



Planning Committee  
1 June 2016

Agenda Item 4

Ward: ALL

Key Decision: Yes / No

## Report by the Director for Economy

### Planning Applications

1

**Application Number:** AWDM/1640/15      **Recommendation – Refuse**

**Site:**            The Montague Centre, Liverpool Road, Worthing

**Proposal:**      Construction of new freestanding glazed kiosk and change of use of units 1 and 2 and 6 to 12 to create A3 floorspace at Montague Shopping Centre, and public realm improvements, including landscaping and other associated works.

2

**Application Number:** AWDM/0614/16      **Recommendation – Refuse**

**Site:**            Land South East Corner of Amberley Drive, Marine Drive, Worthing

**Proposal:**      Change of use of land to caravan and camping site with 46 pitches. Erection of amenity block building comprising toilets and showers, laundry room, store, office and reception. Construction of vehicular crossover and provision of parking and bin storage area.

3

**Application Number:** AWDM/1583/15      **Recommendation – Approve**

**Site:**            Kingsway Hotel, 117-119 Marine Parade, Worthing

**Proposal:**      Change of use of Hotel (C1) to 11 x 2 bedroom apartments and 1 x 1 bedroom apartment and 2 x 3 bedroom flats (1 Queens Road) including demolition of existing flat roof extension and rebuild original Victorian rear extension and replacement of various windows with 10 parking spaces and associated landscaping.

**4**

**Application Number: AWDM/0418/16      Recommendation – Refuse**

**Site:            32 Vale Avenue, Worthing**

**Proposal: Proposed two bungalows in the rear garden of 32 Vale Avenue, together with new access drive and landscaping.**

**5**

**Application Number: AWDM/1566/15      Recommendation – Refuse**

**Site:            14 West Avenue, Worthing**

**Proposal: Change of Use to restaurant with ancillary educational catering/dining classes and catering service (Use Class A3 with ancillary D1).**

**6**

**Application Number: AWDM/0487/16      Recommendation – Approve**

**Site:            Ground Floor Flat, 130 Rowlands Road, Worthing**

**Proposal: Single-storey rear extension.**

**7**

**Application Number: AWDM/0404/16      Recommendation – Approve**

**Site:            1 Furze Road, Worthing**

**Proposal: Change of use of detached garage to gym, games room and study and associated alterations.**

**8**

**Application Number: AWDM/0430/16      Recommendation – Approve**

**Site:            7 Ellis Avenue, Worthing**

**Proposal: Rear extension incorporating a hip-to-gable roof enlargement together with two flat roof side dormers to provide rooms in the roof**

Application Number: AWDM/1640/15

Recommendation – REFUSE

Site: The Montague Centre, Liverpool Road, Worthing

Proposal: Construction of new freestanding glazed kiosk and change of use of units 1 and 2 and 6 to 12 to create A3 floorspace at Montague Shopping Centre, and public realm improvements, including landscaping and other associated works.

Applicant: New River Retail (UK) Ltd

Ward: Central

Case Officer: Gary Peck



Not to Scale

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### Proposal, Site and Surroundings

This application seeks the change of use of units 1-2 and 6-12 of the Montague Centre from Use Class A1 (Shops) to A3 (Restaurants and Cafes). The application also proposes to create a new free standing glazed kiosk, also to be A3 use, in the northern part of the pedestrianised area of the Centre.

The applicants are New River Retail, who are experienced shopping centre operators. In the supporting information submitted with the application, they state that

a similar scheme has been undertaken in Leamington Spa where change of use consents to A3 allowed high quality restaurant operators such as Nando's, Les Iguanas, Gourmet Burger Kitchen, Turtle Bay, Wagamama and Yo Sushi to occupy previous A1 units that may have been left vacant. In respect of the Montague Centre, it is stated that a number of leases expire in the next 12 months which are likely to result in vacancies if the units can only be used for A1 purposes, yet there is significant interest from A3 operators to use the units.

The applicant has owned units 12 and 13 within the Montague Centre since 2010 (the latter unit being the occupied TK Maxx and does not form part of the application). In 2014, the applicant acquired the remainder of the Centre.

The key elements of the proposal are:

- New paving throughout the Montague Centre
- Removal of shopfront canopies and replacement with individual retractable awnings
- New shopfront strategy
- Removal of existing trees and planting for replacement trees
- Provision of new street furniture
- Removal of pigeon netting and façade cleaning

At present units 1 and 2 are occupied by Laura Ashley. Unit 6 is occupied by Toy Barnhaus, Unit 7 by Select (a clothing store), Unit 8 by Clinton's Cards, Unit 9 is vacant, Unit 10 by Stacks (luggage, handbags, accessories), Unit 11 is vacant and Unit 12 occupied by Verb, a clothing shop.

Unit 3, occupied by Game, Units 4 & 5 occupied by HMV, and unit 13, occupied by TK Maxx do not form part of the application.

While there could be some flexibility in how units 6-12 could be subdivided, the application shows 6 new A3 units, 1 of which would be at the Laura Ashley premises, 4 within units 6 and 12, and the remaining unit within the proposed new kiosk

The applicant states in their Executive Summary in the Design & Access Statement submitted with the application:

*'New River Retail's commitment to enhance the Montague Centre shopping experience combined with identified demand and known undersupply of restaurants of Worthing, sit at the heart of our change of use proposal. The intention is to create a restaurant destination that complements and strengthens Worthing's existing offer.'*

*The proposed units are ideally located at the entrance to the Montague Centre. The restaurants are intended to enhance the sense of arrival, compliment the public realm and mesh with the retail offer in the local area. It is anticipated that dwell time will be greatly enhanced in a centre that sits well below average for dwell time across our 28 shopping centres in the UK. Our ambition is to deliver high quality finishes which compliment but do not compete with the surrounding environment. The public realm improvements are intended to deliver an 'Oasis' in the heart of Worthing and link to the recent West Sussex County Council improvements on Montague Place.*

*Our intention is to channel the demand for restaurant accommodation and secure operators who share our ambition to deliver something special in this prominent and sunny location.'*

The application site is located within the Conservation Area. Close to the rear of the units to the west are residential properties within Alexander Terrace, while the eastern approach to the Montague Centre is framed by retail uses within Liverpool Buildings.

### **Relevant Planning History**

AWDM/0136/14 (Units 1 & 2): Change of use from use class A1 (retail) to A3 (cafe/restaurant) was refused on the grounds that it would result in the unacceptable loss of a prominent retail unit:

AWDM/1503/12: Erection of two fixed monolith advertisement signs at the entrances to the Montague Centre – application refused

01/00750/FULL: Variation of condition 4 and 5 of Planning Consent WB/125/87 to permit the removal of existing statues and their replacement by new bronze sculptures – application refused and appeal dismissed

### **Consultations**

#### ***West Sussex County Council:***

West Sussex County Council, in its capacity as the local highway authority, has been consulted on the proposed creation of a glazed kiosk and change of use of several existing units at the Montague Centre.

The proposed development is not considered to have a material impact on the operation of the highway. A new service lay-by is proposed although details of dimensions and suitability to accommodate servicing vehicles have not been provided; any works in the highway would be subject to a Section 278 Agreement. The lay-by would also require a Traffic Regulation Order restricting its use to servicing only and the Applicant would be required to meet all costs associated with the advertisement and implementation of the TRO (approximately £5,500).

Should the planning authority be minded to grant permission the following conditions are recommended:

#### ***Servicing Lay-by***

No part of the development shall be first occupied until such time as the servicing lay-by has been constructed in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of road safety

#### ***Traffic Regulation Order***

No development shall be commenced until such time as a Traffic Regulation Order restricting the use of the servicing lay-by in accordance with details to be submitted

has been approved by the Highway Authority and written confirmation of this approval has been made available to the Local Planning Authority.

Reason: In the interests of road safety.

#### *Construction Management Plan*

No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters,

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.
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Reason: In the interests of highway safety and the amenities of the area.

In response to a specific comment from the Worthing Society, the Highways Authority states:

I can advise that our Public Rights Of Way (PROW) Team have reviewed the Definitive PROW Map and there is no record of a public right of way at this location, or in the immediate area.

#### ***Environmental Health***

Some of the application units lie within a few metres of residential properties at the rear in Liverpool Terrace. There is therefore the potential for noise and cooking odours to affect residential amenity. Typical noise sources will be fixed plant/machinery, including kitchen ventilation which is likely to be at the rear or roof mounted, deliveries to and collections from the unit and to a lesser extent (except Units 1-2 customer noise outside - smokers, people arriving and departing. Odour will be produced by cooking.

Details of proposed kitchen odour abatement have not been submitted. Suitability will depend on the location and height of flues and odour abatement methods and current best practice is to discharge treated air at a height of 1 metre above roof ridge. It should be borne in mind that the residential properties in Liverpool Terrace are higher than the retail units, so adverse impacts on residential amenity may result if kitchen odour systems are not properly designed.

Should you be minded to grant permission for this application, in order to ensure the effects of noise and odour from the proposed A3 uses do not adversely affect residential amenity, I recommend the following be attached or incorporated into conditions to any permission granted.

The hours of operation shall be restricted to 07:00 to 23:00 hours.

- No deliveries to or collections from the units shall take place other than between 07:00 to 21:00 hours Monday to Saturday and 10:00 to 18:00 hours on Sunday.
- No bottles shall be placed into any outside receptacles after 22.00 hours of before 07:00 hours.
- The use hereby permitted shall not be carried on unless and until details of suitable systems for the extraction and disposal of cooking odours (including details of the extract fans, filters, fan units and ducting together with method of noise abatement, as well as details of extraction hoods) for each Unit has been submitted to and approved in writing by the Local Planning Authority. The equipment approved under this condition shall be installed before the use hereby permitted commences and thereafter shall be maintained in accordance with the manufacturer's instructions.
- No plant or equipment, including the kitchen ventilation and extraction system, shall be operated on any unit except between the hours 07:00 to 23:00 hours

### ***Town Centre Initiative***

'As you know there was some unease at the Steering Group of the Town Centre Initiative at the time being taken to consider and decide on the application by New River Retail to redevelop the Montague Centre.

We have identified this as a high risk area in the town centre and are extremely encouraged by the proposals from New River Retail for change of use securing some well known and popular brands to the town which, as far as we are aware, have not shown any inclination to come to Worthing before.

Whilst we appreciate there are inevitably conflicting views on such a development. The overall approach of the Town Centre Initiative is to support the application. I do hope this can be taken into account and hopefully expedite the desperately needed investment which can only enhance the town centre, bearing in mind the difficulty experienced since the recession in attracting new occupiers to the town.'

### ***Worthing Society***

- No objection to the change of use although it would result in some conflict with the Conservation Area Designation Document for the South Street Conservation Area
- Main concern is the introduction of a further restaurant in the open space at the northern end of the Centre. The kiosk would occupy an area currently containing a group of mature sycamore trees and would be built over red brick paviers. The Centre was designed to create a visual link from Montague Street and Montague Place to Liverpool Road. This would be obstructed by the kiosk and would degrade the conservation area and adversely affect the setting of nearby listed buildings, contrary to the National Planning Policy Framework
- Need for economic viability and footfall is accepted but the challenge is how this can be achieved in the historic environment. The present proposal does not adequately reflect the need to be sensitive to surrounding heritage assets nor create an interesting and attractive public realm.
- If approved, the proposals would cause unacceptable harm to the Montague Centre and the related setting of the South Street Conservation Area

- The Society formally objects to the proposal apart from the changes of use to units 1 and 2 and 6 to 12.

### ***Arboricultural Officer***

I have taken a look at these trees following an enquiry to carry out some works earlier in the year. I mostly agree with the Arboricultural Report that the 3 Sycamore trees provide outstanding public amenity and should be retained. The report suggests that the slightly restricted environment the trees are growing in may affect their longevity, although this could perhaps be the case I feel that the trees would certainly meet the criteria for a Tree Preservation Order, which would be considered if an application to fell the trees had been received.

### ***Conservation Area Advisory Committee***

Strong objection to the loss of trees and the open space. Circulation for pedestrians will be become very restricted with the proposed new kiosk. Existing canopies and red brick paving should be retained. Plain shopfronts with no recesses will be detrimental to the shopping experience.

### ***Design & Conservation Architect***

Objects to the application on the grounds that the proposed glass kiosk would adversely affect the visual and architectural merit of the Shopping Centre, he comments as follows:

The Montague Centre is an importance piece of central Worthing's townscape, conceived and built in the late 1980s. The internal street, with its high level glazed canopy, opens up at its north-eastern end into a funnel or bell mouth. The form of this space, and the curved colonnade along the western side were carefully designed to frame the views from South Street / Chapel Road and encourage the flow of pedestrians into the Montague Centre. The trees were integrated into this space for shade and to soften the environment.

The proposed kiosk, situated centrally into the bell mouth, would not only be an oversized intrusion into this area, but would also screen the important view of the colonnade, and detract from the ordered harmonious street scene.

Between the colonnade and the high level canopy, currently a lower level glazed canopy enables continuous shelter for pedestrian access to all the retail units along the western side. This would be lost as part of the proposals and the colonnade access would be artificially blocked at the southern end of the northern unit, currently occupied by TK Max.

The Montague Centre is situated within the South Street Conservation Area and has been identified as a positive contributor to the character of this area. The Council's published appraisal document identifies the design of traditional styled shopfronts, and the pedestrian route, surface finish, as being architectural townscape elements which should be preserved. These features would also be removed and replaced as part of these proposals.



## ***Economic Development***

Montague Shopping Centre is located in the primary shopping area of Worthing Town Centre and provides 11 modern retail units. Currently 9 of the 11 units are occupied by 8 national A1 occupiers and 1 regional A1 occupier.

Economic Development have been working with the applicant since August 2014 to encourage occupation of units 10 to 12 Montague Shopping Centre, as there has been a history of vacancies in these units.

Pre-application discussions were undertaken regarding change of use of a limited number of A1 units to A3, to attract national restaurant operators with potential to enhance the town centre offer and night time economy. Economic Development have expressed concern regarding the loss of primary A1 retail and the need to retain a balance of A1/A3 restaurant throughout the centre, with a sufficient level of A1 anchor units at each end of the centre to safeguard A1 footfall through this key town centre route and avoid impact to the remaining A1 units.

Economic Development has expressed interest in the addition of a new glass kiosk at the north end of the centre, but raised concern regarding massing which potentially could impact the surrounding retail units and footfall, if the walkways were too narrow.

Economic Development notes:

Page 12 of the Design and Access Statement states '6 out of the 11 retailers are potentially leaving at lease expiry or lease break'. On this basis two of the units are now vacant and therefore there is potential for further four retailers to terminate their leases. This statement therefore demonstrates that between 4 and 5 national A1 retailers find this location and accommodation suitable for their market needs.

The marketing evidence provided for Unit 1-2 is seeking a £38.00 price per square foot. Currently there are primary A1 retail units available in Montague Street for between £25.70 and £28.00 per sqft. This information indicates that Unit 1-2 is being marketed at a rate in excess of the other vacant units in Montague Street. Laura Ashley have indicated their interest in continuing lease arrangement for Unit 1-2, subject to rental price.

Units 6 to 9 are currently occupied by 3 national and 1 regional A1 operators and this application does not provide suitable marketing evidence to demonstrate that Units 6 to 9 are no longer viable for A1 use.

Point 6.33 Planning and Retail Study states 'agents own local experience has demonstrated that clustering a few A3 operators together has created demand' and point 6.34 states 'This is outlined in the strong demand they have from A3 restaurant operators and deals they have agreed to date, where operators are entering into an agreement for lease subject to two other national A3 operators operating simultaneously.' This data demonstrates that a cluster of 3 A3 national operators, is sufficient to secure national A3 operator interest.

Economic Development appreciates the value that national restaurant operators could bring to Worthing, but is unable to support this application as it does not

demonstrate that the need for 66% of the units in the shopping centre to be converted to A3. Economic Development is also concerned that the massing of the proposed glass kiosk may impact the surrounding retail units.

Economic Development would very much welcome an application which retains a better balance of A1/A3 restaurant for the shopping centre, with a sufficient level of A1 anchor units at each end of the centre, along with a glass kiosk that enables wide walkways and does not impact the surrounding A1 units.

### **Cushman & Wakefield Retail Consultants**

Because of the detailed issues involved with the application, which necessitated specialist retail analysis, the Council engaged consultants to comment upon the application. They initially commented:

*We have now completed our review of the information submitted in support of the planning application, namely the 'Planning and Retail Statement' (dated November 2015) prepared by GL Hearn and the marketing letter (dated 19 February 2016) prepared by Jackson Criss. We set out our findings and conclusions in this letter.*

### **Background**

*Montague Shopping Centre lies within the 'Central Shopping Area – Primary – Zone A' where Policy 6 of the adopted Core Strategy (April 2011) seeks to protect A1 uses; while supporting paragraph 6.54 states that "Primary Zone A is exclusively for A1 uses." It follows, under the provisions of Policy 6, that developments that will detract from the vitality and viability of the town centre will be resisted in order to safeguard the retail character and function.*

*We would agree with GL Hearn's Planning and Retail Statement (hereafter 'Statement') that Montague Shopping Centre is in need of investment. We would also accept that there are clear benefits associated with bringing the currently vacant units back into active use. However we note that not all of the eight A1 units subject to the change of use proposals are currently vacant; Laura Ashley continue to trade from unit 1-2 and we understand that two or three of the other, smaller units are currently occupied by A1 operators (apparently for a temporary period only). The units occupied by the centre's anchor tenants, TK Maxx and HMV, are not subject to the change of use proposals.*

*We have therefore focused on the extent and veracity of the analysis provided in support of the planning application, specifically in terms of the likely impact of the proposals on the vitality and viability of Worthing town centre and planned investment therein. For the avoidance of doubt, it is not the purpose of this letter to comment on issues relating to design, conservation or amenity.*

### **Impact on Town Centre Vitality and Viability**

*We consider that GL Hearn's Statement fails to provide a sufficiently thorough, up-to-date assessment of the vitality and viability of Worthing town centre. This should be the starting point for interpreting the extent to which the proposals would be likely to affect the retail character and function of the town centre. We summarise below the weaknesses in GL Hearn's Statement in this respect:*

- *GL Hearn's Statement includes some inaccuracies in reporting the latest data sourced from GOAD (February 2015). According to the latest GOAD Category Report for Worthing town centre, sourced by Cushman & Wakefield, A3 restaurants account for 4.39% of the total floorspace (relative to national average 3.96%) and 6.25% of the total number of units (relative to national average 4.49%). The proportion of A3 restaurants in Worthing town centre, in both floorspace and unit terms, is therefore above the national average. GL Hearn's Statement is therefore misleading to indicate that the town centre's A3 offer is below the national average in quantitative terms.*
- *Further, benchmarking existing provision against national averages is not particularly helpful or relevant, given the diverse nature of GOAD centres which range from regional shopping centre to local centres serving small neighbourhoods. More relevant is consideration for the current mix and balance of Class A uses and the consequences for the health and performance of Worthing town centre.*
- *There is a lack of clear regard for or compliance with the national Planning Practice Guidance (PPG), specifically paragraph 005 reference ID 2b-005-20140306, in determining the current health of Worthing town centre. GL Hearn's Statement cites the Council's retail evidence base (e.g. Retail Study Update 2010, Retail Healthcheck and Retail Zone Review 2012) for many of its conclusions on the health of Worthing town centre. However we consider their Statement to be inadequate in terms of providing an up-to-date picture of the current health of the town centre (i.e. as the basis for making an informed judgement on the likely affect of the proposals).*
- *Linked to this, there is a lack of detailed analysis regarding the quality of Worthing town centre's existing A1 and A3 representation (i.e. the uses directly affected by this planning application).*
- *Importantly, no evidence has been provided to demonstrate the extent to which the centre has been let since it opened less than 10 years ago. Long term/ structural vacancies, for example, would be a better indication of the centre's constraints and lack of attractiveness to A1 operators.*
- *We note that the town centre, as a whole, currently has a relatively low level of vacancies (about 10% in unit terms according to GOAD) which is a positive indicator of its overall health.*
- *There is also a lack of detailed analysis regarding the degree to which the loss of eight A1 units, and notably the largest and most prominent unit (no. 1-2 currently occupied by Laura Ashley), would be likely to affect the town centre's retail character and function. This is especially important given that Montague Shopping Centre lies within the heart of the town centre and Primary Zone A, the corner unit (Laura Ashley) being a particularly prominent shopping facility close to Montague Street.*
- *Although the use of CACI research can be helpful in measuring the health and performance of a centre (and highlighting the opportunities from an investment perspective), it should not be relied upon for concluding on the likely impact of*

