stakeholders, Members and officers.

## **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 Although working to slightly different timetables every effort has been (and will be) made to ensure that, where possible, the documents produced by Worthing BC and Adur DC are aligned and that they are progressed in an efficient and expedient manner through joint working. Efficiency and financial savings have been through the appointment of the same consultants to undertake the viability assessments.

## Worthing Draft Developer Contributions Supplementary Planning Document

### Summary of Consultation Responses - Spring 2014

001	Samantha Prior – Sussex Police	Officer Response
	<p>Welcome this clear &amp; concise document which explains the relationship between mechanisms. Welcome reference to 'Crime Prevention' (p16) as this will help to ensure that site specific requirements, such as CCTV and neighbourhood policing offices could be secured through legal agreements for larger development sites. Provided such facilities can be grouped under this '<i>Crime Prevention</i>' category, and can be justified (necessary and related to the specific development) then this wording within the proposed SPD is welcomed.</p>	Noted
002	Ben Cheal – Roffey Homes Ltd	Officer Response
	<p>In principle support for the guidance. However, disagree with requirement set out on Page 22 – if affordable housing is provided off site then it is wrong to calculate the percentage of affordable housing based on the total of both sites. Each site should be judged on their own size and the calculation carried out accordingly.</p>	<p>The Council will seek to ensure that there is no net loss in the level of affordable housing delivered across all sites that meet with policy requirements. It is considered that the existing wording is clear as this explains that affordable housing will be sought in line with what would be expected from each opportunity.</p>
003	Lucy Seymour-Bowry – West Sussex County Council	Officer Response
	<p>WSSCC has been working with WBC to identify infrastructure needs to support planned development.</p> <p>P10: Infrastructure to be funded through CIL – It is recommended that Green Infrastructure is specifically mentioned in this section.</p>	<p>Noted</p> <p>It is not considered appropriate to list G.I. here – other elements are</p>

<p>P16: It is encouraging to see that there is recognition that planning obligations would be an appropriate funding mechanism for a new school.</p> <p>Please add a bullet point for Green Infrastructure for inclusion in the list of infrastructure types that may be required and negotiated through a planning obligation.</p>	<p>not listed. This is the role of the Reg123 list.</p> <p>Noted</p> <p>Reference to G.I. added</p>
<p><b>004 Gladman Developments (Peter Dutton)</b></p>	<p><b>Officer Response</b></p>
<ul style="list-style-type: none"> <li>• SPDs should not be used to introduce new policies.</li> <li>• Legal tests must be met in order for planning obligations to be sought. Planning obligations should only be used where it is not possible to address unacceptable impacts through a condition.</li> <li>• Planning obligations can only be sought where they are necessary to address the unacceptable planning impacts of a development. Contributions must be based on up-to-date, robust evidence of infrastructure needs and clearly based on policy requirements.</li> <li>• Planning obligations cannot be used to make up the funding gap for desirable infrastructure.</li> <li>• Planning obligations should be applied flexibly to prevent planned development being stalled. The costs of any requirements likely to be applied to development should, when taking account of the normal costs of development, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.</li> <li>• Where the Council intends to fund an item of infrastructure through its CIL it cannot seek planning obligations for the same item of infrastructure.</li> <li>• The Council recognises that there will be instances where development proposals will be made unviable through obligations (particularly affordable housing). We welcome the recognition that there may be occasions when flexibility will be applied to achieve economic viability.</li> </ul>	<p>This representation largely provides a summary of relevant guidance and legislation. In this respect, the comments provide a useful checklist for the Council. In all respects it is considered that the requirements / expectations listed have been met within the document. Therefore, no additional amendments are required.</p>

**Acknowledgement (no comments made)**

- Highways Agency (Elizabeth Cleaver)



## **Developer Contributions**

# **Supplementary Planning Document (SPD) July 2015**



## SUMMARY

The Council and developers have a responsibility, through the planning process, to manage the impact of growth and ensure that any potential harm caused by new development is mitigated and that the necessary infrastructure is provided. The Council therefore expects new development to contribute to site related and other infrastructure needs.

In February 2015 Worthing Borough Council adopted a Community Infrastructure Levy (CIL) and it will be implemented from 1<sup>st</sup> October 2015. The introduction of CIL will change the way in which developers contribute to the provision of infrastructure in the Borough. The purpose of this document is to summarise the different mechanisms which can be used to collect / deliver developer contributions. It explains the Council's approach for the use of each mechanism and, in particular, it clarifies the relationship between Planning Obligations and CIL. The document will form a material consideration when assessing planning applications in the Borough.

The Council published a draft of this document for consultation in spring 2014. The document has since been revised to take into account comments received. In addition, amendments have been made in response to changes to the planning system at the national level and also to reflect the adoption of CIL in Worthing.

Further information relating to infrastructure planning in Worthing can be found on the Council's website: <http://www.adur-worthing.gov.uk/planning-policy/infrastructure/>

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## **Section 1 - Introduction**

In order to create sustainable communities the Council wants to ensure that the necessary infrastructure is put in place to meet the needs of the local community. This includes not only the physical infrastructure such as road access and utilities that enable development to proceed in the first place, but also the community facilities and environmental improvements which will ensure that the occupiers of new developments have adequate access to services.

The Council expects developers to fund or contribute directly to the necessary improvements so as to mitigate or compensate for the impact of their proposal. These measures are known as 'developer contributions'. The purpose of this Supplementary Planning Document (SPD) is to provide guidance to all interested parties about the types of contributions that will now be sought and the basis for the charges. It will enable a developer to work out at an early stage in the development process what contributions will be required in association with their development.

The document brings together the Council's approach to seeking contributions from new development to address the cumulative impacts on infrastructure and to deliver affordable housing. The delivery of these elements will now be achieved through two key mechanisms: the Community Infrastructure Levy (CIL) and Planning Obligations (Section 106 Agreements / Unilateral Undertakings). In addition, Planning Conditions are also used in certain circumstances. Although Planning Obligations can still be used by the Council this SPD clarifies that once the Council has introduced CIL it will become the principle mechanism for the collection of contributions from most development.

The key principles of CIL are set out in this document and these should be read in conjunction with the CIL Charging Schedule (when adopted) and other CIL guidance. In terms of Planning Obligations, changes to regulations have limited their use however there is still an important role to be played by these for affordable housing and site specific infrastructure for some developments. This SPD is designed to collate information on these two mechanisms and clarify what the Council will expect from new development.

### **Status of the document**

Supplementary Planning Documents provide greater detail on the Council's policies set out in the Core Strategy and high level planning documents. The National Planning Policy Framework (NPPF) supports the production of SPDs where they can help developers make successful applications or aid infrastructure delivery.

Whilst SPDs are not examined by an Inspector, they are subject to a process of consultation and engagement with relevant parties and ultimately they must be adopted by the Council. When adopted, this guidance will replace previous Worthing Borough Council guidance on Developer Contributions and will form a material consideration when assessing planning applications within the Borough.



## **Legislative and Policy Framework**

The statutory framework for Planning Obligations is set out in Section 106 of the Town and Country Planning Act 1990 (as amended).

The Planning Act (2008) introduced powers for local authorities to apply a Community Infrastructure Levy (CIL) to development proposals to support infrastructure delivery in an area. Local Authorities are entitled to charge CIL on the basis that it can contribute to well evidenced, costed and justified infrastructure. CIL Regulations 2010 and Guidance has since been amended, firstly by new statutory guidance published in 2012 under Section 221 of the Planning Act and more recently through a further iterations published in April 2013 and February 2014.

