



**WORTHING BOROUGH  
COUNCIL**

**Planning Committee  
27 February 2019**

**Agenda Item 5**

**Ward: ALL**

**Key Decision: Yes / No**

**Report by the Director for Economy**

**Planning Applications**

**1**

**Application Number: AWDM/1830/18 Recommendation – REFUSE**

**Site: Unit 1, 6 Woods Way, Worthing**

**Proposal: Change of use from business (Use Class B2) to gymnastics club (Use Class D2)**

**2**

**Application Number: AWDM/1763/18 Recommendation – Approval, subject to Amended Plans and s.106 agreement.**

**Site: 105 - 109 Montague Street Worthing**

**Proposal: Demolition of existing building and redevelopment set over 4no. floors, comprising A1 retail floor space at ground floor, 26no. 1, 2 and 3 bedroom units with communal courtyard and balconies at 1st floor to West elevation, cycle store, underground surface-water tanks and associated landscaping.**

**3**

**Application Number: AWDM/1206/18 Recommendation – APPROVE**

**Site: 69B Grand Avenue Worthing**

**Proposal: Change of use from residential dwelling (Use Class C3) to nursery (Use Class D1) open from 0700 to 1800 Monday to Friday for up to 55 Children. Alterations to form new door in south side of dwelling, alterations to existing garage including new door to south elevation and raising roof to make level, and new entrance gate in southern**

boundary for access to existing nursery at 69/69A Grand Avenue. Infilling of existing redundant swimming pool at 69/69A and re-surfacing to form hard play area and erection of new acoustic fencing in conjunction with new garden management plan as an amendment to AWDM/0374/15.

**4**

**Application Number: AWDM/1691/18 Recommendation – REFUSE**

**Site: 14 - 16 Bath Place, Worthing**

**Proposal: Change of use from Shop (Class A1) to Tattoo Shop (Sui Generis)**

**5**

**Application Number: AWDM/1780/18 Recommendation – APPROVE**

**Site: 58 - 62 Portland Road Worthing**

**Proposal: Change of use of former car sales building to mixed use of Use Class A3 (cafe) and Use Class A1 (retail) for the sale of sports equipment and sports drinks and use of existing forecourt parking as private pay and display car park for the public with 8 parking spaces.**

**6**

**Application Number: AWDM/0131/19 Recommendation – APPROVE**

**Site: The Downview, Downview Road, Worthing**

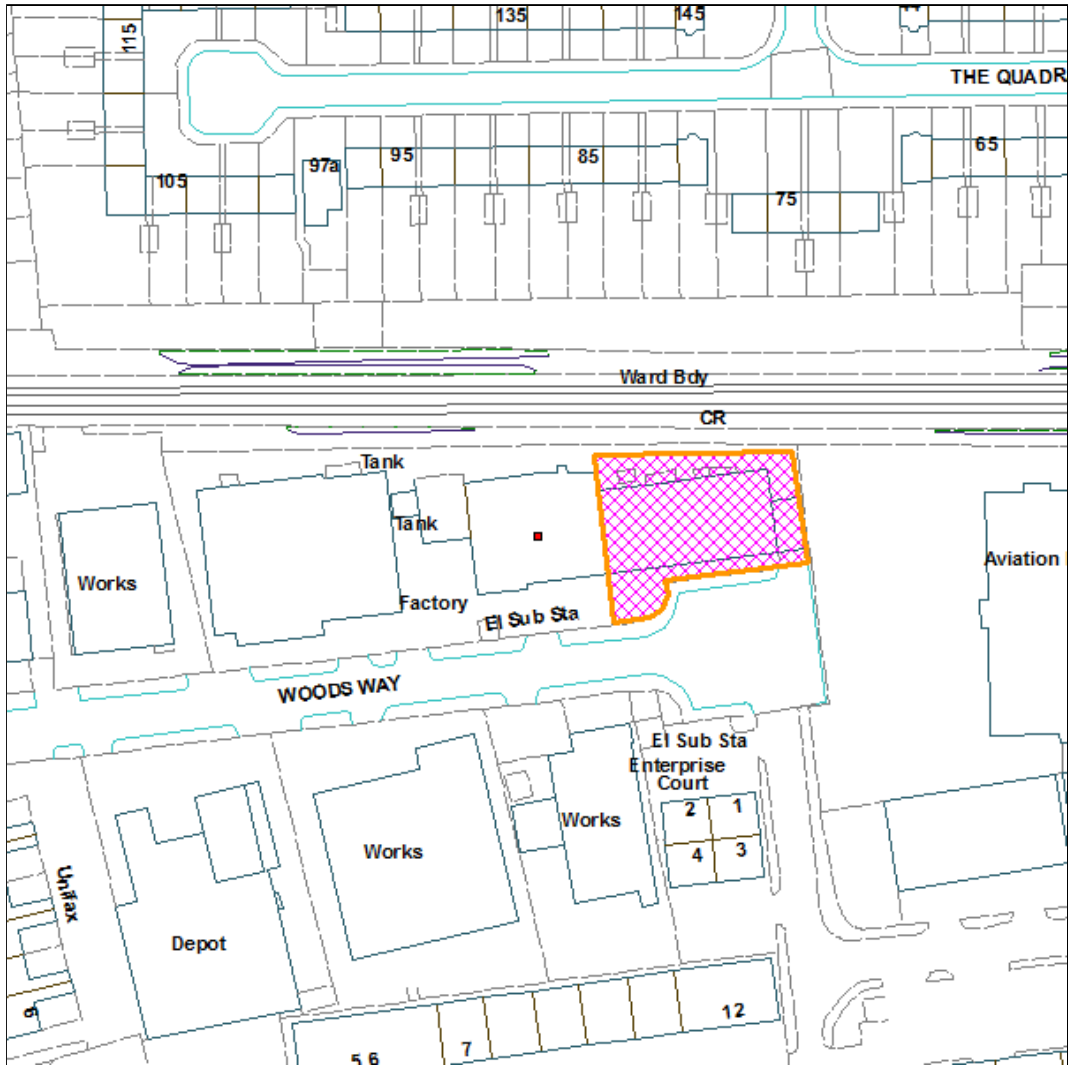
**Proposal: Non-Material Amendment to planning permission AWDM/1834/17 including new rooflight to east elevation, omission of rooflights and some windows to west elevation, lower pitch to roof of function room and other minor amendments to dormer windows and fenestration on south elevation.**

**Application Number: AWDM/1830/18**      **Recommendation – REFUSE**

**Site: Unit 1, 6 Woods Way, Worthing**

**Proposal: Change of use from business (Use Class B2) to gymnastics club (Use Class D2)**

Applicant: Mrs Alice Howland      Ward: Goring  
Case: Gary Peck  
Officer:



**Not to Scale**

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*This application was called in to the Committee by Councillor Barraclough on the basis that it raises important policy considerations.*

## **Proposal, Site and Surroundings**

This application seeks full permission to change the use of an existing industrial unit (use class B2) to a gymnastics club (use class D2). It is stated that the proposal does not need any external building work or internal building work, and therefore the application is solely for the change of use of the building.

The supporting information submitted with the application states that the Gymnastics Company has been in operation for 10 years and serves the needs of 379 children. 3.3 FTE equivalent coaches are employed by the company which operates from a variety of locations at present. It is stated that continued growth is hampered by the lack of space and dedicated hall availability with a search for a permanent venue having begun in 2013. An appendix submitted with the application suggests that 24 different venues have been reviewed by the company since 2013. A minimum of 5 metres in height is required as well 5000 sq ft open space (which is part of the reasons given for the alternative venues being reviewed being unsuccessful, others include cost of rent, cost of conversion, lack of parking and a location in Rustington being too far away for current members)

As a result of the failure to provide alternative premises, it is stated that there are about 100 children on the waiting list. The applicant considers that the site would offer the opportunity to offer significantly more classes and that within 2-3 years, the number of FTE's at the company would expand to just over 12.

The application site comprises of a vacant industrial unit at ground level with further mezzanine storage above on the northern side of Woods Way immediately before the road bends to the south. There are a variety of industrial uses to the west, south and east, the most prominent being World of Books to the east who are understood to have occupied the application site previously. The railway line is to the north with residential properties in The Quadrant beyond.

## **Relevant Planning History**

None relevant to the determination of the application

## **Consultations**

### **Planning Policy:**

#### Key Issues / Policies

**CS Policy 4** – (employment uses for the purpose of this policy include B1, B2 and B8) this policy seeks to protect existing employment sites within Worthing. There are two levels of protection afforded to sites across the borough. Part 1 of the policy protects the key employment areas which includes Goring Business Park in which the application unit is located.

Essentially units within the identified employment areas will be afforded the greatest level of protection. Outside of these identified areas there is a presumption against the loss of land/buildings currently in employment use or last in use for employment purposes.

**SPD Sustainable Economy – Feb 2012** - this supplementary document was produced to Council Core Strategy Policies 4 and 5. The starting point of the SPD is to retain suitable and viable sites in employment use. It is essential for the local economy that there is supply of sites and premises to meet the needs of business.

**Evidence** – the original evidence base that supported the CS employment policies was update in 2016 to support the emerging local plan. In essence, the conclusions remain the same. The emerging supply of employment space in Worthing appears to be insufficient to support the demand over the plan period for both industrial and office uses even assuming that two sites (identified in the CS 2011) come forward over the plan period. In particular, the most recent study indicates that there is strong demand for industrial space and shortage of premises in the Borough means local firms have difficulties finding suitable space to support their expansion or relocation plans in the local market, while enquiries from firms outside Worthing are rarely met.

The demand for industrial space in Worthing is largely localised in nature, with demand generally ranging from (2,000sqft to 10,000sqft (185sqm – 930sqms). This also needs to be seen against a backdrop of permitted development rights that has resulted in the loss of employment floorspace (primarily B1a). The study recommends adopting a stricter approach to determining applications that seek to change of use and /or the loss of employment floorspace (B class).

The CS policies have been very successful in allowing a managed approach to the provision of employment floorspace even with the challenges of permitted development rights. They have proved successful at appeal on a number of occasions. There was a proposal for a gym in Southdownview Road which was considered under the same policy in 2015 which was refused and dismissed at a subsequent appeal. The Inspector stated in the decision:

*'Employment uses' for the purposes of Policy 4 is defined in the Core Strategy as B1, B2 and B8 uses. The D2 use would therefore not be consistent with this definition. I note the appellant's contention that a D2 use could provide employment, and that Policy 11 of the Core Strategy encourages recreational and community uses. However, it is clear to me that the purpose of Policy 4 is to safeguard specific employment opportunities and employment uses by seeking to protect under Part 1 the key industrial estates and business parks, rather than being a general policy relating to all potential employment sources. By focusing on specific employment opportunities and uses, the wording and objectives of Policy 4 is also consistent with Policy 3 of the Core Strategy that seeks the provision of a diverse and sustainable economy*

The Draft Worthing Local Plan seeks to continue with this policy approach going forward.

It is noted that the owners have looked at a variety of sites over the years but none have been suitable for their needs. We are sympathetic to their problems but given the significant land constraints faced by the Borough this is not an unusual situation. We have had approaches before from similar uses looking for premises. Gyms have also seen significant growth in the borough with the more recent addition being at

Lyons Farm where permission was granted to allow the change of use from A1 retail to D2. That was a large unit with high ceilings and ample parking and no conflict with the operation of the existing uses.

**The application site** – the site is located in the middle of the wider Goring Business Park. The park comprises a wide range of industrial units located in the western part of Worthing situated 4.4 km from a junction with the A27 and 10 minutes from Goring by Sea railway station. The access roads into and around the estate are relatively narrow. The industrial premises supported on the site provide for small and large occupiers with buildings differing in age and condition. Overall the park supports a diverse range of industrial premises with excellent activity evident across the site with vacancies and good potential to enhance access in the future.

The unit itself is part of the larger unit, which is one ownership. It is understood from the submitted evidence that the owner Ziko is a local businessman who has acquired the building with the intention of subdividing the unit to let to local business and has invested in upgrading the building. Whilst the applicants indicate that the unit has been vacant for 2 years there is little evidence as to marketing. The evidence that has been submitted with the application just states that the property was formally marketed in mid Jan 2018 and I understand that it was then taken off the market in the summer of the same year as a different occupier had been found. There is no other evidence provided.

An officer from the Councils Place and Economy team visited the site and spoke to the owners in light of this application. The officer confirmed the units have undergone extensive refurbishment, following a period of vacancy and that whilst there was interest during this time; potential renters were not prepared to undertake refurbishment themselves. The officer noted that the units were nearly complete and could go onto the open market as soon as completed.