*a proposal on the health of a centre. GL Hearn should substantiate the CACI research and provide a more detailed, objective assessment of the likely effect of the proposals on the vitality and viability of Worthing town centre. Illustrating the generalised nature of references to CACI research, paragraph 6.15 of the Statement sets out;*

*"In terms of the impact of the proposal on the health of Worthing Town Centre, the CACI research states the further introduction of catering units at the Montague Centre in Worthing is set to benefit both the centre and the town as a whole [our emphasis]. Furthermore, those making use of catering facilities spend 20% more a year than the average of all shoppers. It also states that shoppers view the Montague Centre as a part of Worthing due to its position in the heart of the town, and hence catering users at the centre are set to bring a benefit to retailers across the town centre [our emphasis]."*

### **Impact on Planned Town Centre Investment**

*GL Hearn's Statement considers the impact of the proposals on planned town centre investment. Local planning policy seeks to resist the loss of A1 uses within Prime Zone A (including Montague Shopping Centre) and promote the mixed 'town centre use' development of key development opportunity sites (including Teville Gate and Union Place). The Statement broadly concludes that the change of use proposals would complement and not undermine the delivery of the key development opportunity sites.*

*Whilst the proposals are likely to 'soak up' some immediate demand from A3 operators, we think it unlikely that this would threaten the delivery of any of the development opportunity sites which may or may not come forward in the short to medium term.*

### **Marketing Evidence**

*Turning to the marketing letter prepared by Jackson Criss, we would note:*

- *The information submitted indicates that the units subject to the change of use proposals are "generally unattractive to retailers" and that recent marketing activity has generated no firm interest/ demand from A1 operators. In our view, it is not entirely surprising (given the relative attractiveness of Montague Street and South Street where the majority of key multiple retailers are concentrated) that the centre is struggling to attract the type of A1 operators required to make the centre a commercially viable proposition for NewRiver Retail. However, to help the Council consider whether the evidence of marketing is sufficient, clarification should be sought with regards to:*
- *which units have been actively and continuously marketed for A1 purposes and for what period of time. Particular reference is made to the marketing of unit no. 1-2 (Laura Ashley), unit no. 11 (former Boots Opticians) and unit no. 12 (adjacent to TK Maxx). It is not clear from the letter whether the marketing campaign set out and described by Jackson Criss focused on just some or all of the units within the centre; and*
- *specific details of the enquiries received and the level of rent sought. The marketing letter states that the centre achieves £40 Zone A; however, it is not*

*entirely clear whether the unit(s) were advertised at or below this rent and for what period of time.*

- *The information submitted indicates that the units subject to the change of use proposals are attracting "strong demand" from A3 operators. This is not surprising given the strength of the food & beverage sector at a time when national retailers are downsizing and polarising to a smaller number of prime locations, coupled with the opportunity for A3 clustering and outdoor dining presented by the proposals for Montague Shopping Centre.*

*On the basis of the above, we would accept that the units are probably attracting a greater level of firm interest from A3 operators due to the nature of the units and current economic/ market trends.*

*However the Council should be satisfied that the evidence of A1 marketing is sufficient, and should therefore request the clarifications sought above.*

- *It would also be interesting to understand whether any A1 operators have been approached on the basis of occupying larger, reconfigured space in a refurbished centre with public realm enhancements (as proposed for the A3 uses). This would potentially make the centre more commercially attractive to retailers seeking to locate to, or relocate within, the town centre.*

### **Conclusions**

*We summarise below our conclusions and recommendations.*

#### **Impact on Town Centre Vitality and Viability**

- *We would accept that Montague Shopping Centre is in need of investment and that there are clear benefits associated with bringing the currently vacant units back into active use.*
- *However, Policy 6 of the adopted Core Strategy seeks to protect and resist the loss of A1 uses in order to safeguard the retail character and function of the town centre. The planning application should therefore justify the loss of A1 uses and demonstrate that the proposals would not undermine this retail character and function.*
- *GL Hearn's Statement, in our view, has not properly assessed, or concluded on, the current health of Worthing town centre (as the basis for interpreting the extent to which the proposals would be likely to affect the retail character and function of the town centre). This should include:*
  - *a detailed analysis regarding the quality of Worthing town centre's existing A1 and A3 representation (i.e. the uses directly affected by this planning application); and*
  - *evidence of long term vacancies at Montague Shopping Centre in order to support the case that the centre is generally unattractive to A1 operators.*
- *The loss of the eight A1 units would inevitably dilute the shopping function of Montague Shopping Centre and GL Hearn's Statement is inadequate in terms of objectively assessing the degree to which the loss of these Prime Zone A*

*units, including the centre's largest and most prominent unit (Laura Ashley), would be likely to affect the town centre's retail character and function. GL Hearn should undertake further work before conclusions on the impact of the change of use proposals on the vitality and viability of Worthing town centre can be reached.*

### **Impact on Planned Town Centre Investment**

- *The proposals are likely to 'soak up' some immediate demand from A3 operators.*
- *That said, we think it unlikely that the proposals would threaten the delivery of any of the town centre development opportunity sites which may or may not come forward in the short to medium term.*

### **Marketing Evidence**

- We would accept that the units are probably attracting a greater level of firm interest from A3 operators due to the nature of the units and current economic/market trends.
- However, the Council should be satisfied that the evidence of A1 marketing is sufficient and seek the following clarifications:
  - which units have been actively and continuously marketed for A1 purposes and for what period of time; and
  - specific details of the enquiries received and the level of rent sought.
- It would also be interesting to understand whether any A1 operators have been approached on the basis of occupying larger, reconfigured space in a refurbished centre with public realm enhancements (as proposed for the A3 uses).

### **Applicant response to Consultant comments:**

*We note that Cushman and Wakefield agree that Montague Shopping Centre is in need of investment and that there are clear benefits associated with bringing the currently vacant units back into active use. They also are of the view that the proposals are unlikely to threaten the delivery of any development opportunity sites which may or may not come forward in the short to medium term. It should also be noted that they recognise the units subject to this proposal are unattractive to retailers given the relative attractiveness of Montague Street and South Street where the majority of key multiple retailers are concentrated.*

*In terms of Cushman's reference in determining the current health of Worthing town centre, the NPPF clearly states that each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals (para 158). In this regard it should be recognised the Council does not have an up to date retail evidence base.*

*Paragraph: 004 Reference ID: 2b-004-20140306 of the PPG states “Local planning authorities should take full account of relevant market signals when planning for town centres and should keep their retail land allocations under regular review. These market signals should be identified and analysed in terms of their impacts on town centres. This information should be used to inform policies that are responsive to changes in the market as well as the changing needs of business.” In Cushman’s letter they state that it is not surprising the strong demand from A3 operators given the strength of the food and beverage sector at a time where national retailers are downsizing and polarising to a number of prime locations, coupled with the opportunity for A3 clustering and outdoor dining presented by the proposals for the Montague Centre. Therefore, this is a material consideration in the determination of the planning application and regard should be had to paragraph 004 reference 2b-004-20140306 of the PPG.*

*In the marketing evidence section of the Cushman letter, reference is made to understand whether any A1 operators have been approached on the basis of occupying larger, reconfigured space in a refurbished centre and that this would potentially make the centre more commercially attractive to retailers seeking to locate to, or relocate within, the town centre. This is particularly confusing as it contradicts the point referred to in the paragraph above about not being surprised that there is a strong demand from A3 operators “given the strength of the food and beverage sector at a time where national retailers are downsizing and polarising to a smaller number of prime locations”.*

Additional marketing evidence was also submitted by the applicant:

*We have been instructed to act as joint letting agents on part of the centre since NewRiver Retail (NRR) first acquired the TK Maxx store and Unit 12, in June 2009. Following NRR’s acquisition of the remainder of the centre in November 2014 we have had a joint agency role on the entire scheme.*

*During the period of NRR’s ownership we have continually marketed the various units. In particular we can comment as follows:*

### ***Unit 12 Montague Centre***

*As at the point of purchase by NRR in June 2009 Unit 12 was vacant. The last permanent tenant of the unit was Ciro Citterio, who vacated in September 2005. There have been some short term temporary tenants, but the unit has been available to retailers on a new lease basis for the last 11 years.*

*Hughes Ellard and Jackson Criss have jointly marketed the unit since June 2009. The unit has been offered on flexible terms through a series of different media. At various times ‘To Let’ boards have been placed on/in the premises. Property particulars have been available at all times on various websites including Shop Property, EGi Property Link, Focus, Estate Agents Clearing House, Hughes Ellard and Jackson Criss websites. Property particulars have been circulated to target retailers, surveyors and agents. The quoting rent for the unit has been reduced on a number of occasions to encourage occupier interest. Originally we had been quoting £55,000 per annum, but this was reduced down to £38,500 per annum.*

*Reviewing our file for Unit 12 retailer interest has been poor over such an extended period of time. Retailers with whom we have had detailed discussions that have not progressed over a period of time have included Starbucks (now in South Street), Trespass (now in Montague Street), Sue Ryder, Poppins (now in Montague Street). In addition there have been numerous temporary occupier discussions, some of which have resulted in short term tenancies.*

### **Unit 10 Montague Centre**

*The last permanent tenant of Unit 10 was Dolland & Aitchison, who relocated from the unit in August 2008 to Unit 11. As with Unit 12 there have been some short term temporary tenants, but the unit has been available on a new lease basis for the last 8 years.*

*During this time the unit was initially marketed by the centre's previous owners agents, Stiles Harold Williams, and a copy of their marketing particulars is attached. Since NRR's acquisition in November 2014 the unit has been marketed via the same media as Unit 12 by Hughes Ellard and Jackson Criss. The unit has been offered at a rental of £40,000-42,500 per annum. As with Unit 12, interest in the unit has been poor and no offers have been received on a permanent basis from retail occupiers. We have had discussions with Warren James and, Moshulu Shoes, but neither of these have progressed.*

### **Units 1 & 2 Montague Centre**

*As at the time of NRR's purchase in November 2014 Laura Ashley were on a flexible lease with break clauses, as they were trading poorly from the units, a situation which has not changed. The purpose of the flexible lease was to allow the Units to be marketed and a replacement tenant to be identified. Since November 2014 the unit have been marketed, by Hughes Ellard and Jackson Criss, via the same media as Units 10 & 12. The rental sought has been quoted at £150,000 per annum, but we have been instructed that we can be flexible on this figure for suitable occupiers.*

*There has been no interest from Class A1 retail occupiers, for these units. The unusual configuration of the units is an issue for retailers who favour rectangular units to maximize display space. Occupiers we have had discussions with include Deichmann Shoes, Pound World and Peacocks, all of whom have rejected the opportunity and have focused their efforts on other towns along the coast.*

### **Unit 11 Montague Centre**

*This unit has recently been vacated by the previous tenant Boots Opticians, who have relocated to Boots main store in Montague Street. Boots Opticians had been seeking to assign their leasehold interest via their agents Savills since NRR's acquisition in November 2014. Despite marketing no potential replacement tenants were identified by Savills.*

**Cushman & Wakefield response to additional information from the applicant as above**



*In this letter, we comment on the information provided by the applicant in response to our letter dated 17 March 2016, which advised the Council on the retail planning issues associated specifically with the Class A1 to Class A3 change of use proposals at unit nos. 1-2 and 6 to 12 Montague Shopping Centre, Worthing.*

*We comment on the marketing evidence in the first instance. We then consider whether the applicant has addressed the other weaknesses identified in their previous submission relating to impact on town centre vitality and viability (as set out in GL Hearn's Planning and Retail Statement).*

### **Marketing Evidence**

*The applicant's latest submission includes further marketing evidence in relation to unit nos. 1-2, 10, 11 and 12 (as set out in Hughes Ellard's letter dated 22 April 2016). It indicates for what period of time these units have been marketed for A1 purposes, and provides details of enquiries and the level of rent sought. The largest and most prominent unit (Unit 1-2 currently occupied by Laura Ashley) has been marketed since November 2014. So too have Units 10 and 11. Unit 12 has been marketed for a longer period, since June 2009.*

*The information provided would indicate that these units have been unsuccessfully marketed despite flexible terms. However, the Council should be satisfied that the period of marketing – specifically in relation to unit nos. 1-2, 10 and 11 (i.e. since November 2014) – is sufficient in order to grant planning permission.*

*We would note that no further marketing evidence has been provided in relation to unit nos. 6, 7, 8 and 9 (i.e. half of the units subject to the change of use proposals). This is significant and would indicate that these units have not been actively and continuously marketed for A1 purposes.*

*In addition, no information has been provided (in response to our previous letter to the Council) to confirm whether any A1 operators have been approached on the basis of occupying larger, reconfigured space in a refurbished centre with public realm enhancements (as proposed for the A3 uses). This would potentially make the centre more commercially attractive to retailers seeking to locate to, or relocate within, the town centre.*

### **Impact on Town Centre Vitality and Viability**

*Our previous letter concluded that:*

- *We would accept that Montague Shopping Centre is in need of investment and that there are clear benefits associated with bringing the currently vacant units back into active use.*
- *However, Policy 6 of the adopted Core Strategy seeks to protect and resist the loss of A1 uses in order to safeguard the retail character and function of the town centre. The planning application should therefore justify the loss of A1 uses and demonstrate that the proposals would not undermine this retail character and function.*

- *GL Hearn's Statement, in our view, has not properly assessed, or concluded on, the current health of Worthing town centre (as the basis for interpreting the extent to which the proposals would be likely to affect the retail character and function of the town centre). This should include:*
  - *a detailed analysis regarding the quality of Worthing town centre's existing A1 and A3*
- *representation (i.e. the uses directly affected by this planning application); and*
  - *evidence of long term vacancies at Montague Shopping Centre in order to support the case that the centre is generally unattractive to A1 operators.*
- *The loss of the eight A1 units would inevitably dilute the shopping function of Montague Shopping Centre and GL Hearn's Statement is inadequate in terms of objectively assessing the degree to which the loss of these Prime Zone A units, including the centre's largest and most prominent unit (Laura Ashley), would be likely to affect the town centre's retail character and function. GL Hearn should undertake further work before conclusions on the impact of the change of use proposals on the vitality and viability of Worthing town centre can be reached.*

***These substantial weaknesses have not been addressed by the applicant and, on this basis, our conclusions set out above still stand. In our view, the planning application fails to satisfy Policy 6 of the adopted Core Strategy.***

## **Representations**

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

- Sycamore trees should be retained
- The proposed kiosk would be better off built near Wilkinson's
- Loss of trees will increase the prominence of the concrete surrounds
- The felling of the trees will result in a break from the historic use of the Centre
- Money is being put over aesthetics
- Trees help reduce pollution
- Trees provide valuable shade and are the only natural feature nearby
- Need trees more than coffee houses
- There are too many restaurants already
- Loss of long standing businesses such as Laura Ashley
- Loss of original design concept
- Loss of artistic merit and townscape quality
- Removal of canopies lead to visual deterioration
- Loss of paving will cause an adverse visual impact
- Adverse impact upon highways safety, traffic and parking
- Increased noise, disturbance and smells
- The position of the kiosk does not take account of existing tables and chairs
- Restriction on pedestrian flow as a result of the kiosk
- Public consultation did not involve local people
- Contrary to planning policies
- Adverse impact upon Alexander Terrace

- Approval should not be granted on the basis that something is better than nothing
- Zoned approach to uses in the town centre works at present
- Increased litter

An online petition, containing 1,527 names, and a signed petition containing 1,391 signatures were received and both state:

*'We, the undersigned strongly object to the proposed felling of an impressive group of mature sycamore trees in the Montague Centre and the building of a large kiosk style restaurant in the open space now partly occupied by the trees. Any loss of trees is detrimental to the environment. The kiosk will also greatly reduce the public access to the centre. Montague Centre is in a Conservation Area and the character should be preserved.'*

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

Saved Local Plan policies (WBC 2003): RES7,  
 Worthing Core Strategy (WBC 2011): Policies 6 & 16  
 Retail Healthcheck (2012)  
 Retail Study Update (2010)  
 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 key issues in the determination of this application are whether the proposal complies with national and local policies and the effect of the proposal upon the character and appearance of the area.

The National Planning Policy Framework (NPPF) explicitly references the vitality of town centres at Section 2. Paragraph 23 states that planning policies should be positive and promote competitive town centre environments. Local authorities should 'recognise town centres as the heart of their communities and pursue policies to support their viability and vitality as well as defining a network and hierarchy of centres that is resilient to anticipated future economic changes'.

The guidance also states that local authorities should 'define the extent of town centres and primary shopping areas, based on a clear definition of primary and

secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations’.

The above guidance is reflected in Core Strategy policy 6 which states that Primary and Secondary Shopping Zones will be identified. Primary Shopping Zones are divided into A and B where Primary Zone A protects A1 uses and Primary Zone B allows a more flexible approach to A3 uses.

The application site is located in the Central Shopping Area – Primary – Zone A as defined by the Core Strategy.

The policy position in terms of the Core Strategy is therefore quite clear: the application site sits in a location where A1 uses will be protected. The zoning of particular areas in such a way does not inherently conflict with the National Planning Policy Framework which indeed requires local planning authorities to define primary shopping areas and provide clarity to which uses are permitted in such locations. A distinction is drawn in the Core Strategy between Primary Zone A and Primary Zone B where the latter, which includes locations like Warwick Street and Chapel Road, allows a more flexible approach to the type of use proposed under this application.

Notwithstanding the above, though, the NPPF also seeks to ensure that the vitality of town centres is maintained and as with many elements of the guidance requires local authorities to take a positive approach in dealing with development proposals. It should be recognised that the applicant is offering to bring new investment to the town. Moreover, it is quite clear that the Montague Centre would be aided by some investment. At present, there are 2 vacant units and aside from TK Maxx which does not form part of this application, it is only Game, HMV (which also do not form part of the application) and Laura Ashley (which does) that have provided a permanent presence within the Centre. The area covered by units 6-12, in particular, could certainly be improved. It is noted that the Town Centre Initiative supports the proposal.

While, therefore, your Officers could have initially taken a simple view that the proposal failed to comply with Policy 6 and should therefore be refused as a matter of principle, it was felt necessary to explore the proposals in greater detail and as result advice was sought from an independent retail consultant whose comments, and the applicant’s initial response are summarised above in full.