The NPPF, which provides the higher level planning framework, makes it clear that the planning system should identify and coordinate development requirements, including the provision of infrastructure. CIL is viewed as playing a key role in supporting this aim in that it will allow the local authority to raise funds from owners or developers of land undertaking new building projects to help fund the identified infrastructure requirements within the Borough (excluding land that lies within the South Downs National Park). A key advantage of CIL is that more developments will help to fund the infrastructure required in an area and developers and landowners will have greater certainty as to what these costs will be.

When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development set out in the NPPF.

### Worthing Core Strategy

A commitment to providing adequate infrastructure alongside new development and increasing the delivery of affordable housing are strong themes within the Worthing Core Strategy. The following policies and their supporting text are of particular relevance:

- Policy CS10 – Affordable Housing (see Section 5 of this document)
- Policy CS11 – Protecting and enhancing recreation and community infrastructure
- Policy CS12 – New Infrastructure

### **Structure of the document**

Following this introduction, Section 2 summarises the mechanisms through which planning contributions will be collected and how these will be implemented by the Council. It will also explain how CIL and Planning Obligations relate to each other. Sections 3 and 4 then explore CIL and Planning Obligations respectively in more detail. Finally, Section 5 provides detail with regards to the requirements for affordable housing.

## **Section 2 - Mechanisms for Securing Infrastructure from Development**

CIL and Planning Obligations are the two main mechanisms available to the Council to ensure that future development addresses any adverse impacts that it creates. In addition, many forms of infrastructure will actually be integrated within development schemes as part of the design process. If necessary, Planning Conditions can be used to ensure that key requirements are met.

Planning Conditions and Obligations are a tried and tested mechanism to require individual developments to provide or pay for the provision of development specific infrastructure requirements. They are flexible and have historically delivered a wide range of site and community infrastructure benefits, including the transfer of land for community use and the pooling of contributions for certain types of infrastructure.

Whilst for Worthing, CIL has been designed to be the principle mechanism for collecting infrastructure contributions for most sites there will still be a role to play for Obligations and Conditions and this section will summarise these and explain how they relate to each other.

All applicants for planning permission will need to be aware of the opportunities to meet infrastructure needs within developments themselves and the way good design and Planning Conditions can assist in achieving this. To meet this aim, developers are encouraged to engage in pre-application discussions with the Council at the earliest opportunity.

### **Planning Conditions**

Planning Conditions are requirements made by the Council as Local Planning Authority for actions that are needed in order to make a development acceptable in planning terms. Whilst they cannot be used to secure financial contributions they can be used to ensure that certain necessary elements related to the development proposal, and which may benefit the wider community, are carried out. In Worthing such conditions are likely to cover, for example:

- Construction details
- Materials
- Landscaping
- Heritage and archaeology
- Ecology
- Site related transport improvement (see also 'Highway Improvements' below)
- Site related flood risk and drainage measures
- Opening / operational hours

### **Community Infrastructure Levy (CIL)**

When adopted, the Levy will apply to most new developments and charges are based on the size and type of new development. CIL will generate funding to deliver

a range of Borough-wide and local infrastructure projects that support residential and economic growth. The basis for the CIL charge is detailed within the Council's CIL Charging Schedule and supporting evidence. The developer contribution to infrastructure required through CIL is non-negotiable. Further information relating to CIL can be found in Section 3 of this document.

### **Planning Obligations (Section 106 Agreements and Unilateral Undertakings)**

Development should make appropriate provision of services, facilities and infrastructure to meet its own needs. This means that where sufficient capacity does not exist the development should contribute what is necessary either on-site or by making a financial contribution towards provision elsewhere. These site specific developer contributions are secured by applying a Planning Obligation, secured by either a Section 106 Agreement or Unilateral Undertaking, which is prepared and concluded as part of the planning application process.

The NPPF supports the continued use of these mechanisms and it states that local planning authorities can consider whether otherwise unacceptable development could be made acceptable through the use of conditions or Planning Obligations to provide mitigation or compensation. However, it is also emphasised that agreements should only be used where it is not possible to address unacceptable impacts of a development through a planning condition and, if used, they should be sufficiently flexible to prevent planned development being stalled.

The NPPF (paragraphs 203-206) reiterates the statutory requirements set out in regulation of the 122 of the CIL Regulations that states that Planning Obligations should only be sought where the requirements are:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Therefore, the Council can continue to use Planning Obligations alongside CIL for affordable housing and to mitigate the potential adverse impacts of development. As such, the Council will continue to negotiate financial or other contributions for site related infrastructure improvements that are required to: mitigate the impact of development; enable planning permission to be granted; and to make a new development acceptable or successful.

To achieve this, and in accordance with Section 106 of the Town and Country Planning Act 1990 (as amended), Planning Obligations can be used to:

- a) restrict the development or use of the land in any specified way;
- b) require specified operations or activities to be carried out in, on, under or over the land;
- c) require the land to be used in any specified way; or
- d) require a sum or sums to be paid to the authority on a specified date(s) or periodically.

Planning Obligations can therefore be used to: prescribe the nature of the development (e.g. a proportion of the housing must be affordable); compensate for

loss caused by a development (e.g. loss of open space); or mitigate a development's impact (e.g. increase public transport provision). Agreements must be governed by the fundamental principle that planning permissions may not be bought or sold and they cannot be used to secure a share in the profit from development.

Unless it is agreed otherwise, Planning Obligations run with the land in perpetuity and are usually enforced against those with a legal interest in the land at the time of any breach of the planning obligations until such time as they are discharged or otherwise modified.

Further information on Planning Obligations can be found in Section 4 (Planning Obligations) and Section 5 (Affordable Housing).

### Highway Improvements

Where development requires work to be carried out on the existing adopted highway, an Agreement will need to be completed between the developer and either the Secretary of State for Transport (for the strategic road network for which Highways England is responsible), or West Sussex County Council (for the local road network), under Section 278 of the Highways Act 1980. Examples of such works could be the construction or improvement of a new access or junction or improved facilities for pedestrians and cyclists.

Further guidance on the Section 278 process and the steps which will need to be taken by a developer and others, when such an agreement is contemplated, can be found on the Department for Transport website and the West Sussex County Council website (as Highway Authority). Section 278 Agreements are not the responsibility of the Borough Council as Local Planning Authority.

Section 38 of the Highways Act 1980 provides for agreements to be used when a local Highways Authority wishes to enter into a legal agreement with a developer to adopt a highway – provided that it has been constructed to a specified standard.

### **The relationship between CIL and Planning Obligations**

Guidance makes it clear that Planning Obligations and CIL need to be complementary contribution mechanisms. This SPD helps to clarify how the Council intends to implement each mechanism in partnership.

In general, CIL is intended to provide infrastructure to support the development and growth of an area rather than to make individual planning applications acceptable in planning terms. As a result, there may still be some site specific impact mitigation requirements without which a development should not be granted planning permission (e.g. new school facilities within a strategic development, play areas, local highway and junction improvements and landscaping). These requirements (which must be directly related to the development) are more suitably delivered through a Planning Obligation or Section 278 agreement, in addition to the CIL charge. Furthermore, the provision of affordable housing lies outside of the remit of CIL and will continue to be secured, in the main, through Planning Obligations.