In the opinion of that officer and based on discussions with the owner, these will be desirable commercial units, suitable for start-up or growing small businesses and come with roller doors and off-street parking facilities. A review of on-line platforms does not show a high turnaround of businesses on the estate, which is predominantly industrial, automotive and engineering.

The units are based on a busy industrial estate. To the right of the building is World of Books and opposite is Nationwide Auto Repair. Therefore, traffic is constant with considerable HGV presence. The Estate lacks parking for visitors and staff, resulting in stacked parking on pavements both sides.

#### Provision of new sports/ recreation facilities

**CS Policy 11** – this policy seeks to support the protection and enhancement of recreation and community facilities. It also seeks to meet the identified needs of all sectors of the community. It acknowledges that the current supply of sites and facilities justifies a strategy that seeks to retain and enhance all existing provision.

**Evidence** – the Adur and Worthing Indoor Sports Facilities Assessment 2013 reported that the demand for Gymnastics is significant. It was noted that at that time

clubs had waiting lists and that new clubs had established in the last two years (prior to base date of study 2013). These included:

- Flipitas GC – in 2013 Flipitas had 224 members and no waiting list. It operates out of The Vale School (Mon/Thurs/Fri from 5pm to 9pm) and Chatsmore High School (Saturday from 9.30am to 1.30pm).
- Worthing GC had 77 members (2013) with a waiting list of 25. It operates out of Bohunt School Hall (Mon/Tues/Wed/Fri from 5pm to 8.30pm, Saturday from 10am to 3pm)

GYMCO was established in 2013 after the study was undertaken (only Teenie Tigers was operating from 2008 and this was for daytime pre-school sessions).

The study also identified two clubs in Adur :

- Wickers with 600 members located within a dedicated permanent facility at Chartwell Business Centre and
- Stars gymnastics with 500 members operating across 5 hubs.

The 2013 study recognised that there was latent and unmet demand.

The study also noted that British Gymnastics works to help clubs progress by encouraging them to develop satellite centres or to look for dedicated facilities. The organisation often encourages the use of Industrial units as these are often the easiest and fastest way to develop dedicated facilities.

At that point in time Sussex was not considered to be a priority area by British Gymnastics.

A new study has just been commissioned to support the policy approach in the emerging new Local Plan.

**The Gymnastics Company** – evidence submitted indicates that the Gymco has been in operation for 10 consecutive years – although information on their website would suggest that it was Teenie Tigers a daytime preschool that was operating from 2008 and that GYMCO was established in 2013.

The club has 379 children aged 1 to 18 years and a waiting list of over 100 children at 28/09/18.

The club currently operates out of three satellite locations Field Place, Thomas A Beckett Middle School and West Park School.

## **Summary**

The current Core Strategy recognises the role and value of uses such as gymnastics clubs. The current evidence suggests that these uses are popular and that there is unmet demand. It is appreciated that it can be problematic operating the business over a number of satellite sites but the evidence does suggest that this is not unusual for similar types of uses and indeed according to the evidence base British Gymnastics does encourage the development of satellites centres or to look for dedicated facilities.

British Gymnastics do encourage the use of industrial units as these are the easiest and fastest way to develop dedicated facilities. They are more likely to have the ceiling heights and floorspace needed to meet the needs of these uses. It is clear that there are examples across the country where gyms have taken on such premises. However, initial research indicates that they tend to be located on more modern estates with wider roads, parking and pedestrian footpaths etc. Such locations reduce the potential for conflict between the uses of the gyms and the existing industrial/commercial uses.

The unit subject of the application is being fully refurbished and will once completed provide much needed industrial floorspace for local new and expanding business. As set out above, Worthing cannot meet the current or future demands of local business for B class uses. No evidence has been submitted that would suggest that this property could not be let to a B class use. This business park has low levels of turnover of businesses and low vacancy levels (most vacancy would be a result of natural churn). The site is protected under part 1 of the CS policy 4, which affords the highest level of protection.

The application site is located in the middle of an older style industrial estate. The introduction of this type of use in the busy industrial estate with existing narrow roads and parking problems has the potential to give rise to significant conflict. There is real concern that the introduction of this use that will operate throughout the working day bringing domestic vehicles and children of various ages could negatively affect the viability of existing uses on the industrial estate to the detriment of the wider local economy. There is also concern that such a use which brings young children onto a site with a variety of industrial uses in close proximity could give rise to issues of safety.

Whilst we are supportive of the gymnastics club and value its contribution that it and other clubs contribute to the local community and the economy, we already suffer with a lack of local employment space with very little new space likely to come forward in the future that would meet with the identified demand. The loss of this newly refurbished unit on a well-used estate cannot be justified in policy terms. In addition, the introduction of this type of use into an existing older style industrial estate has the potential to give rise to significant conflict with existing users that could affect the viability of other uses on the estate and the wider estate viability.

In light of the above the Policy Team cannot support the current proposal.

**Environmental Health:**

With reference to the above application, no elevations of the building have been submitted but the plan appears to show windows to the rear of the unit. I would advise that all doors and windows on the north and east facade should remain closed when amplified music is played.

**West Sussex County Council Highways – original comments:**

The site is accessed from Woods Way, an unclassified road with a speed limit of 30mph in this location.



### Parking

From WSCC Parking Standards, the existing (B2) use would require 12 spaces and the proposed (D2) use would require 22 spaces. This change of use would create an increase in parking associated with the site.

The applicant may wish to provide additional information of the classes to be offered such as whether the classes would be open sessions, or if classes will be assigned to a set number of pupils and if so how many pupils would there be in each class?

It would also be beneficial for the applicant to survey the existing members of The Gymnastics Company to find out the specific numbers of trips and modes of transport used. In addition to this it would be beneficial to find out how members would anticipate travelling to the proposed site. This would generate a more robust idea of the existing and proposed trip generation.

The application form states that 15 car parking spaces would be provided but only 11 are shown in car parking plan. The proposed parking layout does not appear to be usable. The 4 parallel parking bays (labelled 4, 5, 6 and 7) should meet the Manual for Streets (MfS) dimensions for parking bays of 2m x 6m rather than the 2.4m x 4.8m as shown.

The 4 spaces to the north of the building do not appear to have sufficient space to manoeuvre. It is stated in MfS that vehicles angled at 45 degrees require at least 3.6m for manoeuvring into and out of spaces.

The proposed 3 spaces on the frontage would also appear to not have sufficient space for vehicles to manoeuvre. This angle of vehicles would need 4.2m manoeuvring space, as required for vehicles parked at an angle of 60 degrees (MfS).

The Local Highway Authority (LHA) request that the applicant demonstrates that the proposed layout is workable by producing a tracking plan for the parking spaces. Alternatively, the applicant should provide an amended parking layout plan that is workable and complies with MfS dimensions for all parking spaces and manoeuvring areas. The applicant should note that any parking plan should provide sufficient space to fully turn on site so that vehicles may exit the parking area in a forward gear.

### Access

With the current proposed parking layout, it is unlikely that an application for a vehicle cross-over (VCO) licence would be permitted by the local area office as the demonstrated parking layout does not appear to be useable. If the application is approved, the applicant would be required to formally apply for a licence to carry out the vehicle cross-over works from the local area office.

### Conclusion

The applicant should provide the additional information requested above regarding how users will travel to the site, whether the classes are open or allocated and demonstrate a workable parking layout. Once the additional information has been provided the LHA should be re-consulted.

### **Further comments upon the receipt of additional information:**

West Sussex County Council, in its role as the Local Highway Authority (LHA), was previously consulted on this application and requested further information on parking requirement and a redesign of the proposed parking.

The applicant has provided details of current class attendance and the modes of transport used. They have also stated that classes are allocated. A new parking plan has also been produced.

#### Parking

The new layout provides a dedicated turning area which will allow vehicles to exit in a forward gear. The dimensions of the bay parking spaces appear to have been altered to comply with Manual for Streets (MfS) parking standards. Manoeuvring spaces have also been improved. The LHA would ask that, unless the car port is to be removed or adapted, space 5 is not shown to intersect the rear column of the car port.

#### Travel

The LHA previously requested two surveys to be completed, one stating how attendees currently access their class location and one stating how they would access the proposed club location. The applicant has produced the first of these surveys, but should also provide the second survey to allow the LHA to more accurately assess the potential impact of the proposal.

Given the size of the site and the proposed growth in class attendees the LHA would also ask that the applicant provide a dedicated Travel Plan Statement. This document should aim to encourage both class attendees and employees to travel sustainably.

#### Conclusion

The applicant should provide the additional survey and transport information requested as well as amending the parking plan. Once this information has been received the LHA should be re-consulted.

*The applicant has submitted further information in response to the above consultation response and further comments from the County Council will be reported verbally at the meeting.*

### **Representations**

90 letters of support have been received, many of which state the benefits to children of the classes run by the applicant, that the lack of a permanent venue leads to a number of cancelled classes, the proposal will create job opportunities and that the equipment has to be taken from site to site.

1 letter of objection has been received on the grounds that the existing, growing businesses in the area take up any available parking within the estate and surrounding streets and therefore ample parking would need to be provided.

## **Relevant Planning Policies and Guidance**

Worthing Core Strategy (WBC 2011): Policies 3, 4, 16 and 19  
Sustainable Economy SPD  
National Planning Policy Framework (CLG 2018)  
Planning Practice Guidance (CLG 2014)

The Core Strategy, including the saved policies of the Worthing Local Plan, comprises the Development Plan here but the Government has accorded the National Planning Policy Framework (NPPF) considerable status as a material consideration which can outweigh the Development Plan's provisions where there are no relevant development plan policies or the policies which are most important for determining the application are out of date. In such circumstances paragraph 11 of the revised NPPF states that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development; or any adverse impacts of doing so would demonstrably outweighs the benefits, when assessed against the policies of the NPPF taken as a whole.

## **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 development plan policies and, if not, if there are sufficient material considerations to outweigh any policy conflict.

At the outset, it is clearly evident that the applicant has established a very successful business that provides an extremely valuable community resource. This can be seen by the substantial number of representations in favour of the proposal and while few of those representations are site specific, the content of the representations demonstrably indicates the hard work of the applicant and the difficulty she faces on a constant basis due to the lack of a single site from which to operate.

Notwithstanding the above, the starting point for the determination of any planning application is stated at paragraph 2 of the National Planning Policy Framework (NPPF):

*Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise*

Paragraph 8 of the NPPF states that one of the overarching objectives of the NPPF is economic and that an objective of planning policies should be

*...to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity...*

The relevant policies of the Core Strategy are outlined in the Planning Policy comments above. As stated in those comments, policy 4 seeks to protect existing employment sites within Worthing. For the purposes of the policy, employment uses include B1, B2 and B8 and therefore do not include the D2 use class proposed under this application. In principle, therefore, the proposal fails against this policy.

Furthermore, there are two levels of protection afforded to sites across the town and units within the identified employment areas listed in Part 1 of the policy will be afforded the greatest level of protection. The list includes the Goring Business Park in which the application site is located.

The relevance of Part 1 is that while greater flexibility *may* be allowed for other sites within the town (e.g. where the site is redundant), the policy specifically lists areas where employment uses must be protected. The point has been made in the supporting information that the application site has been vacant for some period of time, but while such a factor could be taken into account in other areas, it is not a determining factor in the subject application.

As is normal with a policy of this nature, following the adoption of the Core Strategy, a further evidence base was established via the Sustainable Economy Supplementary Planning Document which also needs to be taken into account in any decision making process. The relevant evidence was updated in 2016. As stated in the Policy comments above, the emerging supply of employment space in Worthing appears to be insufficient to support the demand over the plan period for both industrial and office uses. As stated in the comments: *the most recent study indicates that there is strong demand for industrial space and shortage of premises in the Borough means local firms have difficulties finding suitable space to support their expansion or relocation plans in the local market, while enquiries from firms outside Worthing are rarely met.*

Your Officers consider that there is a clear policy reason to resist the proposal in principle, therefore.

It is not surprising, though, that given the competing pressures for land in the town that similar situations have arisen before, where an applicant has contested that a use which does not conform to policy 4 should nonetheless be permitted. On 2 notable occasions, the policy has been tested on appeal.