Without repeating the comments above, after due scrutiny the retail consultants still conclude that the proposal conflicts with policy 6 and in particular state that

*‘The loss of the eight A1 units would inevitably dilute the shopping function of Montague Shopping Centre and GL Hearn’s Statement is inadequate in terms of objectively assessing the degree to which the loss of these Prime Zone A units, including the centre’s largest and most prominent unit (Laura Ashley), would be likely to affect the town centre’s retail character and function’*

The reference to Laura Ashley is particularly important as the Council has previously refused an application (made prior to the current applicant purchasing the site) to change the unit to A3 in 2014. The reason for the refusal was:

*'The proposal would result in the loss of an important retail unit within the primary frontage which forms part of a 'gateway' into the town centre shopping area, at a junction on the main pedestrian thoroughfare to and from the Montague Street and Montague Centre. The proposed non-retail (A3) use would have an adverse impact upon the primary shopping frontage and town centre shopping area and unacceptably damage the retail integrity of the immediate locality. Whilst the guidance in the National Planning Policy Framework is for Local Plans to promote competitive town centre environments it does not state that Local Planning Authority's should embrace all new proposals at the expense of the vitality and viability of the town centre. In this instance, the proposed change of use would be materially harmful to the vitality and viability of the town centre and on that basis it is contrary to Worthing Core Strategy Policy 6 and those relevant policies of the National Planning Policy Framework'.*

The above decision was made against the same policies which apply to the current application and, as such, it could be argued that there is no reason for Officers to differ from the above conclusion. However, in this case the applicant has submitted that the overall benefits of the scheme have to be considered and that these would justify an exception to current planning policies for the Centre.

During the application, Officers have investigated whether there would be scope to omit the Laura Ashley units from the application but the applicant has indicated that they do not wish to do this as this would affect the overall viability of the proposal. The applicant points out that the Laura Ashley units have been on a temporary flexible lease paying a lower rental (less than 50% of the contracted lease) which reflects their current poor trading position. The applicant has indicated that the overall cost of the scheme – fit out, build costs of the new retail unit and other enhancements exceed £1.8 million and could only be justified if an enhanced rental stream for all A3 units proposed could be secured. Even with an enhanced rent for all A3 units the applicant maintains that the overall return is less than 15% and would be ordinarily deemed to be unviable, however, investment is still being considered due to the long-term investment opportunity provided by national A3 operators. In effect, the applicant states that it is 'all or nothing' as retaining units 1 and 2 (Laura Ashley) in retail use would render the whole scheme unviable.

The applicant has expressed some concern about the trading position of other large retailers in the town such as Beales and BHS but still feels confident that a number of national A3 restaurant operators trading in a cluster in the centre of the town would be a significant improvement to the overall vitality of the town centre.

Whilst there is no doubt that additional well known restaurant chains could be beneficial to the town centre, units 1 and 2 are certainly the most prominent retail units of those that form part of the current application within the Montague Centre, given its outward facing location. The loss of these units so centrally within the Primary Shopping Zone, would clearly conflict with development plan policies.

The comments of the Economic Development section, who were involved in the pre-application discussions relating to the application, reflect this position by stating that while the value that national restaurant operators could bring to Worthing is appreciated, the appropriate balance with A1 units needs to be maintained.

In terms of the representations received, apart from the Town Centre Initiative there have been no representations of support of the proposal and a large number of objections. It is important to state, though, that relatively few of the objections were to the principle of the change of use and the vast majority related to the erection of the kiosk at the northern end of the Centre and the consequent loss of the Sycamore trees that are currently situated on part of the proposed site. Latterly, a petition was organised and submitted to the Council, as detailed above, on the grounds of the loss of the trees.

The applicant's own Arboricultural Assessment submitted with the application states that the Sycamore trees 'are very attractive, providing landscape interest in a busy pedestrianised area'. The assessment goes on to rate the trees as A grade (high amenity value). The assessment concludes that replacement planting is essential and this could be achieved by planting 3 semi mature trees to the south of the proposed kiosk.

The trees undoubtedly have public amenity value at present and this is not just confined to the environs of the Montague Centre, as they can be viewed clearly from the east, for example in the pedestrianised area at the end of Warwick Street and South Street. Such view would almost certainly be lost were any replacement trees planted further to the south as they would be shielded by existing buildings to the east and even closer up from the north would be partly obscured by the proposed glass kiosk. The applicant has increased the number of trees to be replaced to 5 albeit it is worth noting that any trees planted in this revised location would have limited ability to grow to the height and spread currently achieved by the existing Sycamore trees.

As acknowledged by the Arboricultural Assessment, there is little other landscape interest in the immediate area and ordinarily, therefore, and taking into account the public representation received in respect of the matter, there would be no grounds at all to consider the removal of these trees as being acceptable. Again, though, it should be borne in mind that the applicant is attempting to invest in the town and were there a convincing case to justify the removal of the trees in the interest of the wider regeneration of the town centre, then this would have to be actively considered.

However, given the comments of the independent retail consultant engaged by the Council and the concern regarding the loss of Laura Ashley, it is not considered that such a case has been made and, in turn, therefore there is no reason to consider the loss of trees as acceptable.

Additionally, there is concern regarding the erection of the kiosk itself in visual and design terms. The kiosk would be 172 square metres and would be equivalent at its widest point to about half the width of the northern part of the Centre with visitors to the Centre being required to pass on either side of the kiosk. At present there are some tables and chairs often on the pavement in connection with a coffee shop on the south eastern side of the entrance to the Centre. Compared to the existing vista of 3 attractive trees and the backdrop of the curved colonnade (which the Design & Conservation Architect states were designed to frame the view from South Street and Chapel Road), it is not considered that without any compelling justification, the kiosk could be supported in its own right. As with Laura Ashley, it was investigated whether the removal of the kiosk element from the application, and hence the removal of the

trees, could be deleted from the application, but it is understood from the applicant that the development would not be viable if this element did not form part of the proposal.

To further address the above concerns the applicant has clarified that the kiosk has been specifically designed to meet the needs of its 'anchor' restaurant/cafe operator. To assist Members consideration of this proposal the applicant has now named the anchor tenant as 'Patisserie Valerie'. It is submitted that this tenant is the catalyst for agreeing terms with other well-known national restaurant/café chains as this operator is an aspirational café chain that will be a significant draw to Montague Centre increasing footfall and hence encouraging other similar high quality restaurant/café chains. The Council's Retail Consultant accepts the benefits of restaurant/cafes benefiting from a clustering effect and therefore this is a material consideration.

Concerns have been expressed that the kiosk is located on a Public Right of Way, but the County Council has confirmed that it cannot find any records of this being the case.

It should also be borne in mind that the A3 uses would be located close to the residential properties in Alexander Terrace but that any adverse impact upon residential amenity could be controlled by condition.

## **Conclusion**

This is an application that has attracted a high degree of public opposition albeit this relates primarily to the loss of trees. The application is also contrary to Policy 6 of the Core Strategy and Members have relatively recently (2014) resisted the change of use of the Laura Ashley units to an A3 use. With regards to the aims of the National Planning Policy Framework, it is also considered that the proposal could be justifiably resisted. In this respect the Council's Retail Consultant is not convinced that an exception to current policy can be justified.

Nonetheless, the applicant has committed to make a significant investment in the Centre but New River Retail has also made it clear that this investment would only be forthcoming if the scheme was approved in its entirety. The consideration of this application therefore turns on the applicant's financial arguments for supporting the proposal. In effect without a kiosk of the size proposed he would not be able to attract the key anchor tenant and without the change of use of the Laura Ashley units to A3 the level of investment in the Centre could not be justified.

Members have to therefore balance the potential benefits to the wider economy of the town centre (having regard to the above financial arguments) against the harm identified to adopted Development Plan policy and the harm caused due to the size and configuration of the new kiosk and loss of mature trees on the overall character and appearance of the area.

On balance, your Officers feel that the overall level of harm outweighs the potential benefits of the scheme and the application is recommended for refusal.

## **Recommendation**

To **REFUSE** permission for the following reasons:

01. The proposal would result in the loss of a number of retail units within the Central Shopping Area – Primary Zone A where A1 uses are specifically protected. In the particular instance of units 1 and 2, the loss of retail use would be in a highly visible primary frontage that forms part of the gateway into the town centre shopping area. In the absence of adequate information to suggest otherwise, the proposed non-retail uses are therefore considered to be harmful to the vitality and viability of the Town Centre and the proposal therefore conflicts with policy 6 of the Core Strategy and guidance contained within the National Planning Policy Framework.
  
02. The erection of the proposed kiosk by virtue of its size and siting would adversely affect the visual character of the Montague Centre and South Street Conservation Area as it would result in the loss of 3 Sycamore trees that are of high amenity value, obscure the view of the curved colonnade when viewed from the east and adversely affect the harmony of the street scene at its entrance to the Montague Centre which currently contains a wide bellmouth. The proposal is therefore contrary to policy 16 of the Core Strategy and guidance within the National Planning Policy Framework.

1<sup>st</sup> June 2016



Application Number: AWDM/0614/16

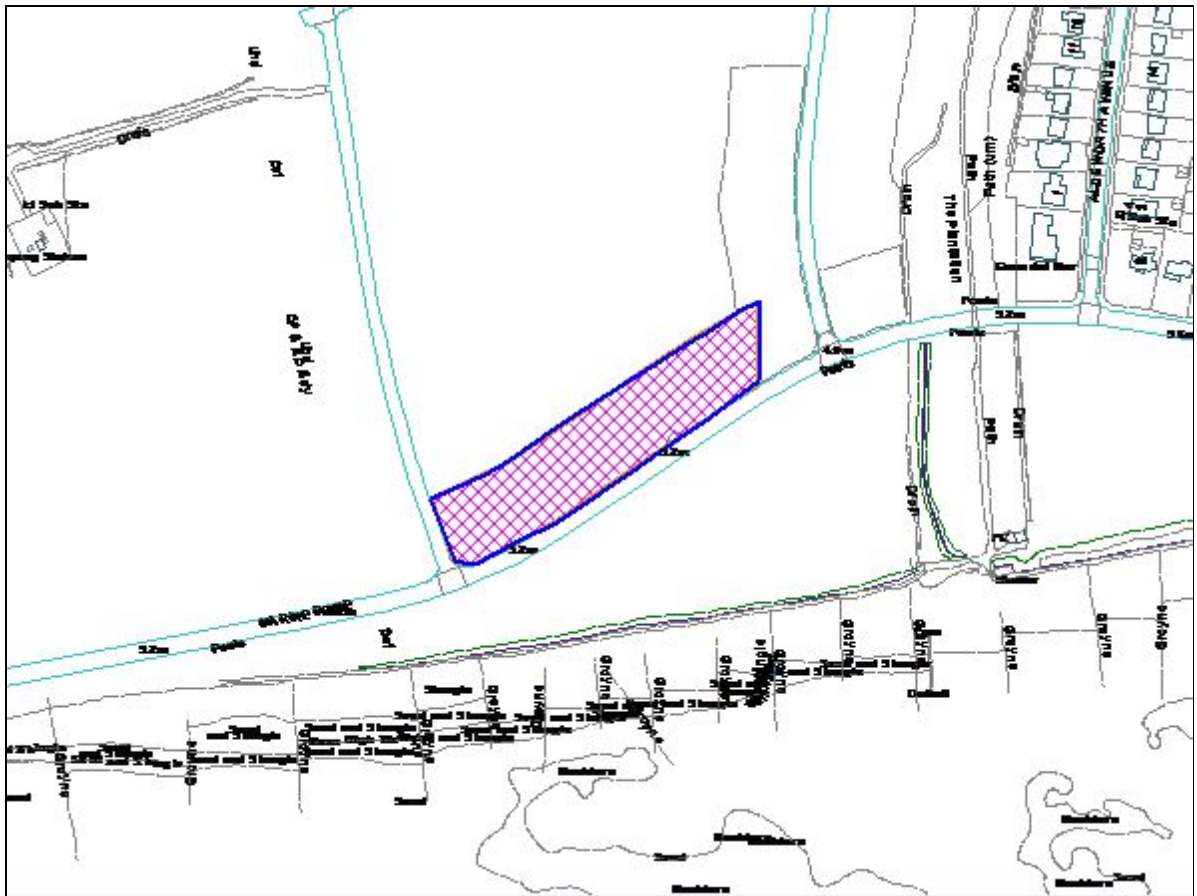
Recommendation – REFUSE

Site: Land South East Corner Of Amberley Drive, Marine Drive, Worthing

Proposal: Change of use of land to caravan and camping site with 46 pitches. Erection of amenity block building comprising toilets and showers, laundry room, store, office and reception. Construction of vehicular crossover and provision of parking and bin storage area.

Applicant: Sylvatica Limited  
Case Officer: Gary Peck

Ward: Goring



Not to Scale

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### Proposal, Site and Surroundings

This application seeks full permission for the change of use of land to caravan and camping site with 46 pitches. The erection of an amenity block building comprising toilets and showers, laundry room, store, office and reception is also proposed as well as the construction of vehicular crossover and provision of parking and bin storage area.

The 46 pitches would be laid out in 3 rows – 34 would be formally laid out on the western section of the site and other 12 contained within a field at the eastern end. The vehicular access to the site and amenity block would be situated between these 2 areas towards the eastern part of the site. The amenity block would measure 16.5 x 8 metres and comprise a manager's office, toilets and shower facilities and a reception area. The height of the building would be 4.3 metres.

The application site measures about 0.4 hectares and runs alongside the north side of Marine Drive, adjacent to the western entrance to Amberley Drive. The site is part of the undeveloped area of land between Goring and Ferring close to the Borough boundary.

The application site is grassed and surrounded by a post and wire fence on its northern, eastern and western boundaries. There is a small bank on the southern boundary with the road.

Residential development in Ferring is distantly visible from the application site, the nearest residential property being about 350 metres from the western boundary of the application site.

The nearest residential properties to the east are in Aldsworth Avenue, about 200 metres away, but these are completely screened by an intervening belt of trees ('The Plantation').

The area is known for caravan parking taking place on Marine Drive and some cars are often parked along various points in Amberley Drive but the overwhelming character of the site is open, and it is designated as countryside in the Core Strategy.

### **Relevant Planning History**

There is no planning history relevant to the determination of the application

### **Consultations**

Any consultation response will be reported verbally at the meeting.

### **Representations**

(as of 17 May – any further representations will be reported verbally at the meeting)

### ***Ferring Conservation Group***

Object to the application on the following grounds:

- Contrary to Local Plan Policy which allocates the land as open space and contributes to the gap between settlements
- The development would be grossly intrusive and out of character with the landscape
- The land has great agricultural potential
- Increased traffic in Marine Drive would lead to unacceptable congestion

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

- Both the Arun and Worthing Local Plans says that the location is unsuitable for development
- Goring Gap is a vital open space in the area
- The area is a valuable amenity for walkers
- Adverse impact upon the landscape
- Contrary to planning policies
- Increased traffic
- The materials for the amenity building are out of keeping with the area
- Increased flood risk
- Intrusion in the countryside
- Lack of infrastructure to support the proposal
- Increased noise and light pollution
- Another caravan park is not required
- Would be detrimental to the policy of keeping the separation between Goring and Ferring
- Adverse impact upon the view of the South Downs
- Extra strain in bins and recycling facilities that are already overflowing
- Adverse impact upon wildlife
- Camping has previously been prevented in the area
- Loss of habitat
- Health issues from the spraying of nearby arable land with chemicals

5 letters of support have been received on the following grounds:

- The proposal will attract people into Worthing
- Benefit to the local economy
- Scheme is what the town needs
- Preferable to residential use
- Other caravan sites in nearby areas are busy
- No other such space is provided near the seafront

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

Worthing Core Strategy (WBC 2011): Policies 5, 13 & 16

Adur & Worthing Hotel & Visitor Accommodation Futures Study 2013

Landscape and Ecology Study of Greenfield Sites in Worthing Borough 2015

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 main issue in the determination of the application is whether the proposal complies with planning policies having regard particularly to the visitor economy and the effect of the proposal upon the character of the area.

Policy 5 of the Core Strategy concerns the Visitor Economy and states that the Council will support suitable new tourist facilities with a particular focus on the town centre and seafront areas. The aim of the policy is to enhance the visitor offer to support the regeneration of the town.

The Adur & Worthing Hotel & Visitor Accommodation Futures Study 2013 stated that current provision for caravanning and camping in Adur & Worthing comprises the Northbrook Farm Caravan Club site in Worthing and three 5-van certificated sites in Adur (two certificated by the Caravan Club and one by the Camping and Caravanning Club). Further afield there are 3 touring caravan and camping sites at Littlehampton – the Littlehampton Caravan Club site (116 pitches), Daisyfields Touring Park (80 pitches) and Acorns campsite (14 pitches) – and one site at Washington to the north of Worthing – Washington Caravan & Camping Park (21 touring caravan pitches and 80 tent pitches).

The report concludes that there could be scope for additional small-scale caravanning and camping provision in the rural parts of Adur & Worthing and, as such, there is no objection in principle to the provision of the facilities proposed.

However, policy 5 requires new facilities to be 'suitable' and the key consideration in the determination of the application, given the location of the site, is whether the proposal meets such a requirement.

The application site is defined in the Core Strategy as 'Land outside of the Built Up Area Boundary'. New development is required to respect the natural environment, as set down by policy 13 and therefore any impact upon the natural environment is going to be an important factor in determining the application.

The most recent landscape study of the Borough was undertaken in 2015 to form part of the evidence base for the emerging Worthing Local Plan. The study assessed the 8 greenfield sites which had been promoted in the Strategic Housing Land Availability Assessment (SHLAA) and part of Site 4 (Goring-Ferring Gap) comprises the application site.

The Study states that the Goring-Ferring Gap is in a '*low lying flat open landscape*' and '*although a working agricultural enterprise, there is also a strong sense of public amenity with high public usage including walking along informal routes across the area, car parking along roads and picnicking south of the site along the coastline*'. The Study goes on to say '*together with land within Arun District, the site is one of the few remaining sections of undeveloped coast along the coastline locally, and*

*continues to form an effective gap which prevents coalescence between...settlements, with little or no development present or viable in the gap'.*

The Study further points out that the gap provides a '*visual connection uninterrupted by development, between the undeveloped coastline and the South Downs National Park*'. The Study further points out that the general area is visible from the National Park. The visual sensitivity of the area is therefore classed as 'major'.

The Study concludes that key considerations should be to '*maintain undeveloped landscape as part of effective separate (sic) between Goring-by-Sea and Ferring, maintaining visual link uninterrupted by development between the coastline and South Downs National Park*'.

While it should be borne in mind that the Study is assessing greenfield sites against the SHLAA and that this application site only forms a limited part, nonetheless the above comments demonstrate how important the site is. It is the view of your officers that, having regard to the above, the current proposal consisting of 34 caravan pitches and an amenity block in particular, would adversely affect the visual character of this important area to a significant degree. Even if there is a need for additional caravan and camping facilities, it is not considered so over-riding to an extent where it could be justified despite the adverse visual impact of the proposal.

Neither is it considered that there are conditions which could overcome the harm. Ordinarily, consideration could be given to some form of landscaping but as stated in the applicant's own supporting information, the natural environment in the immediate locality is quite hostile to trees and plants, hence the open nature of the area, and therefore only limited landscaping could be provided. This would mean that the development could not be adequately screened but, in any case, because the character of the land at present is so open, even if effective landscaping could be provided, it would be of an extent that itself would not be in keeping with the character of the area.

In conclusion, it is considered that the proposal would severely affect the character of the area to its visual detriment. There are no other material considerations that overcome such objections and accordingly it is recommended that the application be refused.

## **Recommendation**

To REFUSE permission for the following reason:

01. The proposed development by virtue of its scale and appearance would adversely affect the open and undeveloped character of the area which forms an important visual break between Goring and Ferring. The proposal therefore fails to comply with guidance within the National Planning Policy Framework, in particular Section 11, and policies 5, 13 and 16 of the Worthing Core Strategy 2011.

Application Number: AWDM/1583/15

Recommendation – APPROVE

Site: Kingsway Hotel, 117 - 119 Marine Parade, Worthing

**Proposal:** Change of use of Hotel (C1) to 11 x 2 bedroom apartments and 1 x 1 bedroom apartment and 2 x 3 bedroom flats (1 Queens Road) including demolition of existing flat roof extension and rebuild original Victorian rear extension and replacement of various windows with 10 parking spaces and associated landscaping.