As such, there is still a legitimate role for Planning Obligations to enable the Council to be confident that the specific consequences of development can be mitigated in a way that would make individual developments acceptable. However, to ensure no 'double dipping' takes place it is important that the Council clearly differentiates the 'general' infrastructure projects that will be funded through CIL and, when establishing the appropriate levy rate, distinguishes these from the projects that will still be expected to be funded through Planning Obligations.

To help ensure that both mechanisms are complementary, reforms have also been introduced to restrict the use of Planning Obligations. To avoid duplication Regulation 123 (CIL Regulations 2010 – as amended) restricts the use of Planning Obligations for infrastructure that will be funded in whole or in part through CIL. Furthermore, Planning Obligations can no longer be used as the basis for a tariff to fund infrastructure. Instead, the levy will be used as the mechanism for pooling contributions from a variety of developments to fund infrastructure.

In order to clarify what types of infrastructure will be funded by each mechanism once CIL is in place the Council has published a Regulation 123 list. This list sets out the infrastructure projects and types that the Council intends will be, or may be, wholly or partly funded through CIL (and therefore not through Planning Obligations). Although CIL will be the principle mechanism for collecting developer contributions, the reality is that some developments in Worthing will be liable to pay both CIL ('general infrastructure') and Planning Obligations (site specific measures / affordable housing). However, in these instances the contributions will cover different infrastructure projects and developments will not be charged for the same infrastructure through each mechanism.

Overall, the principle is that all eligible developments must pay towards CIL and, in addition, affordable housing and any (identified) site specific requirements (usually for the more significant development sites) will be secured through Planning Obligations where they are necessary to make the development acceptable in planning terms.

## **Implementation**

The CIL rate to be collected from development is set out within the Council's adopted CIL Charging Schedule. Planning Obligations sought will be based on the Council's assessment of the likely impact created by the development. In some cases the developer will be required to carry out assessments of need in connection with their planning application.

## Mechanisms – Summary Table

The table below summarises the various mechanisms outlined above that can be used to ensure that development contributes to the necessary improvements so as to mitigate for the impact of the proposal.

Mechanism	Summary	Use
<b>Planning Conditions</b>	To help make otherwise unacceptable development acceptable.	Conditions attached to planning permissions granted for applications.
<b>Planning Obligations</b>	S106 Planning Obligations can be used to secure particular on-site / localised requirements or control that cannot be secured by condition to make other unacceptable development acceptable.	Used for affordable housing and other specific requirements to address the direct impact of development (usually used for more significant schemes – 10+ dwellings).
<b>Community Infrastructure Levy (CIL)</b>	CIL provides a consistent mechanism for pooling contributions from new development towards the broader infrastructure needs of the area.	Money collected through CIL to be used to fund infrastructure needs identified and set out on the Council's Regulation 123 list.
<b>Section 278 Agreements</b>	Allows developers to fund new or improved alterations to the public highway. (Local road network – West Sussex County Council and Highways England for strategic road network).	Agreement to allow for improvements including, for example, roundabouts, signalised junctions, right turn lanes or simply priority junctions that provide access into development sites.
<b>Section 38 Agreements</b>	Allows West Sussex County Council (as Highway Authority) to adopt new roads and transport infrastructure	Agreement under the Highways Act to adopt roads (most commonly, estate roads).

## General Principles

- By working with developers, the Council hope that many of the design / mitigation requirements are delivered as part of the initial development proposal.
- Where necessary and appropriate, Planning Conditions will be used to ensure that the final proposal meets such requirements.
- CIL will be the principle (non-negotiable) mechanism through which the Council will collect infrastructure contributions from liable developments to fund more 'general' projects (see Section 3) to support the growth of the area.
- However, Planning Obligations will still play a key role for some developments (see Sections 4 and 5).
- In such circumstances where a proposal directly necessitates the provision of infrastructure to mitigate / enable development (that is not planned for delivery through CIL or any other funding programme) the Council may seek a contribution or delivery through a Planning Obligation (Section 106 Agreement / Unilateral Undertaking).
- Where a proposal is required to deliver affordable housing (in line with Core Strategy Policy 10 and national legislation) this will be secured through a Section 106 Agreement.
- Planning Obligations (Section 106 Agreements / Unilateral Undertakings) will not be used to secure infrastructure already identified for investment through the 'Regulation 123' list.
- Section 278 Agreements may be used by West Sussex County Council (as Highway Authority) to ensure that necessary works to the highway are carried out to an acceptable standard.

## Section 3 – The Community Infrastructure Levy

## **Context**

CIL is a new framework for the pooling of developer contributions by local authorities. It will be used to secure appropriate financial contributions and to support the delivery of any infrastructure required to support growth and mitigate the cumulative impacts of new development. The levy applies to most new buildings and charges are based on the size and type of the new development. The intention is that CIL will complement mainstream public funding and will provide a more consistent and transparent mechanism of raising financial contributions from development.

This section sets out in more detail the Council's approach, as the Charging Authority, to the implementation of CIL within Worthing. The CIL Charging Schedule, which sets out the actual charges on development, sits alongside this SPD. Prior to the implementation of CIL in October 2015 the Council will publish a Process Guide that will help to provide guidance as to how CIL will be implemented and enforced.

As previously explained, developers (usually of large schemes) may still be required to provide specific infrastructure through Planning Obligations to mitigate the direct impact of the development proposed and to help deliver affordable housing. However, in these instances a standard fee may also be charged through CIL to enable the delivery of new or improved infrastructure needed to support the development generally. This can then be pooled with contributions from other developments to deliver items of wider (non site-specific) infrastructure identified as a priority to support growth within the Borough.

### **Infrastructure to be funded through CIL**

Although CIL will make a significant contribution to the infrastructure requirements of an area generated by new development, other sources of public funding will continue to bear the main burden of infrastructure funding. CIL is intended to contribute to some of the funding gaps that remain once existing sources of funding have been taken into account. The rate set must strike an appropriate balance between the desirability of funding infrastructure and the potential impact on the economic viability of development (as a whole).

Infrastructure which can be funded by the levy can cover a broad range of facilities or services which provides communities with increased flexibility to choose what new infrastructure they need as a priority. The levy can also be spent on the provision, improvement, replacement, operation or maintenance of infrastructure.

A list of infrastructure that will be funded through CIL (called the Regulation 123 list) is available to view on the Council's website. This list will be reviewed regularly to ensure it reflects current infrastructure needs. Planning Obligations cannot be used where there have been five or more Planning Obligations, in relation to the same infrastructure or type of infrastructure, entered into on and since 6<sup>th</sup> April 2010. However, there is no restriction on pooling for items not capable of being funded by CIL.

### **Development that qualifies for CIL contributions**



As set out in legislation, CIL can be charged on all new 'chargeable' development where there is an increase (net) in gross internal floorspace. Where there is an existing building on site in a lawful use that will be demolished as part of the development, the Gross Internal Area (GIA) of that building will be deducted from the total chargeable floorspace of a new development.

CIL can only be charged where the GIA of the development is more than 100m<sup>2</sup> except where the development is for a single residential unit of less than 100 m<sup>2</sup> (these will still have to pay CIL). Self-build housing, residential extensions / annexes and buildings that people do not normally go, or only go into intermittently (such as for the inspection of machinery) will not be liable to pay the levy.