Firstly, in 2013 (and hence shortly after the adoption of the Core Strategy) an appeal was decided regarding the proposal of the Jubilee Church *for change of use of the*

*building from warehouse to community centre and place of worship, together with external alterations to the building and revisions to car parking layout. The site in question was located on the East Worthing Industrial Estate and hence subject to the same policy provisions as the current application site. Rather like the current application, the proposal attracted significant support with over 200 letters of support. Nonetheless, the application was refused on the grounds of the loss of a business unit on a protected industrial estate. An appeal was submitted and dismissed with the Inspector stating:*

*'It is the very clear intention of Core Strategy Policy 4 that no part of the named Employment areas should be released to other uses, even though such uses might themselves entail an element of employment. The justification for the policy is given at paragraph 6.32 of the text, which states that Worthing's existing employment areas will continue to play a fundamental role in the economy of the town and research indicates that there is no justification for the release of any industrial estates or business parks.*

*The implication of this statement is that the evidence base of the Core Strategy, at the time of its Examination, demonstrated a need for the retention of the existing employment generating sites to meet the current and future requirements of the local economy for the Plan period...*

*...Concerning alternative sites, the Appellant maintains that no site suggested by the Council would meet its needs, either because of size, leasing restrictions, or onerous financial demands for the maintenance of fabric. However, given the strength of development plan policy and of the evidence on viability, to give superior weight to the absence of sites which might be suitable financially (and in other ways) would be likely to create a precedent for other proposals for non-conforming uses, which either individually or collectively would harmfully dilute the character and employment value of key industrial and business locations protected in the Core Strategy in the interests of the local economy...*

*...In conclusion, therefore, the appeal proposal would have a materially harmful effect upon the availability of industrial and business premises in conflict with prevailing development plan policies for the protection of employment opportunities.'*

The above appeal decision firstly confirmed the justification for the policy, but in the middle paragraph above also appears to deal with a question relevant to the determination of the current application, which is the potential difficulty of finding alternative sites. The issue of the suitability of the particular building in question, which is similarly cited in this application, was considered by the Inspector but not seen to overcome the necessity to protect the key industrial and business locations. This suggests that a potential material consideration – the lack of alternative sites – is not sufficient to overcome the conflict with the policy. Nor did the Inspector feel that the significant local support for the application was sufficient to override the policy either.

Notwithstanding the above, it is of course noted that the use in question was different to that proposed under this application. However, a previous proposal for a gym, as outlined in the planning policy statements, has also similarly been considered at an appeal. Again, the application site was on the East Worthing

Industrial Estate and so subject to the same policy considerations as the current proposal. In this instance, the gym in question had already occupied the building and was operational and accordingly the implications for a refusal were perhaps greater than for a proposed use.

The Inspector was aware of the previous appeal decision referred to above, stating:

*An appeal decision in February 2013 considered the relationship of Policy 4 to the National Planning Policy Framework, which post-dates the Core Strategy. My colleague Inspector found that there was no conflict with the Framework, since the economic objectives of the Core Strategy as set out in paragraph 6.22 were consistent with paragraphs 18 and 19 of the Framework. I concur with that finding, and so full weight is attached to Policy 4.*

The statement that 'full weight' should be attached to Policy 4 is important as it indicates that there is unlikely to be any material consideration that could outweigh a policy conflict, if such conflict is found. The Inspector went on to state:

*'Employment uses' for the purposes of Policy 4 is defined in the Core Strategy as B1, B2 and B8 uses. The D2 use would therefore not be consistent with this definition. I note the appellant's contention that a D2 use could provide employment, and that Policy 11 of the Core Strategy encourages recreational and community uses. However, it is clear to me that the purpose of Policy 4 is to safeguard specific employment opportunities and employment uses by seeking to protect under Part 1 the key industrial estates and business parks, rather than being a general policy relating to all potential employment sources. By focusing on specific employment opportunities and uses, the wording and objectives of Policy 4 is also consistent with Policy 3 of the Core Strategy that seeks the provision of a diverse and sustainable economy*

The key point contained within this part of the Inspector's decision is the reference to the provision of employment. The applicant has suggested that there could be a 3 fold increase in the amount of FTE posts in her business and it is perhaps relevant to consider that a policy which ostensibly seeks to protect employment uses could be resisted when it itself could provide employment. However, as the Inspector stated, the purpose of Policy 4 is to safeguard specific employment opportunities and employment uses by seeking to protect under Part 1 the key industrial estates and business parks, rather than being a general policy relating to all potential employment sources. If a mere increase in employment was considered an over-riding factor, then clearly there are a number of non-conforming uses that could be considered for relocation on an industrial estate.

The Inspector therefore concluded that the proposed use would conflict with policy 4. In light of the then occupation of the building by that particular appellant, the Inspector also stated that '*...a temporary use of the premises for the use would still result in a conflict with the development plan objectives as it would lead to the building not being available for the B class uses which the relevant planning policies seek to provide.*' While a temporary use is unlikely to be acceptable to this applicant in any case, the appeal decision indicates that consideration of a temporary permission would as similarly conflict with planning policy as a permanent permission.

Members will be aware of the recent permission for the Jubilee Church to relocate to new premises and the gym which was the subject of the second appeal also relocated to a more suitable location.

In respect of highways considerations, at the time of writing the report, these remain outstanding although the County Council has not raised an objection, instead requesting further information which has been submitted just before the closing of the agenda and is hence with the County Council for consideration. It is quite clear from any visit to Woods Way during working hours that the area is heavily parked, not untypical of industrial estates, with some vehicles parked up on the kerb. The extent of parking does reduce after working hours and it might be said will be at its least when the gym would be most commonly in operation. However, the supporting information does suggest daytime classes, and the at the very least what parking provision there is on the site should be laid out in the correct and most efficient manner and evidence demonstrated, via a Travel Plan, of how movements to the site will be managed. An update will be provided to members at the meeting.

### **Conclusion**

This is a difficult case in that the applicant demonstrably provides a service which is an asset to the town. However, the long established basis of the planning system is that decisions must be taken in accordance with the development plan unless material considerations dictate otherwise. The Council has a policy which seeks to protect key industrial locations which has found to be in accordance with national policy and successfully defended on appeal when challenged. Accordingly, there are very strong grounds to resist the proposal and therefore it is recommended that permission is refused.

### **Recommendation**

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

The proposed change of use would result in the loss of a B class employment generating unit on a protected industrial estate resulting in the loss of such a unit where there is an established requirement for such floorspace to accommodate B class uses. The proposal therefore conflicts with guidance in the National Planning Policy Framework to provide a strong and responsive economy, policy 4 of the Worthing Core Strategy and the Sustainable Economy Supplementary Planning Document.

Application Number: AWDM/1763/18

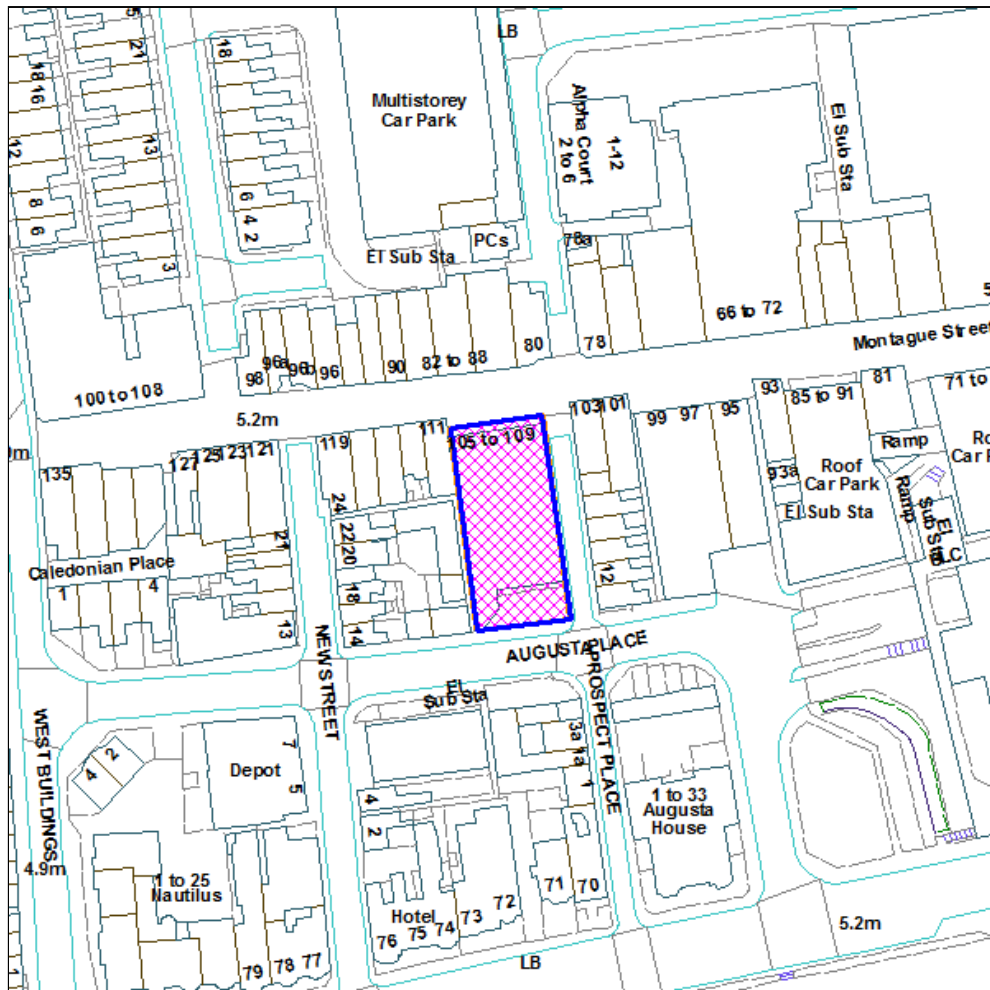
Recommendation – Approval,  
subject to Amended Plans and  
s.106 agreement.

Site: 105 - 109 Montague Street Worthing West Sussex BN11 3BP

Proposal: Demolition of existing building and redevelopment set over 4no. floors, comprising A1 retail floor space at ground floor, 26no. 1, 2 and 3 bedroom units with communal courtyard and balconies at 1st floor to West elevation, cycle store, underground surface-water tanks and associated landscaping.

Applicant: Century House Ltd.  
Case Stephen Cantwell  
Officer:

Ward: Central



Not to Scale



## **Site and Surroundings**

This town centre site lies on the south side of Montague Street at the corner with Prospect Place. It is a rectangular block of developed land which also fronts onto Prospect Place to the east and Augusta Place to the south. There is a narrow service passageway to the west, with cottages beyond. The site comprises approximately 0.08ha and is occupied by a two-storey flat-roofed shop built around 1960 and recently occupied by Poundland but now vacant. The rear part of the site is a delivery forecourt and loading doors, which face onto Augusta Place and the southern corner of Prospect Place.

The building is set back from the main Montague Street frontage. It has a large shopfront and deep overhanging canopy; it is faced with brown brick and has a utilitarian, dated appearance. It is mainly 8 metres in height but rises to 10.6m along the Montague Street frontage, with a projecting service tower of similar height at the rear corner with Augusta Place. The site is generally flat.

Montague Street is part of the pedestrianised primary retail area, which also hosts a weekly market. Buildings are a mixture of styles and two-three storey heights to the east. To the west they are mainly two storeys. In Prospect Place the site faces onto a terrace of predominantly three-storey town houses with fourth-floor attic rooms. These are listed buildings, several are flint-faced, and some are light-painted render. The street is approximately 6 metres wide.

Augusta Place contains a mixture of rendered cottages, commercial buildings and yards to the west of the site. To the east are taller buildings including the Grafton multi-storey car park. The rear of seafront town houses and an eight-storey residential block are seen to the south with a roadside parking forecourt in the foreground. In New Street to the west of the site are terraced houses / cottages, with the rear roof-slope and wall of a modern courtyard mews facing the western boundary of the site across the intervening service passage.

The area is part of two conservation areas: 'Montague Street'; 'Marine Parade and Hinterland'. It is also a controlled parking zone.

## **Proposal**

The existing building would be demolished. A new four-storey building would be constructed on an enlarged footprint covering the service yard. This would comprise 375sqm of retail space and shopfront at ground floor, facing Montague Street and its corner with Prospect Place. Twenty-six flats would be provided, 24no. of these in the upper floors facing Montague Street, Prospect Place and Augusta Place and 2no. ground floor flats to the rear. Development would produce a continuous build frontage on all sides and would use varied architectural styles, materials and masses. At first floor level, behind the developed frontage, would be two terraces separated by a central wing containing three of the proposed flats across three further floors (see Images 4 and 5 below).

Access for the flats would be in three locations along Prospect Place and Augusta Place. Service access to the retail space would be via the service passageway which would be made wider by setting back of the ground floor western side of the proposed building. Bin stores and cycle stores are also proposed at ground floor and an underground tank to hold and regulate surface-water drainage.

Amended Plans are due to be submitted including reduction of the central internal wing changes to its fenestration. Changes are also to be made to the proposed Augusta Place frontage and to the external materials at Prospect Place.