Applicant: Mr Kam Sagar  
Case Officer: Gary Peck

Ward: Heene



**Not to Scale**

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### Proposal, Site and Surroundings

This application seeks full permission for the change of use of the Kingsway Hotel to 11 x 2 bedroom apartments, 1 x 1 bedroom apartment and 2 x 3 bedroom flats to the rear at 1 Queens Road. The works necessary to facilitate the change of use include the demolition of existing flat roof extensions, the rebuilding of the original Victorian

rear extension and the replacement of a number of windows. 10 parking spaces would be provided with associated landscaping.

The hotel comprises three adjoining Victorian properties of traditional appearance with an entrance lobby and hotel facilities such as the bar and restaurant at ground floor level. There are no letting rooms on the ground floor and these are contained on the upper 3 floors. There is also a separate building to the rear (1 Queens Road) and together the main building and dwelling provide 36 hotel rooms.

The application site sits at the corner of Marine Parade and Queens Road almost half a mile west of the Pier. The uses closest to the application site are primarily residential. To the north west are properties in Thorn Road which sit in close proximity to both 1 Queens Road and the existing rear extensions of the Hotel. To the east is the former Cavendish Hotel which was granted permission last year for the change of use to residential use – a current application seeks amendments to the earlier permission and is currently under consideration.

The main hotel is located within the Seafront and Hinterland Conservation Area but the annex to the rear is outside as the boundary runs along the rear boundary of the hotel.

### **Relevant Planning History**

Planning permission was refused in 2003 for the change of use from a hotel to residential accommodation comprising fifteen flats with alterations to implement the use.

The reason for refusal was:

*The Local Planning Authority is not satisfied that the hotel is unviable or that there is no demand for a Hotel in this location as the property has not been widely offered on the open market for an appropriate period of time and on this basis the Local Planning Authority considers that the case for the change of use to residential accommodation is unproven and conflicts with Policy T2 of the Worthing Local Plan 2003.*

A subsequent appeal was dismissed

In 2006, an application for the change of use of the existing Hotel to provide residential accommodation comprising 15 flats including alterations to implement the use and demolition of existing single-storey extension to the rear of the main block to create a landscaped garden area was withdrawn prior to its determination.

### **Consultations**

#### ***Housing Strategy and Development Manager***

Whilst WBC would welcome the 20% contribution in the form of units the planning policy compliant contribution would be in the form of a cash payment equivalent to 20% of the scheme.

11 x 2bed @ 20% = 11 x £16,170  
1 x 1bed @ 20% = 1 x £15,912  
2 x 3bed @ £20% = 2 x £21,021

Total Contribution: £235,824

**West Sussex County Council Highways:**

The proposal to convert the existing hotel into flats has been considered by WSCC as the Local Highway Authority. No objection is raised, subject to the conditions attached.

The proposal will provide 14 flats of a mix of mainly 2 and 3 bedrooms, with 1, 1bed apartment. The site is in a sustainable town centre location close to a range of amenities and within walking distance of public transport providers.

Located on the seafront, the building fronts onto Marine Parade. This is a busy road with a 30mph speed limit. Enforceable parking restrictions are in place outside and where parking is permitted this is made up of resident permit holder parking and pay and display bays.

The site will offer some car parking for residents. 10 spaces are proposed and use up all of the space available. WSCC consider this to be a satisfactory level of parking for a development in a town centre location, with on-street resident parking permits available. In line with Manual for streets guidance 5% of the car parking should be allocated for disabled use, and this has been undertaken.

The access into the car parking area will use the existing access from Queens Road, a dropped kerb is already in place, and as such this is deemed suitable for this use.

Cycle parking should, where possible be provided to encourage residents to use this as a form of transport. Ideally this should be secure and covered to keep them safe and usable.

**West Sussex County Council as Lead Local Flood Authority**

The following is the comments of the LLFA relating to surface water drainage for the proposed development and any associated observations, advice and conditions.

Current surface water flood risk based on uFMfSW for for 30 year and 100year events:	Low risk.
Comments: Current uFMfSW mapping shows the site to be at 'Low' risk from surface water flooding. The adjacent road (Queen's Road) is shown to be a high risk of surface water flooding.  Any existing surface water flow paths across the site must be maintained.	



Reason:	NPPF paragraph 103 states – ‘When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere..’
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Current groundwater flood risk based on ESI Ground Water mapping:	Moderate risk.
<p>Comments:</p> <p>The proposed development is shown to be at ‘Moderate risk’ from groundwater flooding based on the current ESI maps.</p> <p>Where the intention is to dispose of surface water via infiltration / soakaway, these should be shown to work through an appropriate assessment carried out under BRE Digest 365.</p> <p>Ground water contamination and Source Protection Zones. The potential for groundwater contamination within a source protection zone has not been considered by the LLFA. The LPA should consult with the EA if this is considered as risk.</p>	

Records of any ordinary watercourses or culverted watercourses within or in close vicinity to the site:	No.
<p>Comments:</p> <p>Current Ordnance Survey mapping does not show an ordinary watercourse running within or in close vicinity to the proposed development.</p>	

Records of any historic surface water flooding within the confines of the proposed site:	None.
<p>Comments:</p> <p>We do not have any records of historic surface water flooding within the confines of the proposed site. This should not be taken that this site has never suffered from flooding, only that it has never been reported to the LLFA.</p>	

Existing highway drainage in the vicinity to the site:	Yes.
<p>Comments:</p> <p>The adjacent roads have a positive highway drainage system.</p>	

**Environment Agency**

Normally we would expect new residential development to have finished floor levels set above the modelled 1 in 200 year undefended flood level for the year 2115. However we recognise this is a change of use from one which already has a residential element and therefore we have no objection.

## ***Environmental Health***

Contamination informative required in this instance.

## ***Technical Services***

Initial comment:

Thank you for the opportunity to comment upon this application, the proposed site lies within flood zone 3a, Queens Road is affected by surface water flooding, and has also been flooded in the past.

The applicant proposes to connect to SWS sewers for both foul and surface water; these connections will require SWS approvals.

The application form is clearly wrong at section 12 where it states the site is not in flood zone 3.

The FRA states in Table 1 page 4 that Surface Water Flows from the site will be attenuated to Greenfield runoff rates, but does not expand on this. It also states at paragraph 4.26 that there are no external changes to the dwelling which is not what is stated at section 4 of the Planning Statement. There are therefore issues that need further clarification

There needs to be a statement confirming existing greenfield flows, existing and proposed areas of impermeable surface, and runoff figures now and for future events, which include climate change, with details of how these increased volumes will be attenuated.

If this clarification is received and agreed before the application is fully considered I may be prepared not to request a condition.

Otherwise we request that should approval for this redevelopment be granted it be conditional such that *'no development approved by this permission shall commence until full details for the disposal of surface water have been approved by the Planning Authority'*

Further comment:

By taking the reference to attenuation (correcting their documentation) out then the application makes sense, There is minimal change to the external fabric of the building so surface water runoff would be unchanged.

Therefore I have no requirement for a condition.

## ***Conservation Area Advisory Committee***

No objection but more details of rear window required

## ***Hotel Solutions (independent consultant engaged by the Council)***

### **Initial conclusions**

We have structured our conclusions in response to three key questions:

- Is there still a case for retaining hotels in Worthing?
- Has the Kingsway Hotel been effectively marketed for sale?
- Is there proof that the Kingsway Hotel does not have a viable future with investment?

### **Is there a case for retaining hotels in Worthing?**

The Adur & Worthing Hotel & Visitor Accommodation Futures report concluded<sup>1</sup> that there was “an ongoing case to seek to retain visitor accommodation in Worthing to:

- Meet current shortages at peak times in the summer;
- Meet likely future growth in demand from the contractors and local corporate markets and demand from people attending weddings and family parties and visiting friends and relatives in the town;
- Maintain support for town centre and seafront vitality and regeneration in terms of spending by hotel and guesthouse guests in town centre and seafront pubs, bars, restaurants, cafes and shops;
- Provide the town with a sufficient base of accommodation to allow the future development of leisure tourism stays. “

From our analysis of trends in Worthing hotel performance and market demand since 2012 and the prospects for future growth in demand for hotel accommodation in the town, we believe that these arguments for seeking to retain existing hotels remain valid. There is still a future, we believe, for hotels in Worthing, and hotels have an important role to play in the local economy, albeit not particularly from a leisure tourism perspective currently.

The Viability Study for the Kingsway Hotel prepared by GVA takes a contrary view. This is clearly a very thorough piece of work and we do not disagree with much of the analysis of the Worthing hotel market as being seasonal and price sensitive, with relatively little leisure tourist demand and no real prospect of significant growth in this market for the foreseeable future. However, based on our knowledge of the Worthing hotel market from the two previous hotel and visitor studies that we have undertaken covering the town, and the research that we have undertaken in April 2016, we believe that the Viability Study paints an overly negative picture of the Worthing hotel market and its future growth potential, for a number of reasons:

GVA have relied on serviced accommodation data provided by Visit Worthing and discounted the more positive hotel performance data that we produced in 2013 on the basis of data provided by all of the hotels in Worthing. We were not made aware of this data and would question its reliability as we suspect that it is not based on a complete sample of hotels in the town. We are confident that our data is accurate and reliable.

The Viability Study downplays the importance of corporate and contractor demand, as the primary source of midweek business for the town's hotel.

It ignores the growth that has taken place in the corporate market 2014 and 2015.

It fails to acknowledge the potential for future growth in demand for hotel accommodation in the town, particularly from the contractor market as the major regeneration schemes are progressed.

It overstates the impact of the Travelodge and new Premier Inn.

The 2013 Hotel & Visitor Accommodation Futures identified two factors that suggested a need to allow some flexibility in applying the retention policy to hotels and guest houses in terms of:

- The opening of the redeveloped Beach Hotel potentially resulting in a substantially more competitive serviced accommodation market, diluting the winter hotel and guest house market in the town, and challenging some of Worthing's existing hotels and guest houses.
- The hotel and guesthouse property market having been depressed for the previous 5 years, as a result of the difficulties that prospective purchasers were facing in terms of securing bank finance to fund acquisitions and renovation work.

Our research shows that the new Premier Inn has so far only impacted significantly on one of Worthing's hotels (although it may also have affected The Kingsway Hotel, which we did not include in our survey of hotel managers). The Premier Inn has quickly established itself in the Worthing market and is already consistently filling on most days of the week. We would expect that it will start to turn business away as it become more established, and would expect its impact on existing hotels to lessen as the market settles down.

Reports from leading hotel property agents point to a significantly improved hotel property market across the UK. The quote below from Fleurets' 'On Market' report in March 2015 clearly illustrates this:

*"Improving performance and increased availability of finance, together with positive messages and improved confidence affecting the sector generally, is driving activity across the full spectrum of hotels, from small guest houses, through to unbranded mid-scale hotels. With demand for the right hotel stock arguably outstripping supply, in turn applying upward pressure to pricing, the outlook in terms of transactional activity, at least in the short term, is positive"*

On balance therefore the factors that we identified in 2013 that pointed to a need for greater flexibility in the application of the accommodation retention policy appear not to be as pertinent, as the new Premier Inn does not seem to be having a devastating impact on most existing hotels, and the hotel property market has clearly strengthened.

## **Has the Kingsway Hotel been effectively marketed for sale?**

The hotel has been marketed by one of the leading hotel property agents in the country, Christie & Co, and the Viability Study provides evidence that they proactively marketed the property for a period of 2 or 2.5 years (the Viability Study quotes two different periods for when the hotel was marketed – August 2012 to December 2014 and summer 2012 to spring 2014). The key question however is whether it was marketed at a realistic price. On the basis of the work that we have undertaken to compare the asking price for the Kingsway Hotel with the recent and current advertised prices of other hotels in seaside resorts on the South Coast (Appendix 1), the initial prices at which the hotel was marketed were significantly higher than the market average that we have identified. Whilst the final price at which it was marketed (£999,000) would seem to be a more realistic figure, it was only marketed at this price for a period of 6 or 14 months (depending on how long the hotel was marketed for). From this perspective, it does not meet the planning policy requirements set out in the Adopted Worthing Core Strategy and the Worthing Sustainable Economy SPD. A longer period of marketing at this price might have produced more interest, particularly given the upturn in the hotel property market in 2014 and 2015.

## **Is there proof that the Kingsway Hotel does not have a viable future with investment?**

We are unable to answer this question conclusively. Viability is relative and depends on so many different factors, including the strength of the market, the level of investment required, the financing package, the business and investment objectives of the owner, and their ability to run a business effectively.

From our assessment of the evidence put forward in the Viability Study it is clear that the Kingsway Hotel has been stuck in a spiral of decline with the deteriorating quality of the hotel resulting in poor reviews, which in turn have reduced trade, leading to lower profits and no money for investment to break out of this cycle. While we agree that the hotel operates in a seasonal and price competitive market in Worthing, we would contend that its decline is primarily as a result of the lack of investment. Other hotels in the town have invested and been able to maintain and in some cases increase their revenues.

The key issue then is whether the hotel could have a viable future with investment. We would agree that the four possible future options for the hotel that have been looked at by GVA are sensible ones to have considered. We agree that conversion to a budget hotel would not be an option. They could have considered conversion to a boutique hotel, but we would accept that there is an unproven market for such a hotel in Worthing. The option of partial conversion to residential and investment in the remaining hotel was not considered.

On the basis of the financial estimates presented for the four options we would agree that none of them would be able to support significant borrowing, nor do they represent attractive investment propositions. We do not however have the expertise to challenge the financial estimates. From our knowledge of how other hotels are trading in Worthing, the occupancy and ADR figures put forward seem reasonable. We do not have the expertise to comment on the total revenue figures, or the

operating costs, and therefore the profit projections. This would require the services of a suitably qualified professional to examine the detailed assumptions behind them. We do not have the qualifications to comment on the estimates of investment required. The Council will need to appoint a suitably qualified professional if it requires an independent view of these figures.

### **Concluding Comments**

Contrary to the conclusions put forward in the Viability Study, we believe that there is sufficient evidence of ongoing market demand for hotel accommodation in Worthing, and that it not unreasonable therefore for the Borough Council to seek to retain existing hotels.

We would suggest that the decision on whether or not to allow the change of use of the Kingsway Hotel should rest primarily on whether it has been effectively marketed for sale. As we have stated, the evidence shows that it has not been marketed for a sufficient period at a realistic price. The application therefore fails on this test. This is a hotel in a prime seafront location which it would be regrettable to lose if it had a chance of successfully re-positioning to meet modern market standards. Given the failure to market at a realistic price for 2-3 years, and the more recent strengthening of the property market and funding climate, it would be worth a further attempt to find a buyer.

It is very difficult to prove or disprove non-viability. The Council would need to commission further experts to examine in detail the financial projections that have been put forward for each option and the estimates of the required investment, however such investigations might still be inconclusive, and are not needed as the application fails on the marketing for sale test.

### ***Applicant's response***

Having had a chance to review Hotel Solutions' (HS) response to our Viability Study concerning the project named above, we note the following in response to the key points. (Hotel Solutions comments in italics)

*(HS) The initial prices at which the hotel was marketed were significantly higher than the market average that we have identified. Whilst the final price at which it was marketed (£999,000) would seem to be a more realistic figure, it was only marketed at this price for a period of 6 or 14 months (depending on how long the hotel was marketed for).*

We note that the price would appear reasonable; our Appendix E noted that the hotel was valued at £1.2 million and the neighbouring Cavendish Hotel (17 bedrooms) was marketed at £925k, or approximately £54k per room which is higher than the Kingsway, and yet this higher price was presumably considered acceptable by the council in approving permission for the loss of the Cavendish.

Hotel Solutions provide hotel market comparables from Eastbourne, the Isle of Wight and Bournemouth at the end of their paper. With the exception of one clearly very poor quality hotel on the Isle of Wight that was marketed at £20,312 per room, the other hotels fall in a range from £29,000 to £50,000. At £34,440 per room, the

marketing price for the Kingsway appears towards the lower end of these comparables.

Our own hotel agents are currently marketing a 90 bedroom hotel in Eastbourne at a figure equating to £33,333 per room which they feel is appropriate to attract potential hotel operators. Again, therefore, the market price for the Kingsway seems appropriate.

We consider that the Kingsway was marketed for ample time to find potential hotel operators at a reducing price by a national firm of surveyors specialising in hotel agency. The hotel was marketed at a reducing rate for 3.5 years ending at a market price £999k in September 2013. The original price of £1.8m still falls within the range of comparable transactions highlighted by Hotel Solutions, and indeed is still comparable to the end value of the Cavendish Hotel on a per bedroom basis. Increasing the length of time for which the hotel was marketed will not overcome the basic fact that no operator would be able to prepare a viable case to raise bank funding to purchase and invest in the hotel.

Notwithstanding our view that the hotel was marketed at a realistic 'hotel market' price, our planning consultant has asked us to note that the Council's adopted planning policy 5 does not require the marketing of any hotel for any length of time at any particular price as one of the policy tests for allowing the loss of visitor accommodation. Rather, it requires an assessment of viability of the current use, and consideration of alternative tourist/leisure/visitor uses. The viability study submitted with the application complies with that adopted policy and refusing the application on grounds that are not required by the council's own adopted policy would be difficult to justify at an appeal.

*(HS) GVA have relied on serviced accommodation data provided by Visit Worthing and discounted the more positive hotel performance data that we produced in 2013 on the basis of data provided by all of the hotels in Worthing;*

This is incorrect and we make specific reference to their figures on page 17. We do, however, note that we believe these figures to be marginally higher than achieved and have reduced (only slightly) for our projections. Hotel Solutions note on page 14 that four guest houses closed in Worthing in 2014 and 2015; while no reason is stated, we believe this is due to poor trading conditions.

*(HS) The Viability Study downplays the importance of corporate and contractor demand, as the primary source of midweek business for the town's hotel. It ignores the growth that has taken place in the corporate market in 2014 and 2015.*

As Hotel Solutions note in their response, much of the growth of corporate demand has been contractor demand, which is typically 'low rate' business, while they acknowledge on page 20 of their report that contractor demand "has reduced in 2016, now that the GlaxoSmithKline (GSK) plant has been completed". They also note on page 22 that some companies have however "downsized or closed their operations in Worthing e.g. EDF Energy has closed its Worthing call centre to relocate its operations to Hove". Nonetheless, we have not discounted the corporate market from our financial projections; we have increased corporate demand from

2017 with the new GSK manufacturing facility and our projections were supported by a process of corporate demand research with major local companies.

*(HS) It fails to acknowledge the potential for future growth in demand for hotel accommodation in the town, particularly from the contractor market as the major regeneration schemes are progressed.*

We reiterate our point above about contractor businesses require low rates. Also we do not believe that committed regeneration projects in the town are likely to increase demand drastically. Regardless, our financial projections forecast demand growth in line with PricewaterhouseCoopers' economic projections (2.4% in 2015 and 2.5% annually from 2016) which are healthy assumptions. Possible growth markets on the Kingsway, such as coach tours, are not viable due to the lack of parking and size of the hotel. We note that Hotel Solutions agree that the hotel is not suitable to take coach tours in any event.

*(HS) There is a significant difference however with the figures shown in Christie & Co's sales particulars for the hotel. The latest version (when the price was reduced to £999k) state the 'the trading accounts for the year ended 31 March 2014 show a turnover net of VAT of £495,072 and an adjusted net profit of £165,000'. These figures compare to a turnover figure of £430,787 and an operating loss of £2,287 reported in the Viability Study.*

We are unable to account for the figures used by Christie & Co and how they arrived at these, as we were not involved in the marketing of the site and this occurred before we were instructed. The figures that we used in the Viability Study were derived directly from the client (who in turn obtained them from the hotel owner's accountant) and we have assumed that these are correct. Moreover, our viability assessment does not rely on these figures, rather we have prepared our own estimates based upon the operation of the hotel by a competent operator based on industry norms and subject to the investment, expenditure and income assumptions clearly set out in the detail of our report.