### **Setting the levy rate**

The Borough Council, as charging authority, has produced a document called a Charging Schedule which sets out the type of development that is required to pay CIL and the rate of the levy. When setting the levy the Council sought to provide a balance between collecting revenue to fund infrastructure and ensuring that the rates are not so high that they put development at serious risk. The Council also drew on infrastructure planning that underpins the development strategy for the area to help identify the total infrastructure funding gap. The rates set were supported by evidence, including the economic viability of new development and the area's infrastructure needs.

In calculating individual charges for the levy, the Council will be required to apply an annually updated index of inflation to keep the levy responsive to market conditions.

The key pieces of evidence (available to view on the Council's website) that have been used to support the setting of the Worthing CIL charge are the:

- Infrastructure Funding Gap Review; and
- Viability Assessment (and supporting documents) which assesses the impact of potential CIL charges on the viability of new development taking account of other costs.

### **Charging CIL**

The CIL charge is expressed in £ per m<sup>2</sup> on the net additional increase in floorspace. It will be collected as a cash contribution although in some cases it may be more appropriate to transfer land or infrastructure ('in-kind') to the charging authority as full, or part, payment. In such cases the land must be used to provide, or facilitate the provision of, infrastructure to support development in the area.

### **Exemptions**

The CIL charge is non-negotiable. However, mandatory exemptions and relief from CIL include social (affordable) housing relief and developments by charitable institutions on their land to be used wholly or mainly for the purposes of their

charitable activity. Further information relating to exemptions and other discretionary matters is set out in the Charging Schedule.

The Council, at this stage, does not intend to implement any additional discretionary exemptions for exceptional circumstances. However, the Council has sought to ensure that the level of charge is set so that the majority of development in the borough is viable. The impact of the introduction of CIL and the potential benefits or otherwise of introducing this levy will be kept under review.

As explained elsewhere, in exceptional circumstances where it can be demonstrated that the combined effect of developer contributions make a development unviable the Council will collect CIL but may seek to negotiate other elements where appropriate.

### **Collecting CIL**

The levy's charges will become due from the date that a chargeable development is commenced. When planning permission is granted, the Council will issue a liability notice setting out the amount of the levy, the payment procedure and the possible consequences of non-compliance. The Council has adopted an instalment policy that will in effect stagger CIL payments for larger development sites in the Borough.

The responsibility to pay the levy runs with the ownership of land on which the liable development will be situated. Although liability rests with the landowner, the regulations recognise that others involved in a development may wish to pay. To allow for this, anyone can come forward and assume liability for the development.

### **Spending CIL**

Charging authorities are required to spend the levy's revenue on what they see as the infrastructure needed to support the development of their area. The assessment of 'need' will largely be informed by the Infrastructure Delivery Plan (IDP) and Infrastructure Funding Gap Review (available to view on the Council's website).

The levy is intended to focus on the provision of new or improved infrastructure and should not be used to remedy pre-existing deficiencies unless those deficiencies will be made more severe by new development. Unlike contributions collected through Planning Obligations there is no time constraint or pooling restrictions for the spending of monies collected through CIL.

The Council must allocate a meaningful proportion (15-25%) of levy revenues raised in each neighbourhood back to that neighbourhood. This will ensure that where a neighbourhood bears the brunt of a new development, it receives sufficient money to help it manage those impacts. For Worthing (where there are no Parish Councils and currently no Neighbourhood Forums / Plans) the Council, as charging authority, will retain the funds to spend on behalf of the local community.

The Council may pass money to other bodies to deliver infrastructure which will benefit the development of Worthing. This may include, for example, the Environment Agency for flood defences or West Sussex County Council for

education infrastructure. The Council will also be able to collaborate and pool its revenue from their respective levies to support the delivery of sub-regional infrastructure.

In line with guidance, the Council intends to use revenue from the levy to recover the costs of administering the levy (up to 5% of total revenue).

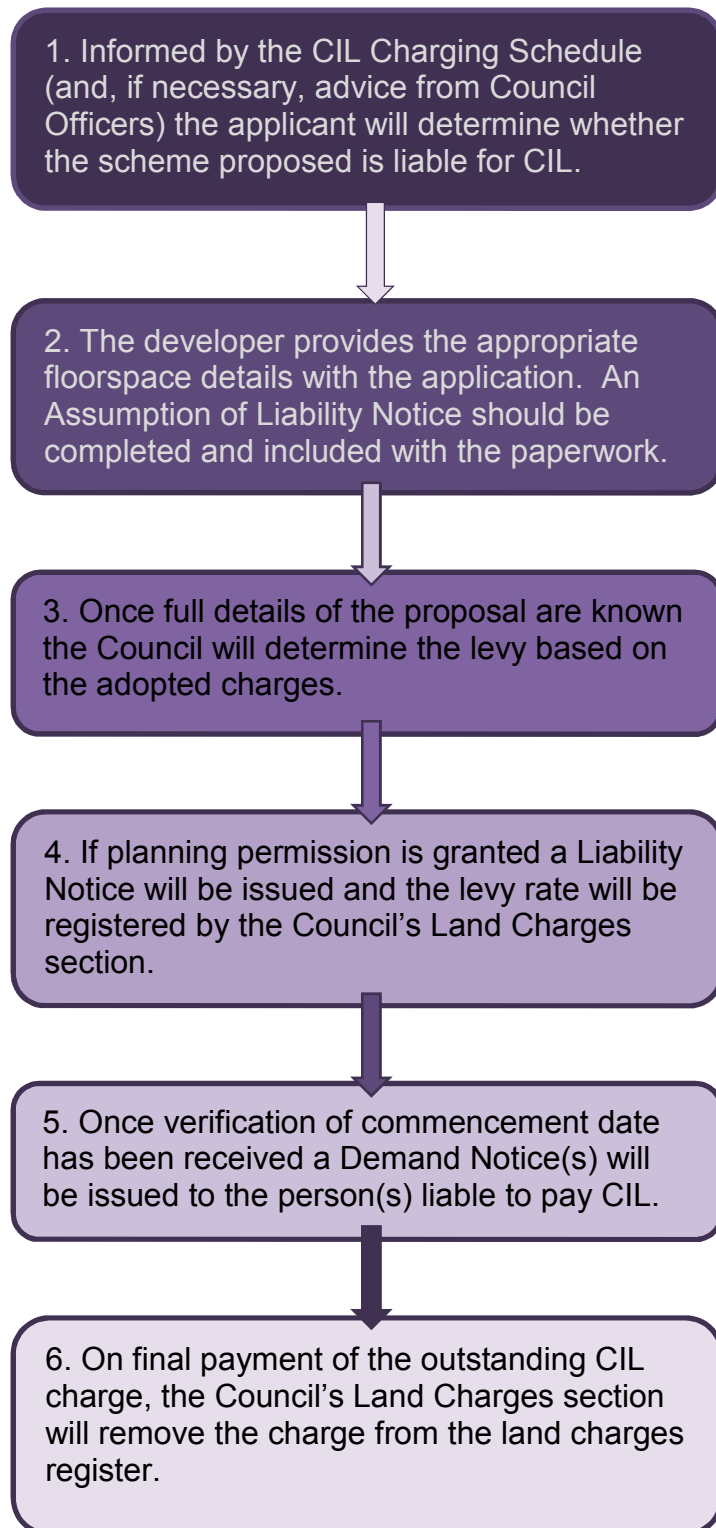
### **Monitoring and Review**

To ensure that the levy is open and transparent, the Council will prepare a report on the levy for the previous financial year. This will be incorporated within the Council's Annual Monitoring Report (AMR) which will be placed on the Council's website by the end of each year. The report for CIL will set out:

- The amount of CIL collected within the monitoring year;
- The total amount of CIL collected since adoption;
- The expected CIL income from permitted applications;
- How much CIL revenue has been spent; and
- The infrastructure delivered using funding collected from CIL charges.