### **Relevant Planning History**

PREAPP/ 0530/18 - Demolition of existing building and redevelopment comprising A1 retail floorspace, 29 residential units, cycle storage, communal courtyard and associated landscaping.

**Response:** 17 September 2018.

### **Consultations**

**West Sussex County Council Highways:** No objection subject to s106

The site is well located with access to a wide range of facilities within the High Street and public transport. Development represents an increase of five trips in the AM Peak ten fewer during the PM Peak, compared with existing use. It provides two additional on-street parking spaces, one for a car club and one for disabled parking, also 32 cycle spaces for residents. A travel plan statement will be secured by condition. Need TRO for new parking spaces. A contract with a car club provider should be secured via s.106 to fund this for the initial three year period.

Could car-free development be secured by condition and restriction of access to parking permits? Could cycle spaces be provided for staff and 4no. for the retail units?

**Parking Services Manager:** No objection

The site is within Controlled Parking Zone A, which has a waiting list for resident permits. The only concern would be if this development would impact on the highway by occupants requiring On-Street parking permits. Could the development be made car free to alleviate additional pressures on the highway and parking? Can occupiers of the premises not be entitled to purchase resident permits required to join a car club? On this basis no objection.

**Housing and Health Officer:** No objection

**Environmental Health Officer:** No objection

Potential disturbance from retail activities to flats above should be minimised by way of appropriate conditions: sound insulation, time restriction for deliveries, construction work and provision of a construction management plan. An air quality emissions mitigation assessment has not been submitted. A s106 agreement to

secure a car club but I suggest that more than one is provided; a few car club spaces could alleviate demand for parking.

**Conservation Area Advisory Committee:** Object

Concern over the proposed scale of the rear element fronting Augusta Place and its detrimental effect on nearby listed buildings. The proposed brick frontage should be set back to define the change in material from the adjacent rendered façade. The Montague Street frontage is considered to be a marked improvement on the existing.

**Fire Safety Advisor:** Further information requested.

Including how residents of each wing can move between terraces and the individually secured stairwells, in the event of a fire.

**Borough Engineer:** No objection

Pre-commencement condition recommended for agreement of surface water design and calculations, including pipe-sizing corrections. No concern on flood risk grounds.

**Southern Water Services:** No objection

**Sussex Police:** Recommendations

These cover matters such as security of cycle store, entrances and bins, use of safe balcony screens. Informatives may be used, with possible minor amendments of details.

**Representations**

**Fifteen responses:**

9 object, 4 support, 2 comment. Summarised as follows:

**Worthing Society:** No objection

However, suggests modification of southern end of development to be sympathetic to neighbouring older cottages and not overbearing

**Support: 4 letters**

Letters from Montague Street and Amberley Drive.

- Fully support sympathetic replacement of ugly building
- Conservative development of underdeveloped space, could have been more adventurous but appreciate sensitivity needed in conservation area
- Will revitalize and regenerate Montague Street.
- Need to attract investors, proposal is a signal of this
- Mix of flats will bring life and footfall
- Assists in addressing housing undersupply

- Parking permits should not be restricted for new residents; it may affect possibility of development taking place. Could a financial contribution be made instead?
- NCP car parking is 2/3rds empty, I have not experienced parking problem

**Objection: 9 letters**

Letters from New Street, Prospect Place, Augusta Place.

- Increased pressure for parking.
- Zone A parking ‘a complete nightmare’, ‘at crisis point’, ‘witnessed many an unpleasant moment regarding parking’, ‘already very difficult’, ‘even worse at weekends than evenings’.
- Examples also given of residents dropping-off shopping and parking elsewhere outside the zone or in Grafton MSCP; waiting times to find space. Illegal parking and obstructions by large delivery vehicles
- Car free-development is nonsense. Some flats may have more than one car.
- Will new residents be prevented from buying parking permits? They could still buy parking tickets [reducing space for permit holders]
- Local residents should have more say [regarding parking]
- Loss of light ‘will drastically impact light levels in our homes’
- Some light losses over 50% in multiple cases and not complying with BRE light targets. Survey makes incorrect assumption about neighbouring rooms and is ‘box-ticking’.
- If building were not made longer than the existing, it would not have negative effect.
- Overlooking of bathrooms complete invasion of privacy

**Comments: 2 letters**

Letters from Prospect Place and Marine Parade

- Loss of light in Prospect Place due to size of building. A reduced length of building would retain space for much-needed parking.
- Very concerned at lack of parking given existing severe problem. New residents realistically will have cars.

**Relevant Planning Policies and Guidance**

Worthing Core Strategy 2011: Policies 6, 8, 10, 15, 17, 18 and 19

Worthing Local Plan, 2003 (saved policies): RES7, H18

Supplementary Planning Documents:

- Guide To Residential Development (WBC 2013)
- Space Standards (WBC 2012)

Conservation Area Appraisals

- Montague Street (WBC, 2005)
- Marine Parade and Hinterland (WBC 2001)

Community Infrastructure Levy Charging Schedule (WBC 2015)

National Planning Policy Framework (July 2018)

National Planning Practice Guidance (CLG)

The National Planning Policy Framework (NPPF) is a material consideration of considerable weight, which can outweigh Development Plan policies if they are out of date on a relevant matter. In such circumstances paragraph 11 of the recent NPPF, 2018 states that development should be approved unless: it would cause adverse impacts which significantly and demonstrably outweigh benefits when assessed against NPPF policies overall, (recent case law indicates approval of development which is contrary to the Development Plan will be the exception).

The Council cannot demonstrate a current 5 year supply of housing in respect of Objectively Assessed Needs; therefore all relevant policies which relate to and constrain housing delivery in the Core Strategy are regarded as out of date according to the NPPF. Accordingly the Council needs to assess its housing delivery strategy. Therefore following a recent housing study, the new Draft Local Plan was published for consultation during autumn 2018 and a further version with suggested modifications will be published later this year.

However, it is considered that policies which consider matters such as design, retail, environmental impacts, heritage, transport and neighbouring relationships are still of weight. Policy 10 – Affordable Housing, and its weight in relation to the NPPF, is considered in the following Policy Summary.

#### Policy Summary

The site is within zone A of the primary retail area, Policy 6 safeguards the retail character function here, resisting development which detracts from vitality and viability. Policy 8 allows for high density development in the and around the town centre and a mix of housing to meet needs. New dwellings should accord with national internal space standards and local external space standards of the Council's SPDs; this also acknowledges that conservation interests may require flexibility in this matter.

Development in sustainable locations, with good access to services and public transport is supported by NPPF and broadly by policies 17 – 19, which encourage sustainable construction and renewable energy, albeit this is now largely governed by Building Regulations.

Good quality design and architectural composition is required by Policy 16, this is elevated to 'high quality' in NPPF. Development which may affect heritage assets, such as conservation areas and listed buildings, should sustain and enhance them and make a positive contribution to local distinctiveness.

The Conservation Area Appraisal for Montague Street identifies opportunities for enhancement by the replacement of unsympathetic shopfronts in order to respect individual buildings and the street scene. In Prospect Place and Augusta Place, the Marine Parade and Hinterland Conservation Area appraisal notes these as remnants of 19<sup>th</sup> century residential streets with terraces of particular historic and architectural interest. It also notes the dead-frontage effect of other buildings in this area, several in poor states of repair where redevelopment opportunities may provide enhancement.

Residential amenities should not be unacceptably reduced by new and intensified development under policies H18 and RES7, for example, loss of important open space, visual intrusion. Policy 16 - Built Environment and Design, says little about neighbouring relationships or distances between buildings but refers to the importance of carefully arranged buildings, spaces and access points.

NPPF states that in achieving developments at densities which make effective use of land, account should be taken of a range of relevant factors. Among these are: local market conditions and viability; and the importance of securing well-designed, attractive and healthy places with a high standard of amenity for existing and future users. Flexibility should be applied to the use of policies for daylight and sunlight, where they would otherwise inhibit making efficient use of a site, as long as the resulting scheme would provide acceptable living standards. It acknowledges National internal space standards, for the assessment of internal living standards.

The Council's Space Standards and Residential Development SPDs provide guidance for the type, size and location of external spaces and matters of overlooking and privacy.

The Residential Development SPD adds that development densities should be significantly above 30 dwellings/ha. With 100 dwellings/ha permissible in appropriate locations, the highest densities being in the most sustainable and accessible locations; high quality development is sought. Density will be taken into account alongside factors such as the acceptability of the layout, access/egress, design and outlook. It should not have a significant negative impact on amenity.

The national NPPG guidance 'Design' advises that good design operates at a variety of scales, for example the overall size and mass of individual buildings and spaces in relation to their surroundings, and the scale of their parts. It states:

*...too much building mass compared with open space may feel overly cramped and oppressive, with access and amenity spaces being asked to do more than they feasibly can. ...The size of individual buildings and their elements should be carefully considered, as their design will affect the: overshadowing and overlooking of others; local character; skylines; and vistas and views. (Para. 026 ID: 26-026-20140306).*

Affordable Housing is subject of Policy 10. This seeks on-site provision of 30 percent affordable housing in new developments which exceed 15 new homes, such as the current proposal. By comparison, the more recent NPPF states that at least 10 percent of the homes on the site should be available for affordable home ownership, but that this should form: '*part of the overall affordable housing contribution from the site*'. The policy and NPPF do not appear to be in conflict insofar as NPPF sets out the 10 percent minimum in relation to types of affordable home ownership and does not appear to rule out a requirement for more than 10 percent of affordable housing overall.

In terms of transport, consideration is given to the likely demand which development may place on the surrounding road network and alternatives to private motor car usage are encouraged by NPPF and policy 19; the latter also looks for integration

between planning and transport strategies, including a parking strategy to balance demand and provision.

Saved policy T9 of 2003 states that parking requirements can be lowered in town centre developments where, for instance provision is made for improved transport by non-car modes of travel, or on-street parking controls. Acceptability of this reduction includes consideration of: environmental and highway safety; the availability, type and proximity of public parking and alternative means of transport; potential highway safety problems and potential harm arising from the parking demand being accommodated elsewhere; the extent and nature of on street parking restrictions in the vicinity; the type and scale of development proposed; the relationship of the proposal with nearby land uses.

The more recent NPPF advises that the capacity of infrastructure and scope to promote sustainable travel modes that limit future car use, are considerations in the question of making effective use of land. Maximum parking standards should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development.

### **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.

Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 indicates that in considering whether to grant planning permission or permission in principle for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 (1) states: indicates In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

### **Planning Assessment**

The main issues raised by this proposal include:-

1. Principle of Development: Retail and Residential
2. Design and Heritage
3. Neighbour Amenities – Proposed Flats
4. Residential Amenities - Neighbours

5. Access and Parking
6. Affordable Housing
7. Flood-risk, Drainage, Sustainability and Safety
8. Maintenance and Management

## 1. ***Principle of development***

### Retail

- 1.1. As the site is within zone A of the primary retail core, the provision of a replacement retail use is an expectation of Policy 6. The proposal provides a shop of 375 sqm fronting Montague Street and the corner of Prospect Place. This would be 1.8m forward of the position of the existing shopfront, following the line of the existing canopy. The shopfront would be divided into three bays with recessed doorways, fascias and stall-risers. This design allows the space to be used for a single business or subdivided into two or more units. Service access would be via the existing passage along the western boundary from Augusta Place, which also serves the rear of neighbouring shops. This would be widened to 2m although with a 1m wide pinch point at the street access.
- 1.2. Although the proposal represents a reduction of approximately 17% of ground floor retail space, the loss of upper-floor storage/offices and the rear servicing forecourt, it does provide modern, flexible premises, well-designed for its corner location. The applicant's Sussex-based Commercial property advisor has examined the existing and proposed retail spaces and market requirements. They conclude that the proposal is more suitable than the existing.
- 1.3. A condition allowing Class A1 use only would ensure that the new shops would not be converted to other uses, such as A2 or residential, which would disrupt the balance of uses proposed here, or food and drink uses, which may introduce risks of odour and disturbance to new flats, without separate planning permission. The reinvigoration of the currently dated frontage is likely to enhance vitality in the area, in accordance with Policy 6. Members are aware that the Government has recently consulted on further relaxation in the use Classes Order for A use classes and this matter is being reviewed in the emerging Local Plan. Nevertheless, it is considered that retaining retail uses at the present time is appropriate in this location.