*(HS) It overstates the impact of the Travelodge and new Premier Inn.*

Given the Kingsway's proximity to both of these properties, and the need for investment to compete, we disagree with this statement as it has, and will, undoubtedly impact on the hotel's ability to drive up performance (they note that they did not contact the Kingsway as part of their research in April 2016). Furthermore, we note that the planning application report submitted on the viability of reopening the former Cavendish hotel nearby noted the opening of the Travelodge as being "disastrous" for their business. The likely impact in our report is based on similar experience of Premier Inn hotels openings on small hotel markets elsewhere in the UK, where they have driven down the average occupancy of nearby hotels in the first few years of opening. Finally, our vast experience of undertaking corporate demand research across the UK highlights a strong customer preference for branded hotels such as Premier Inn and Travelodge, which is a major negative for the Kingsway given its aforementioned location.

There has been a clear pattern in the local market; the Berkeley closed, presumably due to an oversupply in the local market; it was replaced by the Travelodge, which



led to the closure of the Beech Hotel for the same reason; it was replaced by the Premier Inn, which is now putting pressure on other low-mid market unbranded hotels including the Kingsway and having already led to the closure of the Cavendish.

*(HS) Is there proof that the Kingsway Hotel does not have a viable future with investment?*

Hotel Solutions note that they do not have the required expertise to answer his question. We, however, do; we on average undertake 70 hotel financial feasibility studies per year and a successful track record over 30 years. Our projections were based on detailed market research and were supported by sound judgement due to our expertise. We forecasted that several future scenarios (which Hotel Solutions support are sensible) were able to achieve a profit, but required significant capital expenditure to achieve this (these were based on detailed cost estimates provided by Quantity Surveyors). The result for all scenarios was that each produced a development loss which is non-commercial and therefore not viable. The alternative, an “as is” scenario, is not feasible; the Kingsway Hotel is not viable in its current format due largely to the need for investment to address its falling quality standards. I would be quite prepared to defend our financial projections under detailed cross-examination, if necessary.

*(HS) The option of partial conversion to residential and investment in the remaining hotel was not considered.*

Such a reduction in the number of remaining hotel rooms would clearly further undermine the long term viability of the hotel, making it too small to drive sufficient room, bar and restaurant revenues and yet far too large to be run as a family guest house operation. We have already noted the recent acceptance of the loss of four guest houses. Similar to the previous point, any potential uplift in performance of the refurbished hotel would not cover the investment required.

### ***Further Consultant comments to applicant's response***

The key issue we believe is whether the hotel was marketed for sale at a realistic price for a sufficient period, as required by the Sustainable Economy SPD. GVA seem to agree with our assessment that the final asking price of £999k was realistic. They do not however respond to the question about how long it was marketed for at this price. The Viability Study states that the asking price was dropped to this level in September 2013. There is a discrepancy however about how long it was then marketed for at this price. The Viability Study gives two timeframes for when the hotel was marketed until – up to spring 2014 and until December 2014. If it was the former of these two time periods, the hotel would have only been marketed at the more realistic price for 6 months. If the latter, then the marketing period at the lower price would have been 14 months. The SPD requires 2 years, or 3 years in a downturned market.

GVA make a valid point about the asking price for the Cavendish Hotel, although this was not mentioned in the Viability Study. If the Council accepted £925k/ £54k per room as an acceptable asking price for this hotel to have been marketed at, the equivalent ‘acceptable price’ for the Kingsway Hotel would be £1.566m. The hotel

was marketed at this price from November 2012 until spring 2014 or December 2014 (whichever is the correct timeframe) i.e. 18 months or 2 years.

We stand by our assessment that the Viability Study paints an overly negative picture of the Worthing hotel market and its future growth potential, and overstates the impact of the Travelodge and Premier Inn, for the reasons set out in our report. We are highly qualified to comment on these matters. Hotel Solutions is a leading consultancy that specialises in undertaking strategic hotel market assessments for English destinations. We have completed more than 80 Hotel Futures Studies covering more than 175 locations. We know the Worthing hotel market well, having completed two previous detailed studies of the Worthing hotel market in 2009 and 2013. In compiling our report on the Kingsway Hotel change of use application we undertook a telephone survey of all of Worthing's hotels and accessed performance data for the new Premier Inn from the hotel's head office. We agree with GVA that Worthing is a challenging market for an independent 3 star hotel, however other such hotels in the town that have seen investment and that are effectively marketed and managed are trading reasonably well, and three of them do not appear to have been affected greatly by the opening on the new Premier Inn.

As we have stated in our report we are not able to comment conclusively on whether the Viability Study proves that the Kingsway Hotel does not have a viable future with investment. Our expertise is hotel market assessment; the estimates of required investment and financial projections would need to be undertaken by other suitably qualified professionals. We would however comment that in our experience viability is often a relative term and dependent on a hotel owner's personal aspirations and circumstances. Hotel acquisition and investment is not always viewed on purely commercial terms; many independent hotels are run as lifestyle businesses. There could therefore be potential purchasers out there that would buy the Kingsway Hotel and invest in it, provided that the asking price is reasonable. The key question is whether this has been fully tested in terms of the hotel having been marketed at a realistic price for a sufficiently long period to provide the chance for a new owner to be found.

### ***Final response from applicant***

It seems like we are mostly in accord, the main issue being whether the hotel was marketed at a suitable 'hotel' price for a sufficient period.

However, even on this point it is noted that HS agree that the hotel was marketed at an acceptable price equivalent to the Cavendish 'from November 2012 until spring 2014 or December 2014 (whichever is the correct timeframe) i.e. 18 months or 2 years'. The actual period was 2 years and four months which surpasses the two years required to meet the SPD in an 'upturned' market. The base of the last recession was 2008/09. From the middle of 2012 the UK was clearly climbing out of recession – which I would take to be an upturned market.

Notwithstanding, HS are actually wrong in their calculations. They have multiplied the accepted Cavendish price of £54k per room by 29 rooms to get £1.566m. This figure should have been multiplied by the 36 bedrooms that were being offered as a whole at that time (the hotel and annex) giving a market price of £1.994m. For the

sake of clarity, I have summarised marketing periods and associated asking prices in the table below.

MARKETING PRICE		
ROOMS OFFERED		
PRICE PER ROOM		
£1,800,000	36	£50,000.00
£1,650,000	36	£45,833.33
£1,550,000	36	£43,055.56
£1,250,000	29	£43,103.45
£999,000	29	£34,448.28

Please refer to Appendix D of the original submission for the associated sales particulars.

As our evidence shows, the Kingsway was marketed at £1.8m from August 2012, i.e. below that accepted market price, and then dropped further and below the (incorrect) HS calculated figure. Our client's finally agreed to buy the hotel in December 2014, by which time the hotel had been split for marketing purposes into the main hotel and annex, with the main 29 bed hotel being sold for £999k or £34k per room.

Therefore, at all stages of the marketing process the hotel has been marketed at an acceptable hotel market price, as agreed by HS (and by the council in agreeing planning permission for the Cavendish), for a period of 2 years and four months, in an upturned market, which is in excess of the period required by the SPD. All this information was in our Hotel Consultant's original viability report and then in their subsequent letter of 4th May 2016. I think we are in danger of being asked to constantly repeat ourselves.

### ***Final consultant response (summarised)***

- It is not agreed that Hotel Solutions consider that an asking price equivalent to the Cavendish Hotel was considered acceptable. However, the Council's previous decision in considering such pricing to be acceptable could be seen as a precedent
- The view remains that the Hotel was only marketed at a realistic price when it was reduced to £999k and there is still a lack of clarity as to how long the hotel was marketed for this period
- In any case, the marketing period falls below that required
- The asking price for the Cavendish was not part of the case made in the applicant's viability study. It is only presumed to be acceptable because the Council granted permission for change of use.

### **Representations**

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

- Loss of privacy
- Loss of light
- Council should protect tourism
- Number of hotels have been lost already

- Have not seen evidence of the site being marketed
- Nuisance caused by building works
- Should remain a hotel

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

Saved Local Plan policies (WBC 2003): RES7, H18, TR9  
 Worthing Core Strategy (WBC 2011): Policies 5, 6, 7, 8 & 16  
 The Adur and Worthing Hotel and Visitor Accommodation Futures Study (Dec 2013)  
 Adur and Worthing Tourism Vision Action Plan  
 Worthing Borough Council Supplementary Planning Documents; Guide for Residential Development, Residential Space Standards, Sustainable Economy

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.

In respect of development within Conservation Areas, Members will also be aware that Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a general duty on Local Planning Authorities to have '*special attention...to the desirability of preserving or enhancing the character or appearance of that area.*'

### **Planning Assessment**

The key issues in the determination of the application are whether the proposal complies with relevant planning policies/legislation and the effect of the proposal upon the character of the area and the amenities of neighbouring properties.

The Kingsway Hotel was subject of a previous application in 2003 for the change of use of the hotel to residential purposes which was refused and a subsequent appeal dismissed in 2004. In dismissing the appeal, the Inspector stated:

*'...in the absence of convincing evidence that the Kingsway Hotel can no longer be operated as a profitable business, the proposal would be harmful to the local tourism industry'*

At that time, the then Local Plan policy did not require an independent review nor marketing of the premises but the Inspector felt '*...both measures would be essential components of any credible attempt to demonstrate compliance with the policy in this*

*case particularly where there is no tangible evidence of other hotels in the resort seeking to convert to other uses'*

Given the length of time that has elapsed since the previous appeal (12 years), the change in policy requirements and the fact that there is now tangible evidence of other hotels seeking to convert to other uses, it is considered that the previous appeal decision has limited weight and accordingly the proposal merits fresh consideration.

Policy 5 of the Core Strategy states:

*The retention, upgrading and enhancement of existing visitor attractions and visitor accommodation to meet changing consumer demands will be supported.*

*The Council will support suitable new tourist and leisure facilities, with a particular focus on the town centre and seafront area. The aim is to enhance the visitor offer to support the regeneration of the town and help to reduce seasonality.*

*The Council will work with partners to support the role of the arts, creative industries and sustainable tourism sector in creating a modern and exciting environment that will attract more visitors to the town.*

*The existing stock of visitor accommodation will be safeguarded unless:*

- *It is demonstrated that the loss of some bed spaces is the only way of improving the standard of the existing accommodation*
- *Having undertaken an assessment of viability it is accepted that the current use is non-viable. If this is the case, alternative tourist / leisure / visitor uses would need to be considered before a non-tourism related use would be accepted*
- *Alternative uses will be considered on the basis of whether they enhance the role of the visitor/tourist economy and vitality of the seafront and town centre area*

The policy is reinforced by the subsequently adopted Sustainable Economy Supplementary Planning Document (SPD) which provides more guidance on how Policy 5 will be applied to relevant development. With particular reference to this application, it states at paragraph 3.7:

*Although the hotel and guesthouse market and forecast demand is relatively strong in Worthing it is acknowledged that some establishments are experiencing challenging times during the current economic climate. The Council will assess all applications for the loss of visitor accommodation on their individual merits. **However, the Council's starting point is to protect existing stock for which there is a viable future.** Where it can be demonstrated that the existing use is no longer viable consideration will be expected to be given to suitable alternative leisure/visitor uses before a non-tourism use would be accepted.*

In addition the SPD states that any application will need to provide the following proof of marketing (para 3.12):

Applicants will need to demonstrate that there have been realistic attempts to sell the business over a reasonable period of time:

- The business should normally have been marketed for sale as a going concern for a minimum period of 2 years in a strong market and 3 years in a downturned market. In exceptional circumstances a shorter marketing period may be acceptable if justification for this can be given and then accepted by the Council.
- Details of the agents used will be required. Reputable local or specialist hotel property and or/business sales agents will need to be used.
- Evidence will be needed that a variety of marketing mediums have been used such as brochures, advertisements in relevant publications, and web-sites etc.
- Marketing at a realistic asking price taking account of current trading performance and condition. This could be determined through monitoring of local hotel and guesthouse sales and /or through an independent valuation /independent advice from specialist hotel and guesthouse property agents. There maybe circumstances where it is necessary for the Council to commission such a valuation and require the costs to be meet by the applicants.
- In addition, evidence will be required indicating records of response, interest shown and offers received with reason as to why potential purchasers did not pursue the sale or why offers were rejected. The Council reserve the right to contact any person listed on the record of response should the need arise.

In terms of viability, it is required that:

*In order to give adequate consideration to a proposal that involves the loss of visitor accommodation the Council will seek evidence from the applicant to demonstrate that the premises are firstly not economically viable in their current use and secondly that they are incapable of being made viable as visitor accommodation. The potential of an establishment to be run as a viable operation will be a key test. Current trading performance is no guide to potential. This information. the 'viability test' will be sought by the council in order that proper consideration can be given to the proposal*

The guidance concludes:

*It is not the intention of the council to retain accommodation for which there is no market need. The council will be flexible in its approach and have regard to all material considerations at the time of the application including being responsive to the changes in the market, the economy, the accommodation supply and Worthing as a tourist destination. The key objective is to support the tourism sector by ensuring that there is a sufficient range of types and quality of visitor accommodation to meet the needs of Worthing's visitors*

As can be seen from the above consultation responses, the Council engaged the services of an independent consultant to comment on the submitted information. There was a great degree of supporting information submitted with the application, albeit the applicant made no reference to the Sustainable Economy SPD initially and

therefore further information regarding marketing was required. The applicant's agent considers that the SPD holds little weight as it has not been examined by an Inspector but this is strongly disputed by your officers: the SPD is supplementary (by nature) to a policy (5) which has been the subject of examination and the SPD itself has been the subject of public consultation. It should, therefore, be accorded due weight.

Members will be aware that a number of other applications for change of use from hotels have been considered against the above guidance and approved. Sadly, the situation as noted by the Inspector in 2003, there being no tangible evidence of such changes, no longer exists. Most relevantly, the Cavendish Hotel, which is directly to the east was granted change of use to residential only last year.

There are obvious differences between the Cavendish and the Kingsway, the former having been vacant for 2 years and in such a state of disrepair that its re-use was not considered viable. In that regard, it does not act as a precedent for the current proposal. That being said, and as evidenced in the consultation responses above, the Cavendish was marketed at a higher price than the Kingsway has latterly been marketed for (despite the obvious upgrading works needed to the Cavendish to bring back into use) and the change of use was considered acceptable.

In comparison, therefore, the Kingsway which is a hotel at present still currently operational and quite clearly in better condition than the Cavendish has been marketed at a lower price, yet there is still no apparent interest from an alternative hotel provider. The application site is very close to the Premier Inn site and relatively near the Travelodge and so the points made in this application along with others made recently are the same: namely that the respective chains are taking much of the trade from individual hotels such as the Kingsway. This is a point that could be argued either way in that if demand to occupy Travelodge and Premier Inn is so high, there could be resultant demand elsewhere if both of the establishments are regularly fully booked but it seems more likely that they are both taking up what demand there exists for such accommodation making it difficult for others nearby to compete.

It is evident that while the Kingsway has been marketed at what may be termed a 'reasonable price' (£999,000) this has evidently not been for the required period of 2 years under the terms of the SPD (if the market is considered 'strong') – at best it is 14 months. Counterbalanced against this, from the applicant's point of view, it has been advertised by a specialist hotel/leisure agent for over 2 years at a price lower than the Council considered sufficient for the Cavendish (as stated earlier however there were factors involved in that case notably the poor condition of the hotel).

The conclusion, therefore, is difficult and one that can only be made on balance either way. As much as the Council wishes to support tourism and the visitor economy and ensure that hotel accommodation is not simply lost for a more profitable conversion to residential use, there is evidence of a number of smaller hotels being marketed and a lack of interest from potential hotel operators. It is also relevant that Roffey Homes spent some time trying to attract Premier Inn despite the fact that this was for a new purpose built hotel.

As the Council's Consultant indicates, there is conflict with the Sustainable Economy SPD in terms of the length that the hotel was marketed at an 'appropriate' price.

However, the lack of any interest over an extended period, its marketing by specialist agents and the submitted evidence that the hotel could not be run as a profitable business would, on balance, support the proposed change of use.

In visual terms, the proposal would result in a visual improvement, enhancing the Conservation Area and this would also weigh in favour of supporting the current proposal. As such, the current use of the building rather detracts from its appearance with the signage for the hotel being of limited visual quality. In the past, officers have been concerned about the number of advertisements, including banners, outside the hotel and while some have been removed (following the threat of prosecution), the signage is not in keeping with the overall character of the building, not helped by the fact that the main signage is on an unsympathetic entrance canopy whereas the other entrances in the terrace are on classical columns. As part of the proposals, the original column design will be reinstated.

On the second floor, one of the windows has been replaced with UPVC windows. This does not appear to have been the subject of any planning permission (indeed some proposals for replacement UPVC windows were refused permission in 2009) and again the opportunity to secure the replacement of this window with timber sliding sash replacements to match the rest of the building is to be welcomed.

To the rear of the building, as is often the case with buildings that front the seafront, the building presents a rather cluttered appearance when viewed from Queen's Road. There are 3 similar elements projecting from second floor level with a gently sloping roof element to first floor level before a single-storey element nearest to the existing annexe in Queen's Road. A slight gap between these elements and contrasting window designs does not assist with the symmetry of the rear elevation and further beyond the site to the west is a large flat roofed extension.

The proposal would result in an almost full width rear extension extending up to third floor level with a depth of 5 metres. While the new extension would be higher than the existing (rising to third floor level instead of the second floor level, its depth would be the equivalent to the highest part of the extension but 5 metres shorter than the first floor element that exists at present. Given that there are higher elements already existing further along the block, it is not considered that the proposed alterations would adversely affect nearby residential properties by way of their overall height and the reduction in depth along the lower parts of the extension is also to be welcomed, not only in neighbour impact terms but also with respect to the street scene impacts as there will be a greater gap between the annexe in Queen's Road and the rear of the main building. Such spacing would be beneficial in a road quite densely populated with buildings.

The annexe itself would be extended to the south and given its close proximity to properties to the rear, in Thorn Road, the extension itself would have some impact upon those properties, most particularly numbers 2 and 4. However, this effect must be balanced against the increased spacing being created between the rear of the hotel and the annexe itself. At present the gap is less than 1 metre (albeit at ground floor level) and at first floor level, the gap about 6 metres. Even with the annexe extension, the new gap between the buildings would be in excess of 10 metres and, on balance, therefore it is considered that the impact upon neighbouring properties is acceptable.



There would be a greater number of windows in the rear elevation of the main building than is the case at present, but there are a large number of windows in the rear block as a whole and it is not considered that there will be a material increase in overlooking sufficient to justify a refusal of planning permission.

Because the development does not result in the net increase of floorspace, there is no Community Infrastructure Levy (CIL) charge payable, however the development would result in an affordable housing contribution of £235,824 towards off-site provision.

In conclusion, this has proved to be a difficult case to consider and the recommendation made is on balance but given the clear difficulties running viable hotel businesses of this type at present, the proximity of previous decisions allowing changes of use, the visual improvements to the building and the opportunity to secure affordable housing contributions as well as additional housing units, it is considered that a recommendation to grant permission can be justified.

### **Recommendation**

To **GRANT** permission subject to the completion of a legal agreement securing a financial contribution to the provision of off-site affordable housing

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

01. Full Permission
02. The development permitted by this planning permission shall only be carried out in accordance with the approved FRA submitted prepared by GVA/Bilfinger dated October 2015 and the following mitigation measures detailed within the FRA:
  - i. Identification and provision of safe route(s) into and out of the site to an appropriate safe haven (as detailed on page 14-15 of the FRA).
  - ii. Other mitigation measures detailed in the FRA.
  - iii. Flood boards will be used on the ground floor level as agreed with the engineering department at Worthing and Adur District Council.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority (LPA).