It will be important to ensure that the CIL charge remains appropriate and reflects both the identified funding gap and the levels of viability within the Borough. In the event that it is considered necessary to change the Charging Schedule the Council will follow the same stages of draft preparation, consultation and an independent Examination before the revised Charging Schedule can be adopted by the Council. It is estimated that this process will take approximately 18 months with the costs being recouped as part of the administration charge collected.

## The CIL Process - Indicative Steps



## Section 4 - Planning Obligations

### Context

As explained in Section 2, in line with CIL Regulation 122, the Council will consider whether otherwise unacceptable development could be made acceptable through the use of Planning Obligations which must be directly related to the development. Although CIL will be collected from all liable development to fund 'general' infrastructure there may be cases where the development proposed results in a specific need for infrastructure (or access to a service) that is not currently available, and that has not been identified for investment through CIL or other investment programmes. In such circumstances, the Council would expect these aspects to be addressed as part of the proposal at the time planning permission is sought – and secured by a Planning Obligation. In addition, the provision of affordable housing will continue to be provided through Planning Obligations and this requirement is explained in more detail in Section 5.

Where developers are expected to contribute towards the provision of infrastructure in association with development, this will be delivered on-site or through a contribution to off-site provision through a Planning Obligation (usually a Section 106 Agreement). In considering the Planning Obligation requirements for a development, the current capacity of infrastructure will be considered to ensure that obligations are only necessary where present facilities are not able to accommodate the additional needs that will be generated from the development. This assessment will be undertaken in partnership with other relevant bodies such as the County Council (further information can be found on the WSCC website).

All Planning Obligation requirements will be site specific and therefore the level of works required cannot be standardised. Each application will be considered on a case by case basis and in line with relevant, available evidence, guidance or policies. Whilst this document aims to be as clear as possible, developers are encouraged to enter into pre-application discussions with the Council at the earliest opportunity so that they are aware of any potential Planning Obligations that may be required. As an application progresses, developers are encouraged to draft any appropriate 'Heads of Terms' to satisfy required Planning Obligations in a Section 106 Agreement.

Any contribution in the form of a financial payment will be required to be paid either once development starts, or on first occupation (or occasionally other such triggers as agreed by the Council). If this is some time after the permission was granted, the contributions may be subject to indexation and increased in line with the General Tender Prices Index or an appropriate alternative.

Planning Obligations have to be registered as local land charges. Applicants will therefore need to produce title to the site (in the form of land registry office copies if the land is registered, or an epitome of title if the land is unregistered) and third parties with a legal interest in the land will have to be party to the agreements.

Any planning permission will only be issued once the Section 106 Agreement has been completed or Unilateral Undertaking has been provided and is satisfactory. If a

satisfactory Planning Obligation has not been provided within the relevant target period, the application will subsequently be refused.

## **Thresholds**

Most developments, however small, are likely to add to the demand for infrastructure. However, this needs to be balanced against the practicalities of requiring smaller developments to contribute towards provision and the need to ensure that development is not discouraged from coming forward. For this reason, and to respond to the emergence of CIL and meet with regulations it is expected that in general, Planning Obligations will only be used for significant schemes in the borough. For affordable housing this will be for developments of over 10 dwellings (in line with (revised) Policy 10 of the Worthing Core Strategy). Where a proposed development is likely to need a Planning Obligation the Council will endeavour to bring this to the attention of the developer at the first opportunity.

## **Common Planning Obligations**

As previously explained, other than for affordable housing, Planning Obligations will only be used to mitigate against any impact on the environment or local services that arise directly as a result of any particular developments. These will be cases where the development proposed results in a specific and significant need for infrastructure (or access to a service) that is not currently available and has not been identified for investment through CIL or any other investment programme.

Any Planning Obligation must be directly related to the development and the demands for infrastructure must be fairly and reasonably related in scale and kind to the development. The necessity for Planning Conditions and Planning Obligations therefore needs to be assessed against the needs of each site and project. Where appropriate, the Council will make this assessment using relevant evidence such as the Open Space & Recreation Study, transport studies and the County Council's Planning for School Places data. Where it is determined that a Planning Obligation is required the Council will justify this need to demonstrate how the site specific impacts of the development would need to be mitigated.

As an example, a development proposal may require a major junction improvement to 'unlock' a development site. Alternatively, a major housing development may take place in a location where there is no capacity for additional school places and is of a scale that would justify the need for a new school(s) - hence a Planning Obligation would be required to secure funding for the new school (providing this conformed to the requirements of Regulation 123 of the CIL Regulations).

Further examples of site specific infrastructure that may be required and negotiated through a Planning Obligation (if present facilities are not able to accommodate the additional need generated by the development):

- Transport requirements – West Sussex County Council, as highway authority, provides advice on the scope of obligations for transport infrastructure works and measures where it is considered there is a need to mitigate the impact of new development on the transport network.

- Flood risk / Sustainable Drainage Systems (SuDs) – developments must seek to ensure that there is no net increase in surface water run-off. Surface water drainage should be managed through the use of SuDs, unless it is proven that SuDs are not appropriate. Where SuDs are provided arrangements must be put in place for their management and maintenance. All development proposals must take account of relevant Management Plans and strategies.
- Public open space / Children’s play area / Formal sport - (the Council’s Open Space, Sport and Recreation Study sets out expected standards for different types of provision in Worthing. All housing types are expected to contribute, where appropriate, to these elements with the exception of housing for the elderly which is not expected to contribute towards children’s play space).
- Health facilities – Where there is an identified need (to be determined in discussion with the Coastal West Sussex Clinical Commissioning Group) significant developments in the Borough may need to identify sites for healthcare facilities and, where appropriate, contribute towards their delivery.
- Crime Prevention – New developments must take into account the need to promote public safety and deter crime and disorder through careful layout, design and the use of Secured by Design principles and standards.
- Education - (where the on-site provision is required to support a new site the Council will expect the developer to provide the land (1.2-1.6ha for 1 form entry or 2.0-2.4ha for 2 form entry) for the facility and either design and build the provision to the satisfaction of the Council or make a financial contribution towards the construction of the required facility.
- Green Infrastructure – Provision of on-site or site related informal open space, land and play facilities and landscaping.
- Public Art – In line with the Council’s Public Art Strategy, and to help enhance the built environment and create a sense of identity, the provision of public art should be integrated within significant development proposals.

## **Viability**

The Council takes the view that costs incurred in delivering a high quality and sustainable development should take into account the need to provide infrastructure and be in compliance with the Council’s planning policies. As such, developer contributions are a necessary cost of development and developers should factor them into proposals from the earliest stage and take them into account when purchasing the land / site.

To ensure that the infrastructure requirements placed on developers are not too onerous, comprehensive viability testing has been undertaken when firstly, setting the original affordable housing requirements and subsequently, for the setting of CIL (which also took full account of the existing affordable housing requirements). This testing has also had regard to other costs placed on development.