### Residential

- 1.4. Policy 8 supports the provision of higher density housing in the town centre, helping to deliver a wide choice of homes. The proposal is for 26 flats for as follows:



- 6 no (23%). studios (1 bed one person)
- 12 no (46%). 1-bed, 2 person flats
- 6 no (23%). 2-bed flats (3 no. 3 person and 3 no. 4 person)
- 2 no (8%). 3-bed flats

It does not include a provision for affordable housing according to policy 10 but has provided a viability assessment in justification, discussed at section 6 below.

- 1.5. By comparison with market housing needs as identified in the Worthing Housing Study, 2015, the mix provides a much higher percentage of 1-bed units (69% proposed vs 15% need) and is well below the percentage of 3-bed units (8% proposed vs 35% need). It is somewhat closer to the desired proportion of 2-bed units (23% vs 40% need).
- 1.6. In terms of density, the proposal is for 325 dwellings/ha, which is much higher than the Residential Development SPD guideline of 100/ha, although this does not rule out higher densities in accessible locations.
- 1.7. In summary, the proposal is for a very high development density which relies heavily on the provision of 1-bed units. There is some logic to this approach; one bedroom flats can make effective of constrained town-centre sites, such as this. They can house small households of 1-2 people, who are less reliant on the provision of open space for activities such as children's play than in the case of larger dwellings, although eight of the flats would be 2-3 bedrooms, which may be regarded as family housing. Small households also generate a lower, theoretical parking requirement; 0.55 spaces/dwelling, compared with 0.75 spaces/dwelling.
- 1.8. The matters of space and spatial relationships which affect the amenities of future occupiers and neighbours, also car parking development are key considerations in this high density development, which are discussed in this assessment.

## 2. ***Design and Heritage***

- 2.1. In response the different characters of the three street frontages, the proposal comprises a series of distinct elements. At Montague Street is a double-gabled corner building, its design influenced by the gabled parapet of the listed building on the opposite corner. The eaves height is set three storeys, which coincides with the ridge of neighbouring shops and is lower than the existing building at this point. A fourth floor would be contained in the gables 1m taller than the existing roof.
- 2.2. Away from the double-gabled corner the building is set back at first floor, with a simpler hipped roof form, with rooflights and dormer windows lighting the fourth floor in the roof. Attention to detail is found in the recessed central channel for the main drainpipe and hopper, and use of stone capings at the gables.



**Image 1: Proposed North Elevation to Montague Street**

- 2.3. Traditional window proportions and arrangements are used throughout along with light painted render, to match the prevailing material in this part of the street. At ground level, the shop fronts are divided into three bays, which skillfully reflects the rhythm of neighbouring frontages in the conservation area; a significant improvement on the existing situation. The amended plan will include traditional stall-risers.
- 2.4. In Prospect Place a terraced form is proposed, its eaves set just below third floor ceiling level, a height which is similar to the existing flat-roofed building. The fourth floor is contained in the steeply pitched roof, with a series of rooflights. Strong vertical arrangement of windows and the positioning of doors and down-pipes give the impression of town-houses, which echoes the form of the listed terrace opposite.



**Image 2: Proposed East Elevation to Prospect Place**

- 2.5. Detailing includes the expressed surrounds of the doorways, which are influenced by the quoin-work surrounds of the existing terrace. The gable ends are slightly projected and stone-capped. The streetscene is also enriched by the glimpse of an oriel window between the terrace and the Montague Street corner building. The overall size and proportions of the terrace are considered sympathetic to the character and setting of the listed buildings and conservation area; a significant architectural enhancement.
- 2.6. Image 2 above indicates a brickwork face to Prospect Place. The amended plan will use light-painted render instead, in order to maximise the reflection

of light in the narrow street. Rendered buildings exist at the south east corner of the street and in Augusta Place.

- 2.7. In Augusta Place, the end of the proposed Prospect Place terrace would comprise a four-storey gable, taller than and 6m further forward (towards Augusta Place), than the existing building. In design, its width and shape is based on the existing gable on the south east corner of Prospect Place and Augusta Place, but taller and steeper. A capped 'chimney' end at its apex adds to visual interest. In drawing up the amended plan, the architect is currently considering whether brick or render would be most fitting here, given the intended use of render in Prospect Place. An update will be given.



**Image 3: Proposed South Elevation to Augusta Place**

- 2.8. To the west of the proposed gable-end the style of the building changes and there is a subtle stagger between the gable and the more contemporary form beyond it. This element of the building uses the ridge height of the neighbouring cottages as the approximate position for its main parapet. Traditional window proportions are used, which creates harmony with the gable-end, but they are grouped in arrays, including boarded panels, which produce a horizontal emphasis. The recessed down-pipe detail used in Montague Street is also well deployed here.
- 2.9. At roof level a steep mansard roof is shown, slightly recessed from the parapet, with two partial dormers lighting the fourth floor flat. Slate facing is proposed for the mansard faces.
- 2.10. Augusta Place has a mixture of building styles and forms but there is a high proportion of traditional styles and 2 – 2.5 storeys to the west and around this part of the street. The Grafton Multi-Storey Car Park at the eastern end of the street is of a much larger scale and post-war design, but can be seen as a distinct and different context.
- 2.11. The Augusta Place part of the current proposal poses a design question in terms of its size and appearance. The Worthing Society speculates as to whether this part of the development is sympathetic with neighbouring cottages and overbearing; the Conservation Area Advisory Committee objects to this element.

2.12. The height and position of the building is necessary if four floors accommodation are to be achieved. However, the use of a slate mansard roof in particular, which is only slightly recessed from the parapet, creates a large, vertical upper mass, made heavier in appearance by the use of slate. In the image 3 above, there is a sense of over-powering between the proposed building and the neighbouring cottages. Below this the arrays of windows, with their boarded infill panels and horizontal emphasis, whilst harmonious in themselves appear perhaps discordant when seen alongside their neighbours.

2.13. Discussions with the applicant have focused on how the mansard roof may be differently-shaped, inset, fenestrated or dressed to lessen its apparent mass. More subtle changes to the floors below, such as removal of the infill panels and modified window designs may also assist. Amended plans including the resulting changes will be subject of an update.

### 3. **Residential Amenities - Proposed Flats**

3.1. The proposed development would contain two flats at ground floor to the rear of the proposed shop space and twenty floor flats in the three floors above. At first floor level the flats would be arranged around two first-floor communal terraces with three floors of accommodation rising above them in three wings. Each wing would be served by an internal stairwell. The wings would face one another across the terraces with intervening distances of 5.5m – 6m between them.

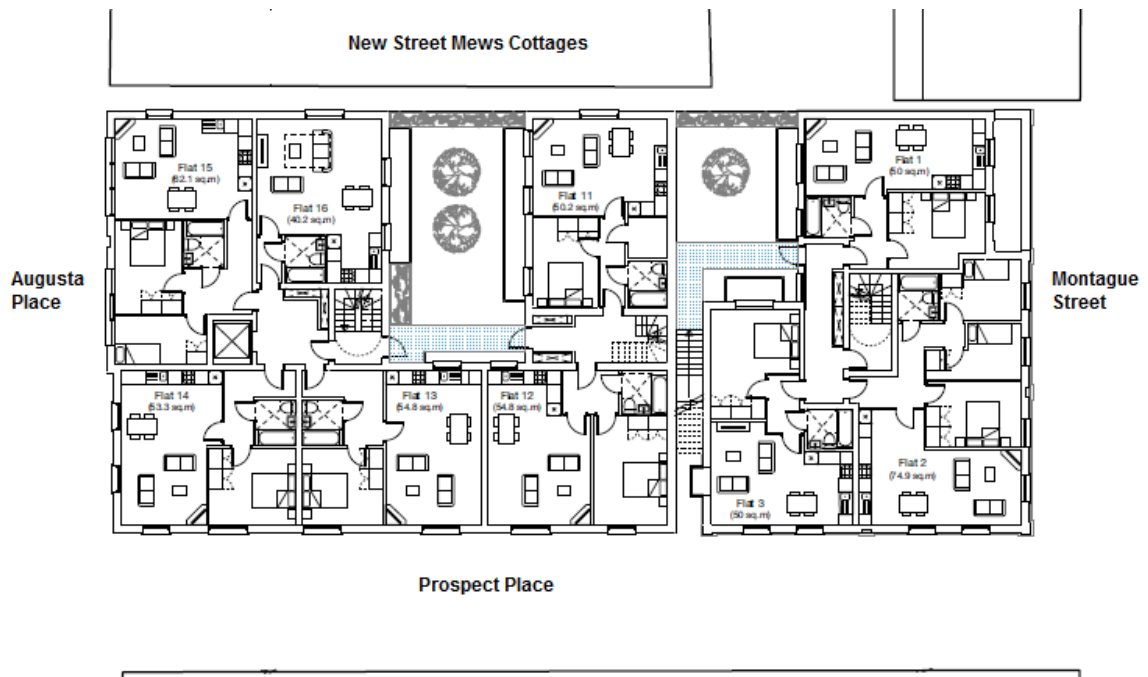


Image 4: First Floor Layout (terraces shown with planting, central wing in between)



**Image 5: Proposed West Elevation (facing rear of New Street and Mews)**

- 3.2. Each flat would meet or exceed National Space Standards and each flat, with the exception of one ground floor flat, would have a dual aspect, as recommended in the Space Standards SPD. Each flat has also undergone a technical assessment, with computer modeling, to test daylight reception. In each case recommended values are met.
- 3.3. In terms of outlook and privacy, design of each wing has sought to ensure that opposing windows to habitable rooms will not face directly towards one another and in some cases will face onto blank walls. This has been successful to some extent, for instance in the placing of bathroom windows, which will contain obscure glass. However, there are instances on each of the proposed three upper floors where, despite offsetting of windows, there will be lines of sight between them another cross the fairly narrow terraces. This is considered to provide inadequate privacy.
- 3.4. A further concern is that the outlook from windows in the wings and sides of the building will be dominated by views of the opposing or adjacent wing, or side, or by the existing neighbouring roof. This is considered to create an overbearing relationship and an oppressive outlook for the proposed flats. This effect would also be experienced in the terraced areas. As advised by the NPPG, some rebalancing of building mass compared with open space is needed in order to avoid the cramped and oppressive effect, as well as addressing the issue of privacy.
- 3.5. In discussion with the applicant attention has focused on the central wing of the three proposed. Entire deletion of this wing would produce intervening distances of 18m between windows of the two remaining wings, where privacy would be much improved. It would also result in a much larger communal terrace and a more open aspect from the flats. However, this would involve the loss of three flats, reducing the number proposed to 23. The applicant replies that this would no longer produce a viable development.
- 3.6. An alternative amendment is the shortening of the central wing. A reduction of 4m was explored, but would bring the three flats well below national space standards. A reduction of 2.4m is however achievable and allows for the construction of three studio flats and relocation of windows, including a side -facing bay on the newly reduced end of the wing, and further use of

obscure glass. In relation to privacy and the risk of overbearing and oppression, the proposal is a positive step although concerns about future residential amenity remain.

- 3.7. In terms of open space, the SPD seeks a minimum of 20m<sup>2</sup> per flat normally in the form of communal areas, and possible some form of individual private balcony of 3m<sup>2</sup> - 9m<sup>2</sup> or individual roof terrace, with communal space making-up the balance of the 20m<sup>2</sup>/flat. For family homes (3-bedroom and larger 2-bedroom flats) provision is considered essential in the SPD, even in town centres. Such flats and space should normally be located on the ground floor and the amenity space should be suitable for children to play safely. Family housing at upper floors requires justification and explanation of how these would still benefit from access to good quality private amenity and play space which should be suitable and safe for children, avoid overlooking and provide for relaxing and areas for hanging washing.
- 3.8. According to the SPD, the proposal would generate the need for 520sqm of communal space. By comparison the terraces provide 110sqm. The upper flats facing Montague Street would have private balconies and some of those around the terrace have indicative outdoor areas in front of their windows, although these would reduce the communal part of the terrace. Eight of the proposed flats can be regarded as potential family homes.
- 3.9. In considering this shortfall, it is noted that the site, in common with other town centre homes, is close to the beach, which provides some nearby outdoor opportunities, although other open spaces such as Steyne Gardens and Victoria Recreation Ground are at least 550 – 650m away respectively. The shape and size of the site and need to accommodate ground floor retail use mean that even if the central wing had been deleted, it would only provide 32% of the space required by the SPD. The number of flats would need to reduce to 8 or 9 in order for need and provision to balance.
- 3.10. The Environmental Health Officer has advised on the need for noise insulation of the upper floors, to minimise risk of noise nuisance, including noise from the retail use at ground floor. Also recommended are conditions to limit hours of delivery (07:00 to 20:00 hours Mon-Sat and 09:00 to 19:00 Sundays) and hours of construction work, along with a construction management plan.