Reason:

- i. To ensure safe access and egress from and to the site.
- ii. To reduce the risk of flooding to the proposed development and future occupants.
- iii. To reduce the risk of flooding to the proposed development and future occupants on the ground floor (as the change of use is from first floor sleeping to ground floor).

03. Submission of method statement submitted and agreed (including contractors parking/storage and site set up; dust suppression).
04. Approval of materials.
05. Hours of Construction.
06. Development in accordance with approved plans.

**Informative** – precautionary contamination.

1<sup>st</sup> June 2016

**Application Number: AWDM/0418/16**

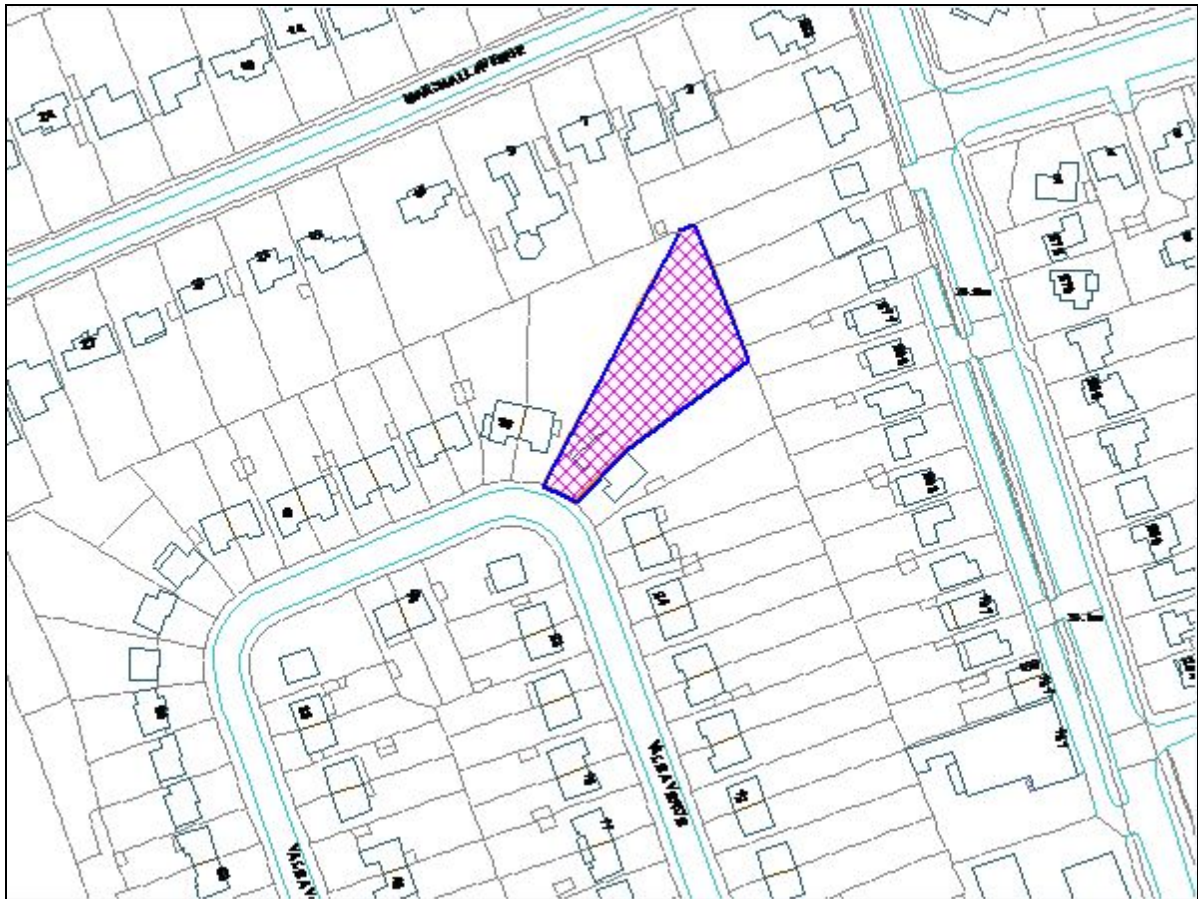
**Recommendation – REFUSE**

**Site: 32 Vale Avenue, Worthing**

**Proposal: Proposed two bungalows in the rear garden of 32 Vale Avenue, together with new access drive and landscaping.**

Applicant: Mr & Mrs Graeme Brooker  
Case Officer: Gary Peck

Ward: Offington



**Not to Scale**

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

This application seeks full permission for the erection of two bungalows in the rear garden of 32 Vale Avenue, together with new access drive and landscaping.

The supporting information states that the bungalows will be equipped and designed for those who are physically disabled. One of the bungalows would be occupied by the sister of the applicant (the applicant being her registered carer) whose condition is stated to have deteriorated over recent years and is unable to adapt her existing property. The proceeds of the sale of the second bungalow would ensure 24 hour care support could be provided for the applicant's sister. It is understood that there is

interest from a local disabled person to purchase the second dwelling and that the applicant would be willing to enter into a legal agreement if permission were granted to ensure that the dwellings are retained for disabled persons in perpetuity.

The application site comprises the garden of 32 Vale Avenue, a bungalow, which is located at the north eastern end of Vale Avenue. A small flat garage sits to the west of the property and this would be demolished to form the access to the rear. As a corner plot, it has a particularly wide garden (in excess of 40 metres at its widest point) but as an almost triangular plot, its road frontage is much narrower at almost exactly 10 metres wide.

Surrounding development on the same side of the road is similar in nature but there is a slope from west to east when viewed from the road and therefore number 34 sits higher than the application site and number 30 is lower. The rear garden also slopes away to the north east. At the rear are properties in Findon Road, all of which are at least 25 metres from the mutual boundary.

### **Relevant Planning History**

There is no planning history relevant to the determination of the application

### **Consultations**

#### ***West Sussex County Council Highways:***

The proposal is for 2 x 2-bedroom bungalows and parking designed for physically disabled people, on land to the rear of no. 32. Access to no. 32 is off Vale Avenue, a 'D' classified road subject to a 30mph speed restriction in this location.

### **Access and Visibility**

The existing dropped kerb crossing will be utilised for the development. At the point of access in to the site the width will be increased to 3.2m. The crossover also appears to be widened slightly. A licence from WSCC Highways should be obtained for these works on to the maintainable highway.

The Local Highway Authority (LHA) has reviewed data supplied to WSCC by Sussex Police over a period of the last three years. There have been no recorded injury accidents within the vicinity of the site. There is no evidence to suggest that the access is operating unsafely, or that the proposed dwellings would exacerbate an existing safety concern.

The access drive will be 3m wide along its length with no passing bays. The access drive is approximately 50m in length from Vale Avenue to the proposed dwellings. The WSCC Water and Access Manager was consulted with regard to access for a Fire Appliance and his comments will be forwarded on in due course.

The existing access point is situated on the outside of a bend. Vale Avenue is a lightly trafficked 'D' class road and visibility is deemed sufficient upon exiting the site.

## **Parking and Turning**

One off street space is proposed for the existing dwelling. This meets the required dimensions of 2.4 by 4.8m and is situated fronting the existing dwelling.

The south bungalow will include an integral garage. The internal door in this garage opens inwards restricting available space. It would be advised to design this with the door opening out into the dwelling. Taking into account the space used by this door arrangement the garage would measure 2.6m by 4.3m. A garage for a single vehicle should measure 3m by 6m. Therefore this garage cannot be taken formally as a parking space.

The two detached garage buildings will provide one space per dwelling. These should measure at least 3m by 6m to be counted toward parking provision. Plans detailing the internal measurements and design of these garages should be included; this can be secured via condition.

On a basis of one allocated space being used per new dwelling the WSCC Car Parking Demand Calculator envisions that three spaces should be provided for the development. There is sufficient hardstanding area to accommodate any visitor parking. It is also noted the on street parking on Vale Avenue is an option. The LHA are satisfied with the parking provision, providing that the detached garages meet the WSCC required dimensions described above.

From an inspection of the Site Plan there appears to be sufficient space for cars to turn/manoeuvre on site and exit in a forward gear. The off street parking space for no. 32 may require a reverse manoeuvre into Vale Avenue. With the lightly trafficked nature of the road and anticipated slow vehicle speeds it is not considered that this arrangement would cause a highway safety concern.

## **Sustainability**

Street lit footways provide pedestrian links to nearby shops and amenities within walking distance. The nearest bus stop is a 4 minute walk south of the site on the A24 Findon Road with services on to various local towns and villages. Cycle storage should be included, this can be accommodated within the garage buildings.

## **Conclusion**

It is not considered that two additional dwellings in this location would cause a detrimental increase in levels of traffic or cause any highway safety concerns on the nearby highway network. The proposals are not contrary to paragraph 32 of the National Planning Policy Framework and therefore there are no transport grounds to resist the proposals.

## ***West Sussex Council Water & Access Manager:***

They will need to install domestic sprinklers as there is insufficient space on site to turn a fire appliance and also it may be difficult to access the driveway without spilling the entrance from Vale Avenue. The suggestion of a turning part way into the driveway would not be a solution as an operating area needs to be at least 5 mtrs clear in width to allow firefighters to exit the vehicle, off load and carry ladders and access side locker for equipment.

### **Technical Services:**

Despite the application stating otherwise the proposed site lies within flood zone 1 and appears to be unaffected by surface water flooding. There is no record of the site flooding

There is a significant change in ground coverage in this proposal, roofs, driveways and parking areas. A proper assessment of the newly created hard surfacing is needed and then as the applicant has indicated the intention to use soakaways, the applicant needs to assess if the use of soakaways is viable on this site. The proposed location for the soakaway will need to be more than 5m from existing or new structures, and there will need to be a soakage test undertaken at each location to ascertain if a soakaway will adequately empty. There appears from the drawings to be sufficient area to adequately site soakaways, for the two new properties but the new access road may present a problem.

Therefore in this instance the only comments we wish to make at this time relates to the disposal of the surface water.

In the absence of any ground investigation details or detailed drainage details in support of the application we request that should approval for these new builds be granted it be conditional such that *'no development approved by this permission shall commence until full details for the disposal of surface water has been approved by the Planning Authority'*

Soakage tests in accordance with BRE Digest 365 (1991) would be required to be undertaken on the proposed site to provide the data to ascertain the size of the soakaway required for the impermeable areas.

Full design calculations should be provided for the soakaway soakage test result, and the ensuing soakaway and permeable paving designs, along with the rainfall calculations with the additional rainfall quantities appropriate for climate changes, as required under planning policy.

### **Representations**

2 letters of support have been received from number 27 Vale Avenue (opposite the site) and 36 Vale Avenue (neighbor but one to the west) on the grounds that the proposal complies with development plan policies to ensure that everybody has the opportunity of living in a decent home, that the proposal is sympathetic to the local environment, services are nearby including a doctor and adequate parking is provided.

Submitted with the application itself, but not received in response to the Council's consultation, were letters from the adjoining neighbours either side (30 & 34) expressing their support for the proposal.

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

Saved Local Plan policies (WBC 2003): RES7,

Worthing Core Strategy (WBC 2011): Policies 7, 8 & 16  
Guide to Residential Development SPD  
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 main issues in the determination of the application are the effect of the proposal upon the character and appearance of the area and the specific nature of the housing which is sought to be provided.

The Core Strategy Vision sets out the need to provide a range of dwellings to meet the needs of its residents. Strategic Objective 4 of the Core Strategy highlights the need to ensure the delivery of a mix of homes designed to meet the current and future needs of its occupants. The SPD on Residential Development at paragraph 2.17, in relation to the growth of the older population recognises that there will be a growth in households with specific needs. It further states that while many such needs can be resolved through adaptations of existing dwellings, there will be a need to deliver appropriate new properties.

In principle, therefore, there is no objection to the provision of homes to accommodate physically disabled persons. The size of the plot at the rear means there would be no conflict with space standard requirements: the larger plot would be about 500 square metres and the respective bungalow sizes 125 square metres and 147 square metres. There would be no adverse impact upon the neighbouring properties to the rear which are at least 25 metres from the boundary with some partial screening.

However, the erection of 2 bungalows to the rear will lead to an intensive built form in a hitherto undeveloped rear garden area: the 2 bungalows together being just under 300 square metres. Although at a slight angle, taking the 2 bungalows together, there would be about 27 metres of continuous built form with at its closest point, a 2 metre gap between the buildings. This also somewhat restricts the turning area to serve the bungalows which would be shared between them. It appears that the access would be also be used to provide a new garage for number 32 itself which would be located within the rear garden. A parking space is also shown to serve number 32 at the front of the property but such is the constraint on space, that the back edge of the parking space touches the proposed access. The necessity to install domestic sprinklers (as fire appliances would be unable to turn within the site) also demonstrates the constraints of the site.

In terms of backland development, the SPD on residential development states:

*'Whilst some infill development can provide a welcome addition to the Borough's housing stock, backland garden development is generally regarded as an inappropriate form of development in the Borough and will be resisted in most cases'*

The National Planning Policy Framework also recognises that development of residential gardens can be inappropriate.

Although the application site sits on a corner plot and hence its garden is larger than most others in the vicinity which are situated in more linear fashion, it is considered that the proposed development would be quite out of keeping with its surrounds.

Although wide at the rear, the spacing between dwellings at the front when viewed from Vale Avenue is much narrower. It is considered that the principle of an access serving a backland development would appear at odds with the surrounding pattern of development in the area. There are no comparable developments in Vale Avenue.

The gap between the existing dwelling and the neighbouring boundary is just in excess of 3 metres and it will be necessary to remove the existing garage to facilitate the vehicular access to the bungalows. At its closest point, the vehicular access will be 0.1 metres from the side of the existing bungalow while also running adjacent to the boundary with number 34 Vale Avenue which at its closest point is 0.5 metres from the boundary.

It is considered therefore that the provision of the access in a location where there are no equivalent accesses and its narrowness would adversely affect the character of the area and while it is appreciated that the one of the bungalows would be occupied by the applicant's sister and the neighbour at number 34 supports the proposal, the proximity of the access to both dwellings appears likely to adversely affect the residential amenities of those properties.

In conclusion, while your officers have great sympathy with the applicant's position, it is considered that the backland nature of the proposed development would not reflect the pattern of development in the area and therefore is contrary to development plan policies. Even if an exception could be made to this position because of the nature of the development, the fact that 2 dwellings are proposed and their respective sizes means that the built form of the development is excessive for the site. Accordingly, it is recommended that the application be refused.

## **Recommendation**

To REFUSE permission for the following reason:

1. The proposed development by virtue of its backland location, extent of built form, location of its vehicular access and proximity to existing dwellings would fail to reflect the pattern of development in the locality and therefore would adversely affect the visual character of the area and the amenities of



neighbouring properties. The proposal therefore fails to comply with government guidance as set out in the National Planning Policy Framework, saved Local Plan policy H18 of the Worthing Local Plan 2003, policy 16 of the Worthing Core Strategy 2011.

1<sup>st</sup> June 2016

**Application Number: AWDM/1566/15**

**Recommendation – REFUSE**

**Site: 14 West Avenue, Worthing**

**Proposal: Change of Use to restaurant with ancillary educational catering/dining classes and catering service (Use Class A3 with ancillary D1)**

Applicant: Ms Ashee Azimi  
Case Officer: Matthew Porter

Ward: Marine



**Not to Scale**

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

This application relates to one half of a semi-detached building on the east side of West Avenue at its junction with Mill Road. The property and its neighbour 36 Mill Road were originally built as one house but were subdivided into two houses in the 1950s. No 36 is occupied as a single dwelling and is in the ownership of the applicant. This application relates to the western, more imposing half, No. 14. It is currently empty. It was last used as offices; with a 2001 permission to revert back to residential and permission in 2011 to a Health Spa, both unimplemented.

Mill Road is a busy road and bus route with commercial/community uses along it, although it's prevalent character is still residential. To the east is the Quaker meeting rooms. Across the road in Mill Road is a new development of flats. West Avenue

itself is entirely residential with houses immediately to the north of the site and flats opposite.

The site is situated in the Mill Road Conservation Area and the building has been identified as a positive indicator. It is awarded Local List status. Trees on site frontages are protected by a Tree Preservation Order. Two vehicular access points exist to the site from West Avenue, one very close to the junction with Mill Road, the second close to the boundary with 14B West Avenue.

Permission is sought to use No. 14 as a restaurant and cooking school with outside catering facility. In the applicant's own words, the proposed use will operate as follows:-

*"It is intended that we provide a fine dining experience at lunchtimes and a taste of French and English style afternoon Teas with the emphasis on luxury pastries, patisseries and artisan handmade chocolates in a normal regular restaurant setting and to attract primarily local people. In the evenings we wish to operate a teaching academy for people wishing to learn about cooking different types of menus and mainly coming for a dining experience from cooking the food through to eating what has been produced. The academy section of the operation will not only provide a teaching platform to educate people on the culinary arts but also give them an opportunity to socialise with like-minded people who enjoy good food but do not have the skills or know-how to be able to produce such dishes at home. There will be themed evenings which will be advertised in advance to allow people to book for the experience in advance. We envisage a maximum of 12 diners at any one time in the academy and we do not think any more than 1 class per evening is anticipated and this will take time to achieve. In the restaurant, we expect up to 40 people at lunchtimes and for afternoon tea. At this time it is difficult to propose an age category, but we do not expect to attract children or teenagers. In fact we hope to attract adults and professionals."*

Aware of public opposition to the scheme, the applicant has adjusted the intended operating hours, to 7 days a week between the hours of 7am to 9pm. The last evening class will finish by 9pm with customers having left the premises by 9.30pm. Some 12–15 times a year, the applicant wants the flexibility to extend this to 11pm to accommodate extended teaching hours.

Deliveries will be by small vans. The proposal will include 8 off street parking spaces (an existing domestic garage will be demolished). Two of the spaces will be provided from the southern access with the further 6 provided from the northern access. Turning space will be provided in each area.