Despite this, and particularly during times of difficult market conditions, the Council is sensitive to viability issues for developers in providing for a range of infrastructure as part of new development. Regard will be had to the impact of CIL (or the phasing of CIL) and viability when any Planning Obligations are sought. This approach is in line with the NPPF, which accepts that special and specific circumstances may occasionally mean that there is insufficient value in a proposal to support the full range of developer contributions identified.

In these instances, whilst the Council is not able to negotiate with regard to CIL, the Council may enter into negotiations with regards to other contributions. However, robust evidence must be provided in writing by the applicant to support any claims that the infrastructure requirements would make a scheme unviable and the Council will need to balance this against the need to ensure that the necessary infrastructure is provided to address the impact of the development and make it acceptable in planning terms.

Any Viability Appraisal that might be required will be an 'open book' assessment that includes appropriate sensitivity analysis to changes in costs and values. The assessment should include information on: existing land values; proposed use values; demolition and construction costs; finance and marketing costs; assumed yield; site abnormalities; and the development timetable.

Where viability concerns are raised, evidence should include an assessment carried out by an independent person of the costs of providing the contributions required and how this impacts on the economic viability of the development. Whilst there may be a level of negotiation appropriate to some schemes where viability is questionable it should be reiterated that these circumstances will not be the norm and the Council will aim to ensure that the majority of schemes in the Borough provide and deliver the Council's infrastructure requirements in full. In cases where contributions cannot be agreed the Council may seek the services of an independent viability consultant to validate and assess the evidence of viability provided. The cost of any consultant appointed by the Council would need to be met by the developers. In most instances it is expected that this will help to resolve any disputes with regard to scheme viability but, at this point, if the Council is still not satisfied then planning permission for the development proposed is likely to be refused.

Where a viability case is accepted by the Council and the development allowed without the full development contributions, the Council will require a legal undertaking that would allow for a review of viability at the completion of the development/sales. This will help to ensure that any increase in residual land value could be recouped by means of an overage clause up to the value of the development contributions requirement.

In the event of developments becoming stalled for a significant period of time due to reasons of viability or changes in circumstances the applicants / developers are able to discuss with the Council whether a review of a previous agreement may be appropriate. The Council will consider such a scenario on its merits and in accordance with the viability testing and evidence provided.



## **Monitoring**

When a Planning Obligation (Section 106 Agreement / Unilateral Undertaking) has been completed, a copy is placed on the planning register and details are also recorded on a database for monitoring purposes. Where a development has been started or completed checks are then undertaken to ensure that the requirements of the planning permission have been complied with. As part of the Local Development Framework the Council publishes an Annual Monitoring Report in December each year which includes information on the planning contributions collected and schemes implemented using the funds.

If it is evident that the Planning Obligation is not being complied with officers will instigate enforcement action if other measures fail. Planning contributions can be enforced through the use of an injunction, which can stop the development proceeding. In addition, the Council will consider charging developers interest for late payment of financial contributions.

## **Administration Fee / Legal Costs**

The monitoring and administration of Planning Obligations is an impact of a development and is one which the Council would not have to bear if the development were not to take place. Developers will therefore be required to pay the Council's lawyers their reasonable costs for preparing an agreement or undertaking.

For Section 106 Agreements, legal costs are usually charged at the hourly rate of the solicitor having conduct of the matter. A flat rate is payable for checking title and Unilateral Undertakings provided, however where queries are raised the hourly rate (currently £150/hour) then applies. No VAT is payable.

While financial contributions will normally be expected to be paid on commencement of development, the legal costs will be payable upon signing of the agreement, where the applicant's solicitor has provided an undertaking in respect of those costs at the outset. All Planning Obligation financial payments will be indexed linked to cover cases when the start of development might be delayed.

## Section 5 - Affordable Housing

### Context

As previously explained, affordable housing sits outside the scope of CIL and, as such, this requirement will be met through the use of Planning Obligations.

Housing is a fundamental need that helps to support the local economy. It is well documented that unsuitable housing conditions or being unable to access affordable housing can negatively affect quality of life. Local housing evidence demonstrates that Worthing has very significant levels of affordable housing need. For this reason, and supported by national guidance, the Council will continue to seek to secure appropriate affordable housing provision on development sites in the Borough.

The National Planning Policy Framework (NPPF) enables local authorities to seek affordable housing on suitable sites. Paragraph 50 states that to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive mixed communities, local planning authorities should:

- Plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community.
- Identify the size, type, tenure and range of housing that is required in particular locations.
- Where they have identified that affordable housing is needed, set policies for meeting this need on-site (or off-site or financial contribution if this can be robustly justified).

### Definition of Affordable Housing

The NPPF defines affordable housing as follows:

‘Affordable housing includes social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provision for the home to remain at an affordable price for future eligible households or, if these restrictions are lifted, for the subsidy to be recycled for alternative affordable housing provision’

Social rented housing is owned by local authorities and Registered Providers, for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency as a condition of grant.

Affordable rented housing is let by local authorities or Registered Providers of social housing to households who are eligible for social rented housing. Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80 per cent of the local market rent.

Intermediate affordable housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the affordable housing definition above. These can include shared equity products (shared ownership and equity loans), other low cost homes for sale and intermediate rent but not affordable rented housing.'

Homes that do not meet the above definitions, such as 'low cost market' housing, may not be considered as 'affordable housing' for planning purposes.

### **Worthing Planning Policy**

Local housing evidence has identified that there is an acute affordable housing need in Worthing. This is as a result of a combination of market conditions, barriers to entry, development constraints, low earning bias and the existing social housing stock. To help meet the housing needs of the borough, there therefore needs to be a proactive approach to deliver more affordable homes. However, in terms of achieving overall delivery, account also needs to be taken of the impact of the requirements for affordable housing and the pressure this may place on the viability of development.

This balance, and the Council's approach to affordable housing, is set out within the Worthing Core Strategy. The requirement for affordable housing will be applied in accordance with Policy CS10 (Affordable Housing) which sets a stepped requirement for affordable housing either through on-site provision or by financial contribution. The targets were informed by evidence and are considered to be realistic and achievable.

It should be noted that since the adoption of the Core Strategy the Government has introduced changes at the national level that have impacted on Policy 10. In November 2014 the Government amended Planning Policy Guidance to introduce a threshold of 10 or less dwellings under which S106 contributions can no longer be sought. As a consequence, the Council is no longer able to seek contributions from developments of 6 to 10 dwellings as had previously been required under Core Strategy policy 10. The amended policy is set out overleaf:

### **Core Strategy Policy 10 - Affordable Housing (Amended – see note above)**

A mix of affordable housing, including social rent and intermediate housing will be sought to meet local needs on all but the smallest sites:

- on all sites of 11 to 14 dwellings, 20% affordable housing will be sought via a financial contribution
- on all sites of 15 or more dwellings, 30% affordable housing will be sought

The policy approach is to seek to secure on-site provision on sites of 15 dwellings or more, with financial contributions for sites of 11-14 units. This is subject to:

- the economics of providing affordable housing
- the extent to which the provision of affordable housing would prejudice other planning objectives to be met from the development of the site
- the mix of units necessary to meet local needs and achieve a successful development.

Where the Council accepts that there is robust justification, the affordable housing requirement may be secured through off-site provision.

The appropriate mix in terms of housing tenures, house sizes of affordable housing and spread within a development will be determined in response to identified needs, funding priorities and housing strategy targets at the time of the development.