#### 4. ***Residential Amenities - Neighbours***

- 4.1. To the east of the site are the listed houses in Prospect Place. These are 6m from the side face of the existing building. Nos 10 and 12 Prospect Place face onto the side of the service forecourt, with an open view to Augusta Place beyond.
- 4.2. Immediately to the west is mixture of buildings. The side wall of two-storey cottages in Augusta Place, the rear roof-slope of modern infill mews of cottages behind New Street with views to the rear of New Street cottages and flats beyond and alongside this, which are approximately 15m from the site. The rears of Montague Street shops are also visible to the north-west,

many of which have built-over their original gardens completely; some have retained a roof terrace. On the opposite side of Montague Street and the first floors of shops 10-11m away from the proposed frontage.

- 4.3. Impacts on Prospect Place would be from the added height and length of the building, which affect light and outlook; also from new windows, which affect privacy. Consideration of the retail use is also relevant.
- 4.4. Regarding light and outlook, the proposed building is 6m longer than the existing and its height of 11m is similar to the tallest parts of the existing building which are at the Montague Street frontage and the south west corner with Augusta Place. The proposal is approximately 3m taller than the main 8m high central part of the existing building which faces the Prospect Place neighbours.
- 4.5. The use of a pitched roof, which would rake away from the street, means that the eaves height of the new building would be set at a similar height to the existing flat roof. Whilst the pitched roof would reduce the amount of skyline visible from the ground floor sitting rooms/lounges of neighbours, and their upper bedrooms, the impact on outlook is considered to be fairly modest and not overbearing, despite the short intervening distance. At nos. 10 and 12 the existing open outlook to August Place would be obstructed.
- 4.6. In terms of light, a series of BRE daylight and sunlight impact tests indicate that many neighbouring windows will not fall below target levels in national guidance. However, at nos. 12 and 14, impacts exceed these for some tests and are very close to targets in others. Although the applicant's consultant consider these to be minor adverse, this is partly due to the weighting given to affected bedroom windows, which is less than for ground floor sitting rooms.
- 4.7. As NPPF indicates, such tests are a guide and some flexibility may be applied. In this case it is considered that the impact should be tempered in some way. Following discussion with the applicant, it is now proposed that light-painted render would be used for the Prospect Place elevation, rather than brick. This may make some marginal but positive difference to the reflectance of the building. At nos. 10 and 12 this mitigation is likely to be minor. At nos. 14-18 Prospect Place, which currently face onto the existing brown-brick this may be perceived as an improvement from some windows.
- 4.8. In terms of privacy, the proposal will introduce several new sitting-room/diner and bedroom windows along Prospect Place at each of the proposed floors. The design has sought to offset opposing windows as much as possible, but given the architectural form and functional constraints of the development, it is not possible to avoid this. Setting the building back from the Prospect Place frontage would help, but this would impact on the internal space and would weaken the architectural form, which is a modern adaptation of a Victo-Georgian, town-centre grid frontage, echoing local heritage.

- 4.9. In New Street, the Mews and the rear of Montague Street, the impact would also be from the added height of the building which would contain upper windows and the first floor terrace and balconies.
- 4.10. It is considered that overlooking to the rear of Montague Street, which is already seen from other properties would not be significant. At New Street, the degree of overlooking to a neighbouring rear-terrace garden and yards 15m away, was more important. The amendment of the central wing, as described at 3.6 above, has reduced the number of windows and directness of the angle, which is now considered acceptable here. Further consideration is currently being given to the impact of proposed 3<sup>rd</sup> floor windows at flat no.26 upon another rear yard, and the possible use of obscure glazing. An update will be given.
- 4.11. The closest existing windows to the proposed development are roof-lights to bathrooms and landings in the four mews cottages alongside the passageway at the western boundary of the site. These are within 3 metres of the proposed building and would be clearly visible from west-facing upper windows of the proposed building and obliquely from its other windows. The recent amendment of the central wing, to produce a blank, recessed end and side-facing bay has made an important improvement, together with obscure-glazing of the 2<sup>nd</sup> floor side window to the proposed flat no.22.
- 4.12. The remaining risk of overlooking is from new windows which are some 13m away or closer but oblique, or higher up. As mentioned at 4.10, consideration is being given to the use of obscure glass at flat 26, and Members will be updated at the meeting. The distance or oblique overlooking from other windows is considered not to be so significant as to warrant refusal. The neighbouring cottages facing Augusta Place have a blank gable-end which is unlikely to be affected. The impact of the proposed mansard roof upon their front dormers is slight. Consideration is being given to their rooflights and whether these might also require some protection from overlooking from flat 26.
- 4.13. In consideration of noise from the retail use, it is noted that this is an established activity. The delivery hours' condition recommended by the Environmental Health Officer is considered reasonable, given that future deliveries will rely more on stopping and loading from Augusta Place and Prospect Place, given the loss of the rear service forecourt.

## 5. ***Access and Parking***

- 5.1. The existing retail use of the site as retail with associated storage and office space would generate the need for a maximum 48 parking spaces, according to current parking standards. In practice it is likely that some reduction in number would apply if a new development of this size were being proposed, given the accessible location, where a proportion of shoppers would also be assumed to visit other existing shops and services



as well ('linked-trips'). The site currently has a rear forecourt, used for servicing but with capacity for approximately 6 cars.

- 5.2. The proposed mixed retail and residential development generates a need for 37 spaces: (22 retail and 15 residential spaces), according to parking standards. Again some reduction might be employed for retail demand.
- 5.3. With the loss of 6 forecourt parking spaces, and the gain of 2 on-street spaces (which would be made possible by closure of the existing dropped kerb to the forecourt), the proposed parking provision is four spaces less than the existing. However, according to current standards, the proposed shortfall (37 spaces minus 2 = 35) is less than the existing (48 spaces minus 6 = 42). Highway calculations also suggest that there will be a modest change in trip numbers; five more in the morning peak hour and ten less in the evening peak.
- 5.4. The Highway Authority raises no objection on the basis of the reduced trips and parking demand, noting that a car-club space and car is to be provided and that funding will be given for the first three years. Secure indoor cycle parking is proposed for residents (32 spaces) and space can be found for 4no. staff cycle spaces in the internal servicing space.
- 5.5. However, as indicated in neighbour comments, especially those from New Street, Prospect Place and Augusta Place, there is concern that the pattern of parking associated with the residential use, particularly in evenings and at weekends, will change. New residents may place increased demand on the limited number of on-street parking spaces and the resident parking-permit system, which operates in controlled-parking zone A, and on-street congestion associated with deliveries.
- 5.6. In light of resident's concerns, the applicant's transport consultant has looked again at the potential effect of the use of some form of planning or highway restriction to disallow residents of the new development from applying for parking-zone permits, i.e. 'a car-free development'. Their recently amended Transport Statement refers to a study by on behalf of the National Office of Statistics (NOS). This study included an area of Brighton in which it was found that there was no difference in car-ownership levels between residents inside a car free development compared with others outside it; in each case 61% of residents did not have access to a car.
- 5.7. The applicant's conclusion is that the use of a requirement for the development to be 'car-free' will have no effect on actual parking demand generated by the proposal. Their view is that mitigation of the impacts of possible increased parking demand would be more effectively dealt with by a Travel Plan and Car Club. The applicant adds that a car-free requirement will affect scheme viability and potentially remove the Car Club provision, although no specific evidence on the degree of this viability impact is provided.
- 5.8. The application proposes that a travel plan can include:

- Residents welcome pack including Travel Guidance and Information Pack
  - Fixed period subsidised/discounted bus travel
  - Fixed period Car Club membership for permanent resident
  - Bike share option
  - Cycle Training
  - Travel Noticeboards
  - Free/subsidised cycling equipment.
- 5.9. Given that the comments of the Highway Authority and Parking Manager were based on a car-free scenario, their further comment has been sought on the applicant's amended Transport Statement and an update will be given. However, as the matter of parking is largely for the Borough Council, the following must be considered.
- 5.10. It is evident, based on the Brighton Study, that a percentage of new residents will have access to a car and that this will add to pressure for limited on-street parking in Zone A. This will affect both the proposed and existing residents, unless a parking permit restriction is used, in which case the effect on existing residents will be less. To a marked extent, unless there is a highway safety objection from the Highway Authority in its awaited further comment, the availability of parking is a matter of convenience and amenity.
- 5.11. NPPF and Policy 8, which support high-density town centre development, envisage that this will be accompanied by the promotion of and infrastructure for, sustainable travel modes; parking provision should only be maximised where there is a clear and compelling justification that they are necessary for managing the local road network. Neither of these indicates the point at which the degree of impact becomes compelling, nor the nature and amount of sustainable transport provision which should be used. A strategic approach to the balancing of demand and provision is envisaged locally by Policy 19 via the integration of future planning and transport and parking strategies.
- 5.12. The proposal includes provision of a car club car and membership for a three year period. Unusually for a development of this size, it also proposes the operation of a travel plan, including free and subsidised cycling equipment, sharing and training. These are consistent with NPPF and policy. It is beyond the scope of the application for a more strategic approach to parking provision in the area and, for example, the operation of more car-club spaces and over a longer period than the three years which the applicant would fund. If the Highway Authority considers there to be no highway safety issue arising from the development, it is considered that concerns based on impacts on convenience and amenity would be of limited weight when set against the provisions made in the application.
- 5.13. It is noted that a s.106 agreement would be required to secure the provision of a the proposed car club and the management of the travel plan, including its financial provisions (subsidies, sharing and training arrangements); the

detailed content of the travel plan itself can be required by planning condition.

- 5.14. Access for retail deliveries to the site would be either via Augusta Place, using the 1-2m wide side passageway or from proposed side entrance at the northern end of Prospect Place. There is no highway objection to this, although Prospect Place is narrow and has singled-side parking. As mentioned, the Environmental Health Officer recommends controlled hours for deliveries.
- 5.15. Access for residents is via doorways onto Prospect Place and Augusta Place, with level thresholds and width for wheelchair access. A lift serves 16 of the upper flats.

## 6. ***Affordable Housing***

- 6.1. Policy 10 requires the provision of 30 percent affordable housing on-site. The current application makes no provision for this on the basis that it would not be viable to do so due to the existing value of the site, demolition and construction costs, financing and resulting market sales prices. They assert that the percentage profit would fall below the target of 15-20% which the NPPF indicates is reasonable in balancing profit, developer motivation and the funding of affordable housing. A viability assessment has been submitted and subject to an independent review by the Council's consultant.
- 6.2. The Council's consultant has examined the figures and comments that even with significant changes to the assumptions made in the cost and profit variables an affordable contribution will not be supported. The review has taken into the site value based on the capitalised value of the most recent lease (Poundland, now vacated), with allowance for refurbishment costs, and a lower financing cost than the applicant assumes. The review produces a deficit of over £800k if a theoretical 15% profit is assumed (the lower end of the NPPF range), against a deficit of over £2m if a 20% profit and higher finance costs are assumed. In either case the test indicates that real profit is likely to be somewhere below 15%, therefore below the level which NPPF considers reasonable to support the provision of affordable housing.
- 6.3. It is of interest to note that estimated sale values are £180k for a studio and £230k for a 1 bedroom flat. The entry price is therefore 8.8x the average Worthing income in 2015. The proposal is not considered to comprise low-cost market housing, which is among the range of affordable housing types contemplated in the recent NPPF. Whilst the proposal seeks to build at very high density, this does not appear to widen local access to home ownership. nevertheless, given the significant housing need in the Borough, the provision of additional housing in a town centre location is welcomed.

## 7. ***Flood Risk, Drainage, Sustainability and safety***

- 7.1. The site is close to the tidal flood-risk area, but only a tiny part of the south east corner is affected. A drainage and flood risk assessment has been submitted. This examines the effectiveness of surface water drainage in a

100 year event, assuming climate change. The site has no drainage attenuation, all water flows into sewers. The report concludes that a below-ground attenuation tank can be included which would provide over 50% reduction in the discharge rate to the surface water public sewer. This is supported by the drainage engineer. As such the proposal, deliverable, accords with the sustainable drainage requirements of the NPPF.

- 7.2. Given the proximity to the flood-risk area, an informative can be used to encourage the inclusion of sensible flood resistant measures, such as attachment points for flood baffles at entrance doors and information on outdoor safety during a flood event.
- 7.3. In addition to sustainable drainage, a high standard of insulation is proposed along with energy and water efficient fittings. Flat sizes, which are generally greater than national requirements, allow for storage of separate recyclable waste.
- 7.4. The fire safety advisor has reviewed the fire safety plans and advises that further work is needed, for example to ensure that future residents of each part of the building, have an unobstructed means of escape. This may necessitate the provision of a system which allows access between individual stairwells/cores of the building in the event of a fire. In order to ensure that this is consistent with the proposed layout in the planning drawings, a planning condition can be used.
- 7.5. Informatives can also be used to highlight the detailed security matters recommended by Sussex Police, such as secure doors and locks. A planning condition can be used for any external measures such as lighting, the provision of which should also consider neighbouring amenities, the character of the conservation area and listed buildings.