### **Relevant Planning History**

AWDM/0897/11

Change of use of No. 14 West Avenue to a Health Spa

Approved Conditionally 16-03-2012

Appeal of condition Nos. 3 and 4 Allowed 15-11-2012

01/00320

Change of use from office to residential dwelling

Granted 8.5.01

87/445

Change of use of property from residential to office use

Granted 30.6.87

### **Consultations (summarised)**

**West Sussex County Council Highway Authority:** *Further information should be provided on the parking layout at the site and the number of trips that the proposal is likely to involve. The Local Highway Authority (LHA) will be unable to give a definitive recommendation until this information has been provided. Whilst the applicant is invited to provide further information on these matters, the current application has been considered on its merits. The application site has two vehicular accesses onto West Avenue. There are to be no changes proposed to these accesses. The application form indicates that the proposal will include 8 off street parking spaces. Two spaces will be provided from the southern access with the further 6 provided from the northern access. Turning space is provided in each area. Given that there will be at least 3 staff on site it is considered that a proportion of these spaces would be taken up by staff. An assumption that dropping off and picking up will take place evenly can also not be guaranteed. It is still considered that there is the potential for parking to take place off-site. There are no enforceable restrictions along West Avenue and at the junction to the A259 (Mill Road) to prevent parking from taking place in locations that would be detrimental to highway safety. Mindful of the above, the LHA would advise that a parking capacity survey is undertaken along Western Avenue to ascertain: parking capacity - the amount of available parking space within the survey area and parking stress- the number of vehicles which are parked within the survey area at a specific time, most commonly at peak times of residential parking demand. Surveys between the hours of 22.00 to 05:30 must be undertaken on two separate weekday mornings (i.e. Monday, Tuesday, Wednesday or Thursday). Public holidays and school holidays should be avoided. Undertaking a survey on a date when an event is taking place locally may impact the results of the survey should also be avoided. The reason for selecting these times is to capture maximum demand for residential parking, i.e. when most residents will be at home. These two aspects combined will allow us to determine the level of parking available and if vehicles associated with new developments can be accommodated on street without impacting on existing residents parking amenity or highway safety. In terms of capacity, no information has been provided on the number of trips the proposal will result in over the existing use. In assessing trip generation and its impact, it is standard practice to do this on an hourly and daily basis in order to establish the day to day impact resulting from a development proposal. The LHA would request the applicant provides some further clarity on the existing and potential number of trips the proposal will result in over the existing use.*

**Adur & Worthing Councils Environmental Health:** *Although not planning issue, insufficient provision of toilets as there is only one WC for the restaurant (staff and school). In line with the Local Government (Miscellaneous Provisions) Act 1976, one WC represents a maximum of 24 covers for the restaurant. In terms of the Workplace (Health and Safety and Welfare) Regulations 1992, it's one WC to 5 employees during one shift. Need to minus 1-5 covers to include the staff. Then the "school". There are separate standards for schools. The Education (School Premises) Regulations 2012 - 1WC for every 20 pupils (not enforced by us) or the*

"school" is classed as a RELEVANT PLACE" means (under the Local Government (Miscellaneous Provisions) Act 1976): (a) A place which is normally used or is proposed to be normally used for any of the following purposes, namely: - (i) The holding of any entertainment, exhibition or sporting event to which members of the public are admitted either as spectators or otherwise; (ii) The sale of food or drink to members of the public for consumption at the place. (b) A place which is used on some occasion or occasions or is proposed to be used on some occasion or occasions for any of the purposes aforesaid; and (c) A betting office. There will be a requirement for between 0 and 49 persons, 1 WC for Gents, 2 urinals and 1 wash hand basin and 1 WC for Ladies and one wash hand basin. Therefore propose there is a separate WC for upstairs. Not sure if the downstairs WC can be used for disabled, since it's a change of use and a major refurb, a disabled WC will be required. Please may detail on the following be provided in order for Environmental Protection to comment: hours of operation; odour mitigation measures; noise from deliveries to the restaurant/catering facility; noise associated with the catering service (for example, loading/unloading, vehicle noise); noise through the party wall to adjoining property; noise from the restaurant business/customers/vehicle movements; details on extraction measures for odour and noise (the proposed kitchen location is currently a utility room. It is therefore assumed a new extraction system will be required). May the following be added/clarified in relation to this above application: Construction work shall not commence until a scheme for protecting the adjacent residential unit(s), has been submitted to and approved by the local planning authority. All works which form part of the scheme shall be completed before the development opens for business. The scheme shall be designed to achieve a minimum airborne sound insulation value of 48dB. The use hereby permitted shall not be carried on unless and until details of a suitable system for the extraction and disposal of cooking odours (including details of the extract fans, filters, fan units and ducting, together with the method of noise abatement, as well as details of grease traps and extraction hoods) has been submitted to and approved in writing by the Local Planning Authority. The equipment approved under this condition shall be installed before the use hereby permitted commences and thereafter shall be maintained in accordance with the manufacturer's instructions. No plant or equipment, including the kitchen ventilation and extract system, shall be operated on the premises except between the hours of operation as stipulated in this permission. Please may more information be provided in relation to the delivery and collection times associated with both the restaurant and external catering aspects of the business?

### **Representations (summarised)**

Petition of objection consisting of 90 signatures (89 residents and 1 visitor of West Avenue, Westmead Gardens West Avenue and Sussex Mews West Avenue): -

*Predominately residential neighbourhood. If granted result in the loss of a much needed residential unit. Understand this one of reasons for refusal of previous plan in 2011. Fact that the housing crisis is now even more acute reason equally valid. Contrary to LP policy H10 and CSD policies 7, 8, 9. In conservation area. Fatuous to say restaurant can be created without alterations to exterior. If change of use granted certainly lead to extraction vents and signage neighbour of which could be accommodated without substantial changes to the exterior together with loss of trees and other vegetation that fronts the boundaries. Parking provision woefully*

*inadequate. Application states 4 additional spaces provided, one of which is disabled parking bay. No business running as a restaurant can survive on less than 20 covers. Clients will have to park on-street. West Avenue is already heavily congested most times including lunchtimes and evenings – times when a restaurant would need to be open – by residents parking, parking for users of the Friends Meeting Place (Quaker Centre) in Mill Road, or people leaving their cars and travel into town from bus stops. Lack of on-site parking will lead to clients having to park on Mill Road causing interruption to traffic flow. Cars park half on footpaths cause problems for footpath users. Pressure to introduce single/double yellow lines. Deliveries of food etc. during day by commercial vehicles as no in/out provision. Disturbance, noise and extraction smells will occur. Operation of restaurant will percolate smells into residential properties. Will lead to complaints. There will be late night noise from customer cars/taxis, noise from delivery/collection of waste, increased possibility of vermin/foxes, and unruly/rowdy behavior. All entirely unsatisfactory.*

20 Individual objections from occupiers of Quaker Meeting House rear of 34 Mill Road; Flats 2, 3, & 34 Mill Road; Flats 3, 6, 12, 29, 33 Westmead Gardens, Flat 1 12 Camber House, Nos. 2, 14B, 14C, 15 18, 20, 22, 31, 38 West Avenue; Mrs. D Cowley (no address given):-

*Strongly object. Preserve long-standing tranquil nature of vicinity, given substantial use of our building (though not immediately adjacent) not just by Quakers for mainly silent worship but for other meditation, counselling, religious, cultural, art and music appreciation activities; to avoid kitchen smells pervading the area; without parking facilities ourselves West Avenue is already fully in use for roadside parking. Garages in Westmead Gardens too small for today's vehicles therefore parking is required in West Avenue. Such a business completely inappropriate. Idea that such a business was to open wholly preposterous. Greater area already very well served by a large number of eating establishments and takeaways located in Goring Road. Cannot be a 'need' – ridiculously out of place. Would cause a greater deal of unhappiness and discomfort – surely this could not even be contemplated. 'Health Spa' turned down as recently 2011. Entrances very near a busy junction. Only 8 parking spaces are shown. Loss of amenity. Unruly behavior, shouting 'goodbye' etc. Closing at 10.30 could mean customers leaving up until 15 to 20 minutes later. Driveways blocked in evening and Police are called. Smells and odours. Section 9 –Yes not completed even though ticked. If just for educational training purposes, why do the premises need to be open until 22.30? Will alcohol be sold? Will restaurant be primarily educational/training affiliated to school/college? Will cooking on site be for home delivery purposes? What type of cuisine will be undertaken at the restaurant? Does this create a presidency for the business to change to another leisure facility e.g. pub, wine bar, nightclub. Concern about it will look like. We can smell the Indian takeaway on Wallace Parade. Quaker meeting house is a place of silent worship. Application states 'external catering facilities' but Plan and Access Statement makes no reference to nature of an 'outside catering facility'. Statement is vague with insufficient details to properly assess nature of this use and impact. Environmental Health services should be consulted. Any required external ventilation equipment should be considered as part and parcel of this application. Properties to north and north east of kitchen location would experience cooking odours. Parking spaces would damage roots of existing mature trees. If not already protected by a Tree Preservation Order, they should be protected. Application refers to illuminated signage.*

## **Relevant Planning Policies and Guidance**

National Planning Policy Framework

National Planning Practice Guidance

Worthing Core Strategy Policy 4, 6, 7, 8, 9, 13, 16, 19

Worthing Local Plan saved policies RES7, H18, TR9

## **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.

The Committee should consider the application in accordance with Section 72 Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

## **Planning Assessment**

### ***Principle***

The existing empty building use is offices and there is an extant permission to change to an alternative commercial use (health spa), so the proposed reuse of this property will not involve the loss of any residential accommodation. It will retain a commercial usage – albeit one of a differing nature.

Paragraph 24 of the National Planning Policy Framework requires a sequential test be applied to main town centre uses that are outside of the town centre. The nearest retail district centre is Goring Road, which has some vacant units in its parade. However, an equally main town centre use (the health spa) was accepted in 2011 under an identical planning regime and not subject to a sequential test. Given the niche format and modest scale of the current proposal, it is unlikely to undermine the vitality and viability of the borough's retail hierarchy.

Accordingly, the proposal would comply with Core Strategy policies related to retail and employment by securing sustainable economic growth and encouraging the efficient and effective use of land. The loss of B1 floorspace was accepted in 2011.

There appears no intent by the applicant to revert the building back to residential use (the 2001 permission having lapsed).

### ***Visual amenity, character and appearance of Conservation Area***

The garage building to be removed makes an insignificant contribution towards the special qualities of the Conservation Area. Its architectural merit is not worthy of retention.

The architectural integrity of the host building and its verdant plot boundaries, which are identified in the Council's Conservation Appraisal as positive contributors toward the area's character and appearance, would be retained.

More so, the current vacant condition of the building does detract from Conservation Area and future occupancy of it would help maintain the building's upkeep and consequently enhance the Conservation Area.

The proposed use would require the installation of an extract system of some form (the proposed kitchen is currently a utility room so it is assumed a new extraction system will be required). In these circumstances any permission would usually be controlled by a condition requiring details of ventilation and extraction equipment to be supplied. In this case no information is provided.

On the basis of the block plan and a site visit by the planning officer, there is some capacity to accommodate the necessary extraction equipment discreetly at the rear of the premises. But this is by no means certain; siting of equipment remains sensitive and, in some cases, unacceptable. For example if the height of flue would be required to be above the building's eaves height to adequately disperse odours this would result in adverse harm. To have this equipment sited on a prominent elevation of this building would cause harm to its appearance and of this the special qualities of the Conservation Area identified in the Council's adopted SPG appraisal of it, contrary to Worthing Core Strategy Policy 16

Given this continued uncertainty, it is essential a means of control over the final design and siting of the ventilation and extraction system is maintained for visual and heritage reasons. However following the site visit and recognition that the building size and roof shape and form could accommodate a system, this control is better secured through a planning condition rather than as a reason for refusal.

Subject to the strict compliance with any such condition, the statutory tests for new development in a Conservation Area would be satisfied, and the proposal would be compliant with the Council's local design policy and national heritage policy set out in the National Planning Policy Framework.

### ***Trees***

The various trees on site are protected by either Preservation Order or by their location in the Conservation Area.

The parking layout and associated surfacing in relation to the trees on site was deemed acceptable in the approval of the health spa.

No greater harm to the longevity and health of the trees on or adjacent to the site would occur compared to the health spa scheme (detail on the surfacing to achieve



this outcome could be secured by way of a planning condition). Relevant tree policy at local and national level is complied with.

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

The site is located in walking distance to well served bus routes and West Worthing train station. Off street parking is proposed, with cycle parking. The Highway Authority is satisfied with the access arrangements, which remains unchanged.

At the time of visiting site on-street parking was not difficult, although it is acknowledged peak demand will fluctuate. Nonetheless, there is the potential for additional parking to take place off-site.

More parking than shown on site would certainly be resisted to ensure as much soft landscaping on site can be retained and the protected trees on site are not damaged by such works.

Given that there will be at least 3 staff on-site, a proportion of the eight parking spaces would be taken up by staff. An assumption that dropping off and picking up will take place evenly can also not be guaranteed. There are no enforceable restrictions along West Avenue and at the junction to the A259 (Mill Road) to prevent parking from taking place in locations that would be detrimental to highway safety.

Before giving a definitive recommendation, the Highway Authority wants further information on the parking layout at the site (technical shortcomings exist on the submitted drawings) and the existing and potential number of trips likely to be involved, as well as requiring a parking capacity survey for West Avenue. This will allow the Highway Authority to determine the level of parking available and if vehicles associated with the development can be accommodated on street without impacting on existing residents parking amenity or highway safety.

### ***Residential amenity***

The surrounding neighbourhood is primarily residential in character. Reflecting this, the health spa use was restricted to 9pm Mon to Sat and 6pm Sundays/Bank holidays. The applicant appealed this, wishing to operate later into the evening. This was unsuccessful: the appeal Inspector concluded commercial activity at such time would be harmful to neighbours and to the character of the area.

This appeal decision gives a clear direction on the acceptable upper limit to evening trade.

Although the amended hours during the working week are now the same as the health spa, it is still proposed to operate later into the evening on Sundays/Bank Holidays with additional exceptions for opening later still at various times throughout the year. Mill Road is a busy thoroughfare and the area is affected by the noise of traffic. However it is reasonable to surmise, as the Inspector did at appeal, that it becomes quite late in the evening and also on Sundays and Bank Holidays.

Neighbours are, not unreasonably, concerned about the potential level of activity of the current proposal. Whilst the activity proposed within the building itself is not

expected to result in harmful noise and disturbance, the level and pattern of use associated with the range of services offered by this proposal has the potential to disturb and be more intrusive onto neighbours and alter the residential character of the area, to a much greater extent than a health spa.

A restaurant for as many as 40 patrons would, at its busiest, generate more frequent comings and goings than an office or spa use. A health spa is a place of quiet relaxation and contemplation, often with individual clients attending. In contrast, a visit to a restaurant is more of a social affair, often involving larger groups and families arriving and leaving together. In the serving of afternoon teas there is reasonable likelihood that, in good weather, windows and doors would be left open and tables and chairs placed out in the garden. The catering element will generate its own particular noise by the unloading/loading of deliveries. There is also potential for annoyance on Sundays or Bank Holidays when residents should be able to enjoy a more extensive period of peace and quiet.

The late night and weekend activity associated with the education classes when background noise levels are low and residents are preparing for sleep, and the potential for noise as those attending leave at one time by foot or by car, would be harmful to the peaceful enjoyment of nearby residents, particularly those of 14B West Avenue (this building has a number of windows in its side elevation relatively close to the north site boundary), and in East Court.

In such circumstance, the proposal would unacceptably diminish the level of residential amenity enjoyed by the occupiers of some neighbouring dwellings, which conflicts with saved Local Plan Policy H18 and the provisions of the National Planning Policy Framework.

The Council's Environmental Health Officer has noted the lack of detail on the various sources of potential noise and odour, including noise through the party wall and extraction measures for odour and noise. Whilst the adjoining property is lived in by the applicant, there is potential for odour nuisance onto neighbours, to the detriment of living conditions.

In this scenario permission would usually be controlled by a condition requiring ventilation and extraction equipment to be supplied in order to protect the amenities of neighbours. In this case no information is provided regarding any extraction equipment and given the nature of the proposal it would be necessary to impose such a requirement if approval were forthcoming.

The Environmental Health officer agrees, and is satisfied that sufficient mitigation of these impacts would be by way of a condition securing suitable equipment that is not operated except between operating hours and achieves a minimum airborne sound insulation value of 48dB.

### **Recommendation**

It is not clear why this building has remained empty for so long but its continued disuse will lead to further harm to the Conservation Area. A suitable alternative re-use of the building would therefore be of benefit.

However the overt character of its commercial activity would be notably different to the private health spa use previously approved. The activities inherent of a restaurant and cooking school use would be harmful to the living conditions of neighbours and the character of the area.

There are additional shortcomings in the application detail related to highway and parking impacts, which cannot be adequately addressed by way of condition alone.

It is therefore recommended that the application be refused.

**REFUSE** for the reasons:-

1. The proposal would, by reason of the inherent activities of the restaurant and cooking school use with a catering service, give rise to intrusive and un-neighbourly noise and disturbance onto the occupiers of some neighbouring dwellings to the detriment of their residential amenities and quiet enjoyment, which conflicts with Saved Local Plan H18 and the provisions of the National Planning Policy Framework.
2. The proposal provides insufficient detail on the parking layout and the existing and potential trips involved, to determine the level of parking available and if vehicles associated with the development can be accommodated on street without severe impact on amenity or highway safety, contrary to Worthing Core Strategy Policy 19 and saved local plan policy TR9 and the provisions of the National Planning Policy Framework.

**Application Number: AWDM/0487/16**

**Recommendation – APPROVE**

**Site: Ground Floor Flat 130 Rowlands Road, Worthing**

**Proposal: Single-storey rear extension**

Applicant: Ms Elizabeth Wade  
Case Officer: Rebekah Smith

Ward: Heene



**Not to Scale**

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

The site relates to a semi-detached two storey house on the northern side of Rowlands Road that has been converted into two flats. The property dates back to the 1900's and was converted to two flats following permission in 1962. The application relates to the ground floor flat. There is a small single storey addition at the rear of the main building. The adjoining dwelling at No. 128 has a slightly deeper rear single storey addition and an attached rear store/shed building adjacent to the common boundary.

Planning permission was refused by Planning Committee in March 2016 for a 7.92 metre deep single storey extension for the following reasons (AWDM/1848/15 refers):

*Having regard to the scale and pattern of development in the locality, the proposed rear extension would, by reason of its excessive size, notably its depth in relation to the host dwelling and garden area, represent a cramped overdevelopment of the site. If permitted the proposal would set a harmful precedent for further similar proposals related to other dwellings in the site vicinity, the cumulative effect of which would be harmful to the existing character and appearance of the area resulting in overdevelopment. The proposal is therefore contrary to Core Strategy policy 16, Saved Worthing Local Plan policy H16, and the National Planning Policy Framework.*

Permission is sought for a revised proposal for a single storey rear extension. As before, the proposal would involve removal of most of the existing rear single storey structure. The proposal has been reduced in depth and the extension would measure 6.5 metres in depth taken from the existing two storey rear wall (a reduction of 1.4m from the previously refused proposals), and 3.98 metres in width, with the new side wall set in from the boundary by approximately 0.3m. The existing side wall and part of the roof of the existing structure would be retained in its current form incorporated into the new addition and a new flat roof is proposed which would measure 3 metres in height approximately. There would be a roof lantern protruding approximately 0.5m above the height of the flat roof. As before, a combination of matching brickwork and cedar cladding is proposed with PVCu windows and doors.

### **Relevant Planning History**

AWDM/1848/15 – Single storey rear extension. Refused 15.03.2016

AWDM/0822/15- Construction of garden shed to house mobility scooter. Approved 14.07.2015

AWDM/0515/15 – Proposed increased width of opening in front wall to allow vehicular access, dropped kerb, paving to front side and rear. Approved 04.06.2015

08/0747/FULL - Conversion of one bedroom flat into two self - contained flats with single storey rear extension and alterations to implement the use. Refused 05.09.2008

### **Consultations**

None relevant

### **Representations**

Two identical representations have been received from the adjoining occupier at No.128 objecting to the proposal on the following grounds:

- Privacy, Light and Noise – concern that the extension would be too large and overbearing and loss of light
- Loss of general amenity
- Overdevelopment
- An extension to the main rear/side wall would be more in keeping and reduce impact

Two emails of representation have been received in support of the application proposals outlining the following reasons:

- The applicant will benefit from the proposed full bathroom for a disabled user and the day room would improve the applicants well being
- The extension would not block sunlight from the neighbouring property as the neighbouring extension is already bigger than the proposals
- The extension would be almost unseen by 128 and would not result in any loss of amenity, privacy, light or noise
- The extension would be in keeping with neighbouring properties

The applicant has submitted a statement in support of the application outlining details of the existing planting along the boundaries and the applicant's intention for further planting along the western boundary and some trellis along the eastern boundary.

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

Worthing Core Strategy (WBC 2011): 16  
Saved Local Plan policies (WBC 2003): H16, H18  
Design Guide 'Extending or Altering Your Home' (WBC)  
National Planning Policy Framework (CLG 2012)

### **Relevant Legislation**

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) that provides the application may be granted either unconditionally or subject to relevant conditions, or refused. Regard shall be given to relevant development plan policies, any relevant local finance considerations, and other material considerations; 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**

#### ***Design and Visual amenity***

The current application proposal has reduced the depth of the proposed extension by approximately 1.4 metres to 6.5 metres (including the section that would replace and enlarge the existing bathroom). Although this extension would still be relatively deep along the common boundary, a garden area of approximately 8.9 metres would be retained, along with the garden area to the side which would be satisfactory and more closely follow the pattern of development in the vicinity of the site than the previous proposals. The detailed design of the proposed extension and materials would not cause any significant harm to visual amenity.