It should be noted that Policy CS10 applies to the number of units (gross) proposed on all housing sites; mixed use sites that incorporate an element of residential development and open market sheltered / extra-care housing (if self-contained). The policy also applies to the conversion or change of use of any building, whether or not it is already in residential use. The policy does not, however, apply to:

- accommodation for Gypsies and Travellers;
- residential accommodation, which is to be used as incidental to the main dwelling;
- any part-time/non permanent accommodation where full time occupancy is restricted by condition;
- housing for more vulnerable members of the community e.g. those with mental health problems or physical disabilities that require a high level of on-site support; and
- care homes, extra care homes and nursing homes falling within Use Class C2 that generally provide non self-contained accommodation.

As stated above, the starting point in determining the level of affordable housing to be provided is the number of dwellings (gross) proposed on a development site. However, the size of the development should not be artificially reduced in order to reduce or eliminate the affordable housing requirement, for example by sub-dividing sites or reducing the density of all or part of a site. To resist this, the Council will seek to ensure that efficient use is made of land and that proposals are not made which represent an underdevelopment of a site. Similarly, the Council will need to

be satisfied that developers are not bringing sites forward in phases to avoid specific affordable housing thresholds. If this is shown to be the case, the Council will seek to apply the relevant affordable housing target to all subsequent phases, based on the capacity of all phases, including those already built.

It is important to note that the provision of affordable housing (full compliance with Core Strategy policy 10) has been incorporated into the viability testing undertaken during the production of a Community Infrastructure Levy for the borough. Therefore, in most circumstances, the Council does not expect viability considerations to reduce the ability of a site to contribute towards affordable housing provision. Despite this, if in exceptional circumstances, a developer considers that there are significant and relevant economic constraints affecting a development and that these are sufficient to jeopardise the developer meeting the affordable housing requirements, the developer must demonstrate this by submitting details of scheme costs and a financial appraisal of scheme viability. If necessary, the District Valuer may be engaged (at the cost of the developer) to assess the developer's viability claims. If genuine and significant economic constraints exist, the Council will discuss with the developer the options available to achieve economic viability.

### **On-site provision of affordable housing**

The Council is committed to the achievement of sustainable and balanced communities and as such, Core Strategy Policy CS10 sets out a strong presumption for affordable housing to be provided on-site for schemes of 15 or more units. So that affordable properties can be secured for successive occupiers the provision of affordable housing will normally be achieved through the involvement of a Registered Provider agreed by the Council and registered with the Homes and Communities Agency. The Council will expect the freehold interest on the affordable housing to be transferred to the Registered Provider. In rare circumstances where the transfer is a leasehold arrangement, the lease will be for a minimum of 125 years and the land rent will be restricted to a peppercorn charge.

In exceptional cases where the Council agrees (by reference to the viability assessment and other relevant factors) that full on-site provisions cannot be achieved, alternative options for the contribution may be considered. This could include changes to the affordable housing tenure mix, the number of affordable units, the phasing of delivery, contributions towards off-site provision or the provision by the developer of an alternative suitable site for the affordable housing. If it is agreed that an element of affordable housing could be delivered on an alternative site then this would be in addition to the contribution towards affordable housing that the alternative site would be expected deliver site in its own right.

### **Funding affordable housing**

It is anticipated that all intermediate and affordable rent properties required under Core Strategy Policy CS10 as a Planning Obligation on mixed tenure sites (market and affordable) will be delivered with no or little public subsidy. As such, developers should assume that there is no public subsidy to support the delivery of affordable housing through Planning Obligations, both when considering viability issues and

when agreeing a price with the landowner for the purchase of the site. Lack of grant funding therefore cannot be used to demonstrate the non-viability of a scheme.

The Council has a very limited amount of capital funding available to support the delivery of affordable housing, mainly derived from commuted sum contributions generated from earlier developments, and from right to buy 'claw-back' receipts. This funding is primarily intended to support the delivery of affordable housing additional to that delivered through planning policy and further information on this source of funding can be obtained from Council Officers.

### **Transfer prices**

In return for building the affordable housing units on site, a developer will agree and receive a payment from a Registered Provider for the affordable units. This will not be equivalent to the full market value of the property but will be at a discounted rate and will vary depending on the tenure of unit provided. The developer/applicant should enter into early negotiations with a Registered Provider in order to determine the transfer price of the units.

Given the flexibility in charging rent levels, developers and landowners are recommended to take account of the guidance on rent levels and to liaise with Registered Providers prior to submitting any applications. This will help to provide understanding as to how the rent levels can impact on the price that Registered Providers can offer to either purchase the affordable housing or to enter into a management agreement to run it.

### **Management and Nominations**

The Council's preference is for the affordable housing to be transferred to a Registered Provider and managed as affordable housing in accordance with the Tenant Services Authority (TSA) guidelines.

Developers may, in certain circumstances, develop the affordable housing but choose to retain ownership and manage it directly. In such cases, the Council will need to ensure that the affordable housing is available to those judged to be in housing need by the Council and that appropriate management arrangements are in place, that the affordable housing is provided at an affordable level and that the housing remains affordable to successive occupiers to be nominated by the Council.

The provision of affordable housing will be subject to a Nominations Agreement between the Council and the Registered Provider. The agreement gives the Council 100% nomination rights for first lets and sales and 75% thereafter. The Agreement will set out how the affordable housing will be allocated and the Council will nominate applicants according to housing need and in accordance with the Council's Housing Allocations Policy.

### **Type and tenure of affordable housing provision**

The Council expects a variety of affordable dwellings types to be provided to meet the range of housing needs identified in the Borough through key evidence

documents such as the Council's Housing Register and the most up-to-date Strategic Housing Market Assessment (SHMA). However, the precise mix of dwelling type for the affordable element will be informed by the characteristics of the site, the type of development and its location. It should also be recognised that demands will change as needs vary over time.

As such, the Council will negotiate the exact tenure, type and size split on each site through pre-application discussions. The mix in terms of property type for any particular development site will be advised by the Council's Housing and Enabling Manager who will assess need with reference to the local evidence.

### **Affordability**

In considering planning applications for mixed-tenure sites (market and affordable), regard will be made to the proposed affordability of any affordable housing to be provided in accordance with the following guidance.

#### Affordable Rent

Whilst Social Rented housing is tied to target rents, there is much greater flexibility in relation to the new Affordable Rent model, with rent levels that can be charged at anything up to 80% of market rents. Market rent levels in Worthing are high so the affordable rent level has the potential to present some challenges to ensure that rents remain affordable to meet local need. At or near 80% of market rent levels, tenants in Worthing would face some of the highest Affordable Rents in the country, significantly above Social Rents, without necessarily having correspondingly high household incomes to meet these costs. This would be a particular concern with regard to the affordability of larger properties (three plus bedrooms).

On developments which include properties of 3 bedrooms or more, the Council would expect to see the rent levels set at no more than 70% of open market rent (OMR) and no more than 65% of open market rent for properties with 4 or more bedrooms. In addition, where a development is exclusively (or largely) made up of 1 and 2 bedroom properties the Council would expect a number to be set at rent levels below 80% of OMR (appropriate number to be agreed in discussion with the Council's Housing and Enabling Manager).

#### Intermediate

Intermediate affordable housing can play an important role in meeting the housing needs of those who can afford to pay more than social rents (and who are unlikely to be a priority for this accommodation) but who cannot afford suitable housing in the open market. There are a variety of intermediate affordable housing products of which shared ownership housing is one form.