## 8. ***Maintenance, Management and Safety***

- 8.1. Certain planning aspects of the development will require ongoing management: including the provision of a car-club and travel plan for the first few years. A planning condition can be used to secure the content of the travel plan, but a legal agreement will be needed to ensure that financial and managerial arrangements which follow this and the car-club, are undertaken,
- 8.2. The development will attract Community Infrastructure (CIL) Levy. A separate notice to this effect would be issued following any grant of planning permission.

## 9. ***Summary***

- 9.1. The proposed mix of uses and appropriate to the town centre, with retail at ground floor, revitalising this prominent retail corner. Residential above will also bringing added vitality in accordance with policies and the recent NPPF.
- 9.2. The use of very high density necessitates the use of a high proportion of 1-bed flats, moreso than the 2015 Housing Assessment suggests, but the

location of the site in the heart of a busy retail area with limited outdoor space and some distance from public parks, suggests that the site would be less suitable for larger/family sized homes, hence only a small proportion of these are included.

- 9.3. The proposed density provides good internal space, which meets and exceeds standards for flats, they appear to adequate light and all but one are dual aspect homes. However, it also leads to a tightness of external relationships; 6m between wings and windows has prompted concerns for lack of privacy, potential overbearing, oppressive outlooks and terraces of very limited value. The amendment to shorten the central wing is intended to strike a compromise between these impacts and development density; the outcome is most finely balanced.
- 9.4. In design terms the proposal is a significant improvement, far more fitting with its conservation area location and listed neighbours, than the existing building. The use of different architectural styles but harmonised detailing has been well considered. An amended approach to Augusta Place is likely to address localised design concerns. Care will be needed to ensure that detailed execution results in a high overall standard, as required by NPPF and polices. 1:20 scale detailing can be sought by condition.
- 9.5. Impacts on neighbours are from reduced light and privacy, mainly due to the length of the building in Prospect Place and its added height. Light penetration will be reduced and at nos 10-12 Prospect Place, the outlook is greatly changed. Given the development density, as well as the architectural grid-frontage form of development, windows to proposed flats, their sitting rooms, diners and bedrooms, will face existing windows only 6m apart. Some mitigation is possible by the use of light-painted render to increase reflectance and the perception of light. It is hoped that the improved appearance of the new development will be seen as a significant improvement to the utilitarian appearance of the existing building and forecourt. This impact is also finely balanced.
- 9.6. The increased demand for residential parking is partly off-set by the provision of a single car club space, with three-year funding, a disabled parking space, plentiful secure cycle parking and a travel plan, which can be secured by conditions and a legal agreement. It remains possible that it will increase demand for private car parking, but given the policy context and NPPF, the weight which can be afforded to this risk is questionable. The restriction of eligibility for permits to new residents may be possible but it raises viability issues, albeit not explained in detail by the applicant. Their further comment will be sought on this point and an update will be given on further consultation with the highway authority. Inevitably the NPPF envisages other wider town centre strategies to balance parking demand and high density development.
- 9.7. The proposal demonstrates many benefits of a mixed town centre development, although it does not deliver affordable housing and it causes impacts which are among the most finely balanced. In terms of parking, mitigation is beyond the scope of an individual planning application.

Approval of the application would improve and revitalise the location and on-balance this is considered to be appropriate.

9.8. **Recommendation Approval subject to receipt of appropriate amended plans and completion of a s.106 agreement to secure a car club and implementation and management of a travel plan.**

9.9. A non-exhaustive list of conditions is recommended below.

**Conditions (to include):**

1. Approved plans (including amendments)
2. Time (standard 3 years)
3. Use – A1 retail space
4. Materials and finishes to be agreed, including 1:20 drawings of details
5. Windows: obscure glazing. Un-openable up to 1.7m height
6. Detail of roof terrace, including any screens and planting
7. Sound insulation
8. Details of air moving equipment
9. Provision of bin and secure cycle storage, space also for staff.
10. Hours – deliveries
11. Hours – construction and development works
12. Travel plan to be agreed
13. Construction Management Plan

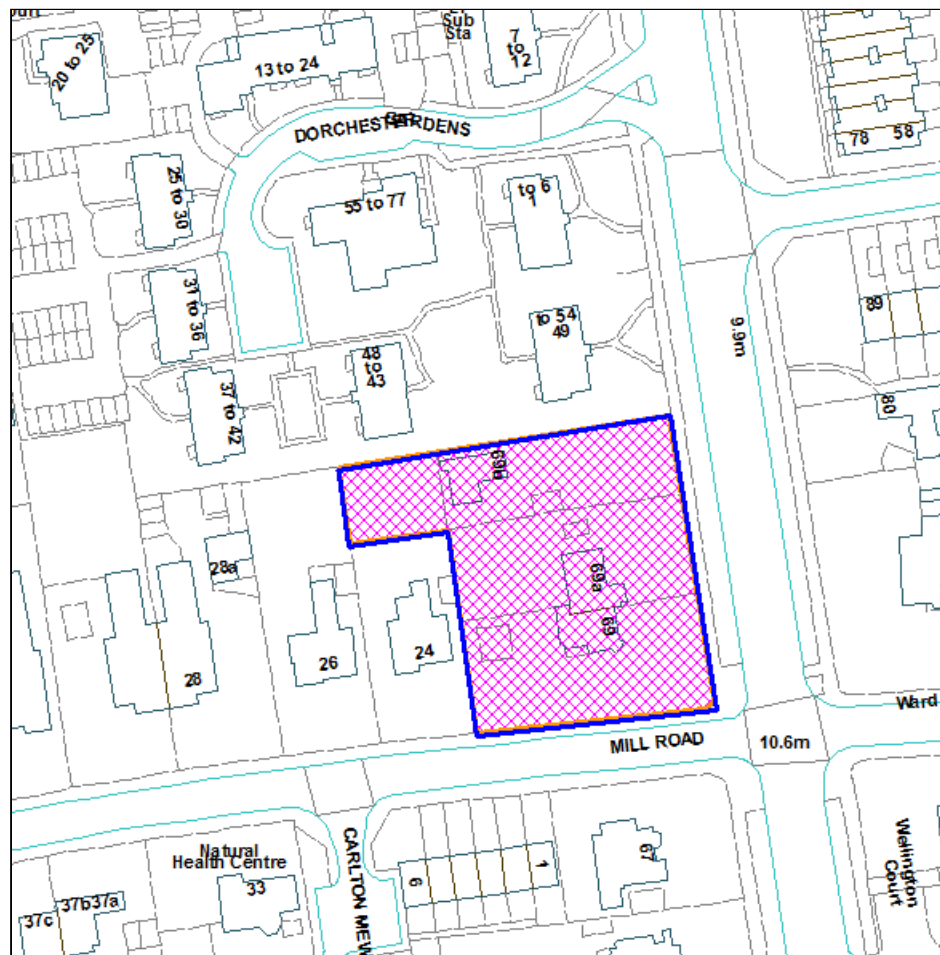
27<sup>th</sup> February 2019

Application Number: AWDM/1206/18      Recommendation – APPROVE

Site:            69B Grand Avenue Worthing West Sussex BN11 5BB

Proposal:    Change of use from residential dwelling (Use Class C3) to nursery (Use Class D1) open from 0700 to 1800 Monday to Friday for up to 55 Children. Alterations to form new door in south side of dwelling, alterations to existing garage including new door to south elevation and raising roof to make level, and new entrance gate in southern boundary for access to existing nursery at 69/69A Grand Avenue. Infilling of existing redundant swimming pool at 69/69A and re-surfacing to form hard play area and erection of new acoustic fencing in conjunction with new garden management plan as an amendment to AWDM/0374/15.

Applicant:    Mrs Julia Pattenden                      Ward:            Marine Worthing  
Case Officer: Jo Morin



Not to Scale

## **Site and Surroundings**

As initially submitted the application related solely to 69B Grand Avenue but has since been amended to include 69/69A and re-publicised accordingly.

No.69/69A comprises a large detached Edwardian dwelling set within spacious grounds on the north-west corner of Mill Road and Grand Avenue, currently in use as a children's day nursery (Use Class D1). The planning permission granted in 2015 (AWDM/0374/15 refers) limits the number of children at the nursery to 80. The use of the outside space by children is controlled in accordance with a Garden Management Plan and restricted to between the hours of 9.30am and 4.30pm on Monday to Friday.

No.69B comprises a detached chalet-style house located to the north of No.69/69A. Its construction materials are similar to those of No.69/69A, namely red/orange brickwork, decorative tile-hanging and a plain clay-tiled roof. It is notably smaller in scale than No.69/69A and set well-back from the road frontage. It was likely to have originally been the coach house serving No.69/69A, although this is not certain. Both properties, No.69/69A and 69B, are located within the Mill Road Conservation Area which is characterised by large detached and semi-detached Edwardian dwellings similar to No.69/69A. Both buildings contribute positively to the character of the Conservation Area and are identified as local interest buildings.

There is a detached, flat-roofed, double garage building positioned within the front garden of No.69B, adjacent to the boundary with No.69/69A and a greenhouse in the front garden adjoining the north site boundary. To the north, No.69B adjoins Dorchester Gardens a complex of 9 no. low-rise flat blocks set within mature landscaped grounds, dating from the mid-C20.

Adjoining to the south and west are 24 and 26 Mill Road respectively. No.24 is in use as 4 flats. No.26 is a single dwelling house.

Two trees in the south-west corner of the garden of No.69/69A are preserved by way of an Order (TPO No.5 of 1990).

## **Proposal**

Permission is sought for the change of use of 69B from a single dwellinghouse to a day nursery (Use Class D1) for up to 55 children in conjunction with the existing operation of 'Home from Home' day nursery at No.69/69A.

The application is accompanied by a supporting statement, proposed floor plans and elevations (69B) and a Garden Management Plan which explains how the external spaces (69/69A and 69B) would be used.

The proposals involve:

- Altering an existing window in the south side of No.69B to form a door;



- Altering the polycarbonate roof to the existing attached store on the north side of 69B to form a flat roof.
- Altering and fitting out the existing double garage building in the front garden of No.69B to create a kitchen for the preparation of meals in connection with the day nursery use at 69/69A and 69B.
- Erection of a 2.4 metre high close-boarded timber noise abatement fence to the south side of No.69B and along part of the western site boundary with 24 Mill Road and formation of an opening in the existing boundary wall separating 69/69A and 69B.
- Surfacing the redundant swimming pool in the grounds of 69/69A to form a hard-surfaced play area.

A supporting statement is summarised as follows:-

- The 'Home from Home' brand is ready for further expansion to support high demand in the West Worthing and Goring areas;
- Home from Home Worthing opened in November 2015 and has achieved full occupancy in 2.5 years;
- The Worthing nursery receives a minimum of 4 enquiries per week, most based on word-of-mouth;
- The recent OFSTED rating of 'good' after only 2 years of opening was highly praised by the Inspectors (to achieve such high standards in such a period of rapid growth).
- The nursery is full with a waiting list.
- There is little childcare provision within the catchment area (West Worthing and Goring) with poor competitor set and particularly lacking places for babies and Under 2's.
- We have seen our target market grow as families priced out of the housing market continue to relocate from Brighton and London.
- We offer full day care opening Monday to Friday 7.30am to 6pm for 51 weeks of the year. Half day sessions were offered from opening, but 80% of attendance is for full days and this is expected to increase to 95% by the end of 2018. Children joining from Jan 2018 have been for full days only.
- The use of 69B will reflect the same fee structure as the existing nursery at 69/69A. A robust analysis of the fees and the business model was carried out in 2017 to ensure the business was equipped to support the implementation of eligibility for 30hrs of free childcare for working families. The 30 hours has been piloted for 1 year to understand the impact on the business model. There has been none from a financial perspective but some families have been lost due to the inability to offer the additional funded hours required.
- The incumbent Government has overseen a reduction in Sure Start (government-subsidised) child places which other providers are taking up. The current market is in growth driven by the private sector and changes in funding policy.
- Local demographics indicate a growing younger population in Worthing supported by migration from surrounding areas where housing stock is more costly.
- Whilst there is a large number of nurseries in Central and East Worthing, there is limited provision to the west of Grand Avenue (West Worthing) and Goring. There is under provision for babies and Under 2's, which is a key

factor in terms of mothers returning to work. There is more provision in the locality for 2-5yrs age, but still sparse compared to other areas of Worthing.