## ***Residential amenity***

The relationship with neighbouring buildings has not altered significantly since the previous proposals were considered, although some of the screen planting along the boundary with No.132 to the west has been cut back or removed in places.

As before, the use of the rear garden is purely for the ground floor flat and so there would be no significant impact to the amenities of the occupiers of the first floor flat in terms of loss of light, outlook or privacy.

The adjoining dwelling to the east at No.128 has a single storey addition and timber shed/store attached to the rear of that, extending along the common boundary to approximately 6 metres in depth. The comments made in the representation are noted and although the proposed extension would be relatively deep, and partially visible from parts of the neighbouring garden, the presence of the neighbours own rear structures act to enclose the rear garden at No.128 and there are no windows to habitable rooms that would be affected. The neighbours own rear additions would act to screen much of the development, avoiding any significant harm to the amenities of occupiers of No. 128.

To the west, there is a separation distance of approximately 6 metres between the side walls of the two storey rear projections of No. 132 and the application property and a 1 metre high (approximately) wall forms the common boundary. There is a shed and some shrubs within the applicants garden that provide some screening adjacent to the boundary wall, although some of the hedge screening has been removed recently, leaving parts of the boundary more open to the neighbouring garden at No.132 beyond the rear of the building itself.

Having regard to the reduced depth of the extension, the separation distance between the two buildings and the presence of shrubs and the applicants shed which encloses the area immediately outside of the neighbouring side windows, it is considered that the proposed extension would not cause any significant loss of outlook or light. Side windows are proposed that would face No.132. Whilst some screening is present as described, there is potential for overlooking from the larger side windows back towards the rear patio doors of No.132 where the boundary is more open. The applicant has planted some small hedge plants along the more exposed area of the boundary but these are small and yet to be established, and would take several years to form an effective screen. If approved a condition is recommended for screen fencing to be provided along the western boundary in the interests of protecting privacy.

## **Recommendation**

### **APPROVE**

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

1. Permission relates to approved plans
2. Standard time limit 3 years
3. Matching brickwork and cedar cladding in accordance with application details
4. Boundary screen fencing to be agreed and installed to west boundary.





has also been constructed to the north of the building and a low fence built separating the rear of the building from the rear of the garden.

The application site is triangular in shape and sits on the corner of Furze Road and Mill Lane with the subject building being located to the north of the main dwelling. Despite the name of the address, the main vehicular access is via Mill Lane. The surrounding character of the area is quite mixed with Salvington Windmill (Grade II listed) being located to the west of the site and residential properties to the south and east.

### **Relevant Planning History**

Planning permission was refused in 2015 (AWDM/1446/14) for the change of use from 2 no. flats to single dwelling, retention of detached two and a half bay garage to the north of house, porch on north west side and single storey extension to south west side. The refusal related to the garage only which was already under construction.

A subsequent appeal was allowed, subject to a condition requiring that the garage be constructed in accordance with the submitted plans. By the time of the appeal, the applicant had made changes to the garage, not reflected on the plans and accordingly it was necessary to submit a further application to vary the submitted plans condition (AWDM/1689/15).

Separately from the above, permission was granted for the construction of wooden gates to the driveway (AWDM/0613/15).

### **Consultations**

None received

### **Representations**

#### ***High Salvington Residents Association***

Object – the applicant has consistently abused the spirit of planning legislation. The garage was originally built without planning approval which was refused by the Planning Committee but later allowed on appeal. The applicant now wants to turn the garage into a leisure complex with new doors and windows and remove the parking facility which could lead to additional parking on the congested Furze Road and unsuitable corner of Mill Lane. The Residents Association is concerned that a further garage may be built which will compromise Salvington Windmill. If the application is approved then conditions should be imposed to ensure that vehicles belonging to the applicant or visiting 1 Furze Road are parked within the property and that noise levels are restricted in the evenings to protect neighbouring properties.

### **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 main issue is the effect of the alterations upon the character of the area and the amenities of neighbouring properties.

It is understandable that concerns have been consistently expressed regarding the construction of the building given that when originally built, it was in advance of the necessary planning permission being granted and that any subsequent changes have again been made in advance of any permission being granted. This is again the case in respect of this application. However, retrospective applications must be determined on their planning merits alone and not influenced by the fact that works have already commenced, either positively or negatively. Similarly, concerns about potential future development cannot form a reason for refusal if such developments are not part of the submitted proposal.

In this case, the building originally proposed as a garage was allowed on appeal. The Inspector concluding that the building did not '*...harm the character or appearance of the streetscene or harm the character of Salvington Mill...*'

Despite the change of use proposed, the physical size of the garage is unchanged and therefore the Inspector's conclusions remain of material importance in this case. From the southern elevation, the main changes are that the open bays which would have housed cars are now enclosed with a double door, single door and additional cladding. To the rear, a set of patio doors and a window have been added.

The Inspector, in her appeal decision, stated that the building was adequately screened from Mill Lane and this remains the case. Accordingly, it is not considered that there can be any justification to resist the application on the grounds of visual impact.

The points raised by the High Salvington Residents Association are relevant in terms of the change of use of the building. However, the loss of car parking within the garage can be adequately provided on the hardstanding in front of it, which is an area of about 100 square metres and provides adequate room for turning. There is unlikely to be an increase in on street parking as a result of the garage being used for another purpose and in effect the parking arrangements would be as before the

building was constructed. It would not be reasonable or enforceable to impose a planning condition requiring the applicant or visitors to the site to only park on the premises.

Similarly, the issue of potential noise would be difficult to base a refusal upon. The previously permitted use of the building was to provide car parking with open bays. The enclosure of the building, albeit with doors that can be opened do not seem likely to provide additional noise to a material degree beyond which could have been caused by a car exiting the garage building. In any case, the garage is in excess of 20 metres from the nearest neighbor, with screening between, and so even if there were any additional noise caused, it seems unlikely to be of an extent that could cause such harm that could justify a refusal of permission.

Of more concern, especially given the history of the site, is the patio and fence to the rear of the building. The applicant has stated that he has a new dog and requires a fenced off area to exercise it away from the rest of the garden. Provided this is the case, neither the fence nor the patio requires planning permission and therefore in respect of the application that is currently under consideration, there is no reason to resist their erection. Nonetheless, given the size of the building and what could act as a sub-division of the garden, there is concern that the building could be used as a separate dwelling. If this was the case, though, a new application would be required and it is highly unlikely that permission would be granted for such use. At the time of the site visit, it was evident there was no such use (the building was empty and unfurnished) and therefore it must be stressed that the application can only be dealt on what is proposed at the moment.

For the reasons above, your Officers do not consider there is any justification to resist the proposal but, if permitted, a condition should be imposed requiring the building to be maintained exactly as the permitted plan. In the interests of accuracy, the agent has been asked to supply a further plan as the window shown on the southern elevation is incorrectly sized and a further small opening added to the northern elevation. While not material to the decision, your Officers feel it essential that the correct details are shown on the plan.

### **Recommendation**

Subject to the receipt of a plan, accurately showing the fenestration on the building, to GRANT permission:

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

1. Approved Plans condition (upon receipt of amended plan)

**Application Number: AWDM/0430/16**

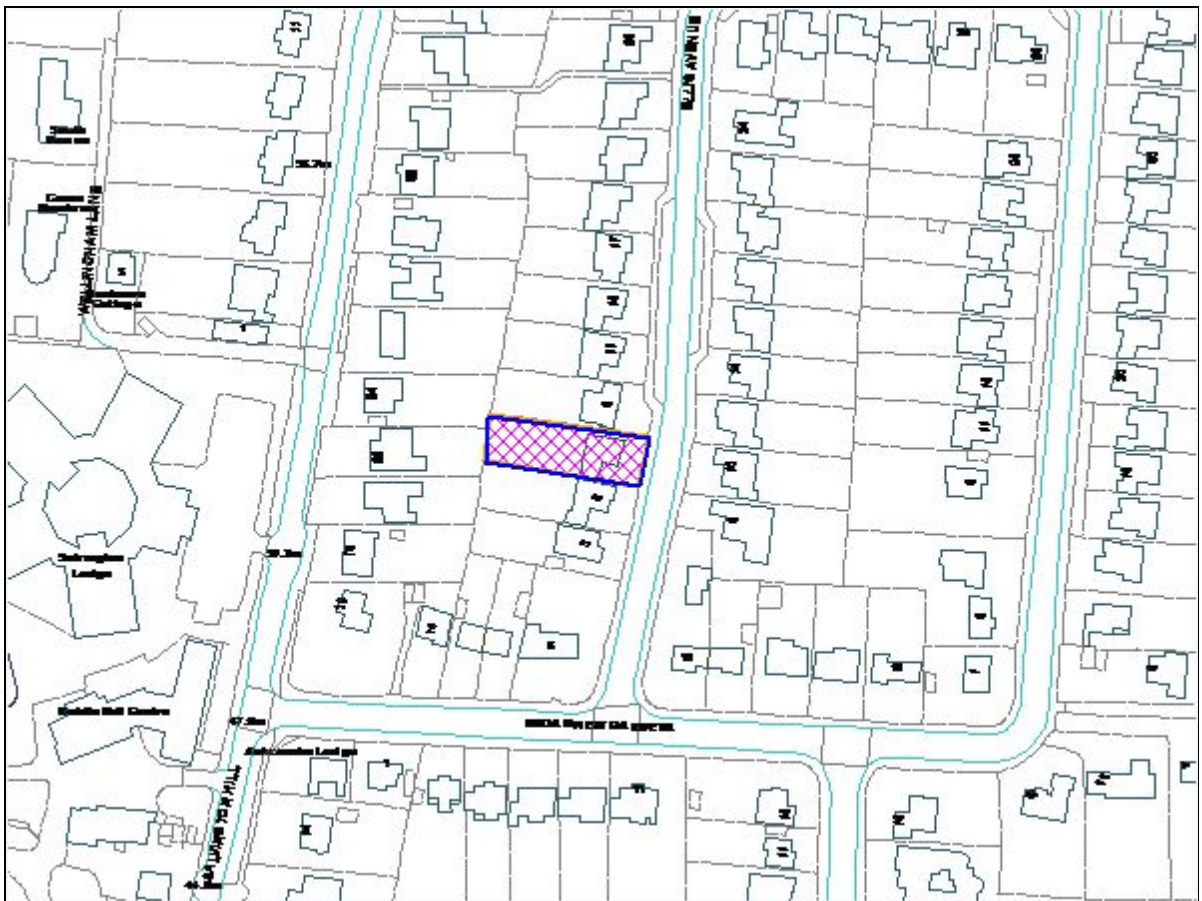
**Recommendation – APPROVE**

**Site: 7 Ellis Avenue Worthing West Sussex**

**Proposal: Rear extension incorporating a hip-to-gable roof enlargement together with two flat roof side dormers to provide rooms in the roof**

Applicant: Mr Sean Vale  
Case Officer: Matthew Porter

Ward: Salvington



**Not to Scale**

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

This application relates to No. 7, a modest detached bungalow on the west side of Ellis Avenue, a residential street in an outer suburb of Worthing. Ellis Avenue is on a north-south gradient and is characterised by a consistency in the typical early postwar architectural built form of bungalows that make up its street scene.

The land gradient means No. 7 is set lower than No. 9 but higher than No. 11. Both these neighbouring buildings are bungalows, with No. 9 having been extended at the rear. Aware of public opposition and following advice from planning officers, the

applicant has amended their original proposal quite considerably. The front alterations are now longer proposed and the single large side dormer has been replaced with two smaller dormers. The large expanse of upper floor glazing at the rear has been reduced to a single picture window. Permission is now sought for a single storey rear extension some 3.5 metres in length that does still incorporate a hip-to-gable roof extension, together with the two flat roof side dormers. This development would still provide for habitable accommodation in the roof, served by the dormers (bathroom and landing), as well as roof lights and a rear window (bedroom). All exterior materials and finishes will match the existing building.

### **Relevant Planning History**

None

### **Consultations**

None

### **Representations (summarised)**

Objections from occupiers of 9, 11, 12 Ellis Avenue and Laurence & Pamela Van Greuning and P. Lusby Small (no addresses given): *Object strongly. Transforming 2 bed bungalow into 5 bed house. Excessive and out of scale. Out of character and obtrusive. Very large flat dormer sits unnaturally and heavily for 6m alongside of roof and juts out almost level with side wall. Clearly visible from road and front. Ugly, poorly proportioned and articulated, and will impact not only on views toward the sea but also privacy. Whole point to purchasing a bungalow is to live with similar minded neighbours who appreciate views and privacy. Overbearing. Equally detrimental to character and appearance of Ellis Avenue, by which is meant the road which runs south-north until it makes a right angle and disappears from sight at the top of incline. Architect designed bungalows laid out and constructed in 1950s designed with simple hipped roofs and incorporated lower roof elements, hips or gables, as features over street facing bay windows. Harmonious whole as they step up the road. Although some undergone loft conversion, shape and pitch of roofs not significantly altered. Consequentially, street retained its aesthetically pleasing proportions, with no impression of heaviness, being hemmed in or people living on top of one another. Would form uncharacteristic chalet. Alien feature (chalet style building refused at No. 8 in 1998). Quality and success of dormers varies, although in general, in more prominent roof slopes, well proportioned, single dormers prevail whilst larger bulky dormer found to rear. Suggest less ambitious and more realistic design. Set some form of precedent. Negate our sense of wellbeing, resulting in the loss of enjoyment of our home. Loss of privacy. Dormer will directly overlook rooms on south side of our property. Window to window distance will be, respectively: Bedroom; 2.27 m, bathroom, 3.35m and Lounge, 3.45m. The large, gable-ended, 1<sup>st</sup> floor, window (west side) will overlook our rear garden, resulting in loss of privacy and adversely affect enjoyment. Loss of light. South bedroom: During winter months two south facing windows are prime source of sunlight and daylight for this room early in the day, with dormer extension restricting light later in day. Main bedroom: Front roof extension (east) will affect this room in a similar manner. Lounge: east, west and north roof extensions will result in substantial loss of sunlight and daylight to window. There is a patio door on west side of this room during winter; south window is main source of sunlight. Scale and proximity. Significant increase in roof area (east and west), couple with prominent (north facing) dormer roof extension, will create dominant and*

*overbearing presence. The dormer length will be equivalent to 40% of building's length and will extend outward to within 2.3m of our south wall. Outlook through lounge window (South side) substantially impaired, resulting in closed in feeling. Outlook through south bedroom window similarly affected.*

Objection received from High Salvington Residents' Association: *Turns 2 bed bungalow into 5 bed chalet bungalow. Unpleasant design. Very overbearing to No. 9. Severe impact on privacy, light and outlook. Roof extension with large obtrusive flat roof dormer would dominate outlook from No. 9 and very badly effect light into their living room and garden whilst dormer windows would eliminate privacy. Scale out of keeping with street scene and neighbourhood.*

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

National Planning Policy Framework  
National Planning Practice Guidance  
Worthing Core Strategy Policy 16  
Worthing Local Plan saved policies H16, H18

### **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 upgrading of residential accommodation is acceptable in principle.

#### ***Visual amenity, character and appearance***

The original built form of the bungalows in Ellis Avenue has been largely respected over time, so the street has a pleasant cohesiveness to its character and appearance. It is important that future alterations to buildings continue to respect it so as to be in keeping.

Following advice from planning officers, the original front alterations (which were unacceptable) are no longer included. All new glazed openings are now in keeping with the existing fenestration on the building.

The side dormers would still be visible in the street but compared to the original single large dormer, these are of a size and scale to be in better proportion with the roof slope and more sympathetically detailed to the rest of the building. These two dormers are now not dissimilar to the other few examples of side dormers elsewhere in Ellis Avenue.

It is recognised the rear extension would still significantly change the form and shape of the roof silhouette, at its rear end. However views of the rear from the public street are restricted due to its position between buildings. From public viewpoint, when considered cumulatively with the full length and width of the host, the size and scale of the roof enlargement would not appear to over-dominate; its eaves and height of its ridgeline align with the host dwelling - so it would have the appearance of visually integrated elongation of the existing roof-slope. Accordingly, the overall cohesiveness to the street scene would not be substantially harmed.

In summary, the proposal has been sufficiently amended to no longer result in sufficient visual harm to warrant withholding permission; as such, the proposal complies with Worthing Core Strategy 16 and Saved Policies H16 and H18 as well as allied guidance, all of which require design that does not cause harm. The proposal also complies with the provisions of the National Planning Policy Framework related to design.

### ***Residential amenity***

The neighbours principally impacted upon by this development are those to either side and at the rear (it is physically removed from the remainder).

#### *Neighbour at rear*

The proposal would introduce an upper floor window allowing views where there are none at present. However the distance retained between it and this neighbour's own fenestration means intrusive views into private rooms are avoided. Consequently, no material loss of privacy would occur. The physical form of the development is sufficiently distant to avoid harmful overbearing or overshadowing.

#### *Neighbour to south (No. 5)*

The host dwelling is set higher than this neighbouring dwelling. Even so, the bulk and mass of the development would still not result in harmful overbearing or overshadowing. The rear roof-slope extension would not project excessively beyond the neighbour's own rear wall. The roof would be sloped away from this neighbour and the majority of the shadow cast by it would be onto the neighbour's unadorned roof slope, avoiding impacting on the rear windows serving principal rooms. Those windows in its side elevation face north and already experience a compromised outlook (and light levels).

The rooflights in the roof-slope extension are set high and would only allow for acute views. Some mutual overlooking would arise from the new rear window but this would oblique and onto the garden rather than private rooms.

#### *Neighbour to north (No.9)*

The host dwelling is set lower than this neighbour dwelling, which eases some of the overbearing and overshadowing that would arise. The rear roof-slope extension would not project beyond the neighbour's own rear wall (which is itself an extension). The roof would be sloped away from this neighbour and the majority of the shadow

cast by it would be onto the neighbour's unadorned roof slope, avoiding impacting on the rear windows serving principal rooms.

Several windows are positioned along the south elevation of No.9 and all these would experience a degree of loss of outlook and light. However of these, only one serves the neighbour's principal dining and living space (the others serve a bathroom and the revised design now means the front bedroom is unaffected). Further, the side window to the dining/living room is a secondary means of light to the room; this room would continue to benefit from the ample daylight and sunlight and aspect it already receives via its west facing patio doors.

In this circumstance, although the dining/living room would experience some reduction in light and outlook given the impact on its south facing window, the neighbour's living conditions would not be materially impinged by way of harmful overbearing or overshadowing.

The side dormer windows are to be obscured glazed and top opening only, so would not result in intrusive overlooking or loss of privacy. The new rear window would introduce views where there are none at present. The overlooking arising from this would reduce the current privacy enjoyed by this neighbour. However, it remains that this window would not allow for intrusive views into private rooms but rather the garden. In such circumstance, the severity of harm by way of loss of privacy would not warrant withholding permission.

In summary, the development would not impact on the living conditions of neighbours in terms of its potential to result in a loss of light or privacy or appear overbearing. On these issues, the proposal would not cause significant harm to the living conditions of neighbouring residential occupiers. It would therefore accord with the aims of saved policies H16 and H18 and allied guidance, as well as the provisions of the National Planning Policy Framework related to the protection of residential living conditions.

## **Recommendation**

**APPROVE** subject to the following conditions:-

- i) Standard time limit
- ii) Approved Plans
- iii) Exterior materials/finishes to match existing
- iv) Notwithstanding the submitted drawings dormer windows be obscured and top hung
- v) Notwithstanding "pd" no further windows/openings above eaves height

1<sup>st</sup> June 2016

## **Local Government Act 1972**

### **Background Papers:**

As referred to in individual application reports



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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.