The Council wishes to ensure that intermediate affordable housing provided within the borough is a realistic and affordable option for households across a spread of incomes, from £20,000 to £60,000 (gross) rather than only being available to households with incomes towards the upper end of this spectrum. Furthermore, applicants/developers will need to demonstrate that any intermediate affordable

housing proposed meets the definition of affordable housing, in that it should be available at a total monthly cost which is less than the costs of buying or renting privately within Worthing.

The Council is of the view that a household can be considered to be able to afford intermediate affordable housing when rental elements (on the landlord's share) and mortgage payments (on the part they own) and any service charge, constitute no more than 30% of gross household income. The Council will require that the average cost of intermediate affordable housing provision (mortgage plus rent plus any service charge) is affordable on this measure, to households with gross incomes of no more than £31,000, assuming that purchasing households are able to pay a deposit of 5% of the value of the share of the property they are purchasing, taking out a repayment mortgage over 25 years and based on reasonable assumptions on the mortgage interest rates available on this form of tenure at the time of the application, which should be agreed with the Council.

To ensure that the affordability of intermediate products is kept up-to-date and reflects changes to incomes and housing costs going forward the figure for gross annual income will be indexed against lower quartile house prices in Worthing. Where there is a year-on-year uplift in lower quartile house prices in Worthing, the gross annual income figure threshold (currently £31,000) would be uplifted on the same percentage basis. These will be reported within the Council's Annual Monitoring Report.

The Council acknowledges that the above guidance will impact on the price a Registered Provider can pay to a developer for an affordable unit. However, where this affects the viability of a scheme and can be robustly demonstrated, it will form an element of the negotiation process. However, it is acknowledged that generally Affordable Rent should have less impact on viability than Social Rent. The proposed affordability measures are intended to strike an appropriate balance between affordability and viability.

### **Provision of specialist housing units**

On some sites, where there is a specific local need, the provision of specialist or supported housing may be required. For example, homes designed specifically for wheelchair users, people with learning disabilities or other special needs groups. The Council is prepared to consider the provision of such specialist housing in lieu of conventional affordable housing requirements, and any such proposals will need to be considered on their own merits in response to a local need.

Where the provision of such dwellings is demonstrated to either impact on viability of delivering the overall affordable housing target and / or to require dwellings to be significantly more than the size standards laid out elsewhere, then the Council may agree to negotiate a reduction in the overall proportion of affordable housing required.

### **Design Standards**



To aid the promotion of inclusive and sustainable communities, the provision of on-site affordable housing should integrate seamlessly into the layout of any development. As such, units will be required to be distributed throughout the proposed development area and large groupings of single tenure / single-type dwellings should be avoided. Within smaller developments or apartment blocks it is accepted that management issues mean that 'pepper-potting' is less appropriate and that affordable housing may be provided in clusters.

The Council seeks a high standard of design for all development and affordable housing is no exception. Affordable housing should not be distinguishable from market housing in terms of appearance, build quality or materials. The affordable housing element must also comply with the HCA Design and Quality Standards regardless of whether Social Housing Grant has been secured. In addition, to ensure that design is of high quality and that an adequate amount of living accommodation is provided proposals must comply with the Council's Guide to Residential Development SPD (2013) and Space Standards SPD (2012). In addition, the Government has published nationally described space standards which should also be given due consideration.

### **Calculating a financial contribution**

For reasons of viability and housing management, Core Strategy policy CS10 requires that affordable housing will be sought via a financial contribution on all sites of 11 to 14 dwellings (20%). The Council will seek a financial contribution that would allow affordable housing providers to secure the land in lieu of, and equivalent to, on-site provision. Any financial contributions received will be used to provide affordable housing in partnership with Registered Providers.

This approach is in line with the National Planning Policy Framework which states: *"where affordable housing is needed, local planning authorities should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time."*

'Broadly equivalent value' is a key term to understand in calculating Commuted Sum levels. This assumes that there are no suitable development sites elsewhere for the applicant developer to provide the equivalent affordable housing. In effect, this means that a Registered Provider should be able to take delivery of an equivalent dwelling off site as should have been provided in the subject development at no additional cost to the sum that would have been paid for on-site delivery.

The Council's approach to calculating affordable housing contributions (including examples) is set out below. These figures indicate the sum which Registered Providers in the Worthing Borough Council area will need in order to purchase affordable housing. The figures have been produced by the District Valuer Services (DVS) using local evidence and input from the Registered Providers.

Registered Providers have indicated how much they have had to pay in order to buy a unit in Worthing and the DVS has then undertaken research into the open market values in the area. The commuted sum is the difference between the two, in other words, the actual amount that the applicant needs to pay in order to secure a unit.

Dwelling Type	Size	Payment per unit	Payment per m <sup>2</sup>
Studio flat	32 m <sup>2</sup>	£29,760	£930
1 bed flat	51 m <sup>2</sup>	£79,560	£1,560
2 bed flat	66 m <sup>2</sup>	£80,850	£1,225
3 bed flat	77 m <sup>2</sup>	£105,105	£1,365
2 bed house	77 m <sup>2</sup>	£84,392	£1,096
3 bed house	93 m <sup>2</sup>	£119,133	£1,281
4 bed house	106 m <sup>2</sup>	£140,238	£1,323

The payment per unit figures set out above provide a weighted average that take into account the Council's general requirements for affordable housing types (affordable rent 35% / Intermediate 35% / Social Rent 30%). The dwelling sizes represent the minimum floor areas as set out in the Council's Space Standards SPD. If the size of units to be built differs significantly from the figures set out above (or, in rare instances, when the requirement is for less than one whole unit) then the values should be adjusted accordingly using the 'payment by m<sup>2</sup>' column.

As explained above, in line with adopted policy, affordable housing will be sought via a financial contribution on all sites of 11 to 14 dwellings (20%). In addition, in exceptional circumstances, for some larger schemes the Council may agree that a financial contribution will be accepted if it can be shown through evidence that both on-site and off-site provision of affordable housing is inappropriate. In these rare occasions the rates set out in the 30% column will be used.

Dwelling Type	10%	20%	30%
Studio flat	£2,976	£5,952	£8,928
1 bed flat	£7,956	£15,912	£23,868
2 bed flat	£8,085	£16,170	£24,255
3 bed flat	£10,511	£21,021	£31,532
2 bed house	£8,439	£16,878	£25,318
3 bed house	£11,913	£23,827	£35,740
4 bed house	£14,024	£28,048	£42,238

Using these figures, the following are examples of payments required in relation to development schemes:

**Scenario 1** - Development of 12 dwellings. The requirement is for an affordable housing contribution of 20% provided as a financial contribution:

6 x 1 bed flats = (6 x £15,912) = £95,472  
 + 6 x 2 bed flats = (6 x £16,170) = £97,020

Total contribution required = £ 192,492

**Scenario 2** - Demolition of 4 houses to be replaced by 11 dwellings. The requirement is for an affordable housing contribution of 20% provided as a financial contribution:

11 x 2 bed houses = (11 x £16,878) = £185,658

### **Monitoring and Review**

The Council will use the Annual Monitoring Report to record monies collected for affordable housing along with the amounts allocated and spent as well as the units delivered on-site. Any significant change to the processes outlined above will require a change in policy or amendments to this SPD.