- There is an unmet demand for full day care. Nursery places for those requiring 3+ days are limited. Many other providers are sessional (part day only) and only open during term-time.
- We have identified a need for in-house food provision and would like to convert the garage for this purpose.

### **Relevant Planning History:**

Planning permission was granted under AWDM/0374/15 for the change of use of No.69/69A to a children's day nursery (for up to 80 children).

### **Consultations:**

**WSCC:** The Highway Authority initially raised no objection in principle but sought further information to support the staggered drop-off and pick-up proposals, as follows:-

*"Supporting information should be submitted to the LPA and include the following:-*

- 1) *Use the existing 2018 parent travel survey information as a representative example of what the trip impact would look like over the staggered drop off/pick up times for an additional 55 children.*
- 2) *A parking beat survey covering all roads within a safe 5 minute walking distance from the nursery.*
- 3) *Plan of the pedestrian/cycle where will the cycle storage and buggy store be located.*

*The nursery have adopted a green travel policy which provides evidence of promoting sustainable travel choices including lift sharing, park and walk opportunities and a strong parent /carer communication which allows the nursery to organise staggered drop off and pick up times over a two hour period in the mornings and evenings.*

*WSCC consider the addition of this 55 place nursery can be managed effectively using the Green Travel Policy. However this needs to be evidenced using the 2018 parent survey.*

*We understand no parking for parents will take place within the grounds of the site this will be reserved for 'staff only' mitigating any pedestrian/driver conflicts.*

*A gate is proposed (although it is unclear if it will be provided for both access points). This will discourage parents from parking in the staff areas; although it is noticed there is no separate pedestrian/cycle entrance for the nursery; which should be provided if both access points are to be gated."*

Following the submission of an up-dated Green Travel Plan (v5 Dated July 2018) and an up-dated Parking Beat Survey, the Highway Authority has no objection, commenting:-

*“Home from Home Nursery has undertaken a new parking beat survey to understand the current parking stress on Grand Avenue, and within the surrounding roads to ensure the proposed increase in children (an additional 55 at full capacity) can be accommodated safely within the existing public highway network). Three years ago a survey was undertaken and the parking stress at this time was recorded at 58%. This recent survey has highlighted, apart from a few changes to junction layouts which has seen a slight reduction in the overall parking spaces available, the situation is very similar. The survey highlights that within a 3 minute walking distance of the site there is ample space for parent who will need to drive to the nursery to park. The survey outlines that at its busiest the parking stress would be 65% and that on average this has only increased by 1% in the last three years. The survey was undertaken when the nursery was at full occupancy which also indicates this is a potential worst case scenario. Often nurseries are not at full occupancy due to common childhood illnesses which often keep numbers lower than the permitted maximum. The survey also indicates the nature of the trips, which are short stay, often no longer than 10 minutes. Some of the additional trips will also be existing trips due to combined journeys with siblings.*

*In summary there are 313 potential parking spaces within an acceptable walking distance to the Nursery. The survey demonstrates the parking stress is unlikely to reach more than 65% and therefore spare parking capacity is available. As such there is no perceived highway safety or capacity reason to object to this increase in parking demand.”*

**Adur and Worthing Councils:**

The **Environmental Health Officer** initially objected to the proposals, commenting:-

*“This application proposes a significant increase in number of children across the two sites. The number of people who could potentially be impacted by noise from the nursery is high. There are a number of flats immediately to the north of the site and 24 Mill Road will potentially be impacted by noise along two boundaries. I am minded to object to this application unless a noise and impact assessment is undertaken. The noise assessment would establish the existing noise climate and the impact assessment would inform of additional noise from the proposed use and include recommended mitigation/management plan.*

*The applicant should consider when the children at the existing nursery are outside and existing noise mitigation so they can consider co-coordinating sessions etc. They should also consider how they will minimise noise breakout from the building.*

*It is queried whether the gardens of the proposed and existing nursery be open and shared or does the applicant intend to keep them separate?*

*No details of mechanical extraction for the new kitchen have been submitted. The applicant should confirm what type of cooking is proposed in this kitchen.*

*It is queried whether there be window restraints on the first floor toddler rooms.”*

Following amendment of the application the following further comments have been received from the Environmental Health Officer:-

*“Following my initial comments concerning the above application, a visit was made to the nursery to view the site, and to discuss the nurseries proposals and our concerns.*

*My main concerns related to noise and the potential impact the increased number of children and the use of the outside space around 69B Grand Avenue and the infilled swimming pool area could have on neighbouring residential dwellings.*

*Following discussions with the nursery it was agreed that the rear garden of 69B Grand Avenue would not be utilised for play by the children at all. A 2.4m acoustic fence would be erected along the rear of the infilled swimming pool (69 Grand Ave) and would continue to join the conservatory of 69B Grand Ave to reduce the impact of noise for properties to the west. It was also agreed to erect an acoustic barrier to the north of the external space (between 69B and the proposed kitchen) to reduce the impact of noise for the flats to the north.*

*The nursery agreed to restrict the use of the infilled swimming pool area between the hours of 13:30 and 14:30.*

*Concern was raised about the use of the greenhouse in the front garden on 69B Grand Avenue. It was agreed that this would only be used by small groups of children (Max 8) for 2 x 30 min periods during the day.*

*The use of the conservatory of 69B was discussed and concern was raised about the potential need for windows and doors to be opened, particularly during the summer months to prevent over-heating. The applicants agreed to keep the doors and windows closed when in use and to use air-conditioning units when necessary to keep the area cool. I would recommend this is conditioned to ensure compliance.*

*Based on the applicant’s agreement to the matters discussed and their submission of the amended Garden Management Plan (v7) I considered the potential noise levels resulting from the enlargement of the Nursery would not be significantly greater than the current noise. As no recent complaints had been received concerning the existing use then I considered the increased number of children and activities could be effectively managed without the need of an acoustic assessment.*

*However, I understand that an objection from a property to the west of the nursery has since been received. No formal complaints have been made to this Department, but I believe you have been advised that they are disturbed by noise from the existing use and have concerns about noise disturbance caused by extending the nursery and the additional children. To help protect residential dwellings to the west of the site, I would advise the extension of the 2.4m acoustic fence along the entire western boundary, to the rear of the existing allotment area, potting house and beach area at 69 Grand Avenue.*

*As we now know that neighbours are being disturbed by the existing use, the addition of the bikes and trikes area, which may be a relatively noisy activity in comparison to other areas, may result in increased disturbance. In addition to the extension of the 2.4m acoustic fence I would recommend further restricting the use*

*of the bikes and trikes area between 12:30 and 14:30 hrs. The Garden Management Plan should be updated accordingly.*

*The Garden Management Plan requires the Nursery to review this Plan annually, I would also recommend that the 1st review following the enlargement of the nursery should be submitted and approved by the Council. Following this, the annual review should take place addressing any concerns or issues raised by neighbours as well as an action plan for the following year. This should be available to view at any time by Council Officers.*

*We discussed the use of the proposed kitchen during the site visit. I advised that kitchen will require an extraction/ventilation system with noise and odour abatement. I would recommend the following condition:*

*“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 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.”*

The **Planning Policy Officer** comments:

#### Key Issues / Policies

CS Policy 9 – This policy seeks to retain the existing stock unless certain criteria are met. This includes where the loss would facilitate the delivery of a needed community use.

CS Policy 11 – This policy seeks to protect and enhance recreation and community uses. Nurseries and preschool are recognised community uses and the policy seeks to ensure that there is a full range of accessible, high quality community facilities close to residents and employees. The provision of nurseries and pre-school meets a number of local needs including supporting the local economy by providing quality childcare.

#### Summary

In this case the property concerned is a large detached property situated adjacent to the existing nursery. The nursery has a long waiting list and has submitted convincing evidence of the need that exists for this use. As such the proposal meets the criteria in policy 9.

There are no specific criteria in the Core Strategy relating to where such a provision is best provided but it is clear that a large detached property will give rise to significantly less of an impact than say a terraced or semi-detached property. Preschools and nurseries also tend to be located in residential areas.

In principle there are no policy objections to this proposal subject to the normal development management consideration.

### **Representations:**

Objections have been received from the occupiers/owners of 26 Mill Road, 49 (x2) and 51 Dorchester Gardens, 77 College Gardens and 80 Grand Avenue raising the following concerns (which have been summarised):-

- Increase in noise disturbance due to the increase in the number of children using the outside areas. The current permission allows for 28 children (35%) of attendees to be outside at any time and this does create a noise nuisance during the day between 9.30am and 4.30pm. The current proposal seeks an increase to 48 children outside and can only lead to a greater noise disturbance;
- The increase in the size of the business is too great, amounting to a 70% growth in the number of children. This growth is too much for the location and will adversely impact noise levels and the road network, the currently problems experienced will simply become greater. This is unfair for the high number of people living in the vicinity;
- The nursery has a poor track record of adherence to the conditions of planning permission. 7 of the 15 planning conditions imposed in 2015 were not complied with:
  - Conditions 2 and 4: Infill of boundary wall – This has been infilled using wood;
  - Condition 5: Green Travel Plan – This was submitted in Dec 2017, 2 years after the permission was granted;
  - Condition 9: Infill swimming pool – This swimming pool has not been filled-in and is fenced off. This shameful and dangerous.
  - Condition 11: Vehicle gates to be locked – There were no gates erected at first and then a tensile barrier used. This can be easily moved and we witness it being used in an ad hoc manner.
  - Condition 15: Use as children’s nursery only – In the first year of business we had to complain because a ‘Wedding Event’ was held on a Saturday.
- Access to the outside play areas has been extended from 4 hours duration to 7 hrs duration. The original hours were between 9.30am and 11.30am and then between 2.30pm and 4.30pm. This allowed for structured respite for neighbours, a fair and balanced approach. However, now the outside areas area used between 9.30am to 4.30pm and neighbours have to endure noise disturbance all day. We request that the original times and durations are reinstated.
- The planning conditions of the 2015 consent have not been enforced by the planning department and we have no confidence that any planning conditions for this new application will be upheld. Planning conditions are important rules that should be adhered to otherwise it makes any reassurances given to neighbours redundant. Three pertinent examples are the extended use of the outside areas for additional hours, the swimming pool not being filled in and allowing the nursery to be occupied before an agreed green travel plan was in place.

- The Environmental Health Officer initially stated that she would be minded to object unless a noise and impact assessment was carried out. We understand that the plans have been amended following discussions between the EHO and planning officer on site. However, we would like to see written details regarding concerns and the reasons for decisions made – to safeguard future plans for the use of this space. It is not enough to make changes to the plans which are not recorded. The use of the garden space [at 69B] will adversely affect a large number of people and these issues should be explicitly stated for the record if the application is successful.
- The adjoining property 24 Mill Road consists of flats run by Worthing Homes and the occupants are elderly or otherwise vulnerable. The tenants have not passed on details of the application to Worthing Homes who when contacted were not aware of the application. The original proposal would have surrounded the property on 2 boundaries. As amended there is a hard play area for trikes and bikes adjacent to the garden and rear facing flats. This goes against the garden management plan of using appropriate materials to dampen noise. Also, the proposed buffer would not run the length of the western boundary.
- We are concerned that the business will continue to grow and develop increasing pressure to use the rear garden space. For example, there is an after school club at the Hove nursery for 16 children run from a timber cabin in the garden.
- The previous 2015 application notified 53 neighbours whereas only 33 neighbours were notified by letter in this instance.
- We would like to see the acoustic fence proposed in the initial plan running north to south in the rear garden [of 69B] and along the neighbouring wall of 24. This will help to mitigate noise breakout from 69B. We would like to see the specification of the acoustic fence proposed as those in situ many dampen noise but do not remove the nuisance.
- Despite the parking beat report there is still a problem with parents dropping off children and parking in a dangerous and inconvenient manner. This is an ongoing problem and will get worse as numbers increase.
- The opening hours are confused – different documents state either 7.00am or 7.30am. We are aware of nuisance from services operating at unsociable hours.
- The business states they have received confirmation from neighbours that preventative measures put in place have worked well to effect noise abatement adequately. We cannot assess the validity of this claim other than from the neighbours who are selling their property.
- The planning department should be mindful of the Noise and Statutory Nuisance Act 1993 and the Council's responsibilities regarding the interference of a person's own enjoyment of their property and land.
- Concerned about the cumulative impact regarding road safety at the junction of Mill Road and Grand Avenue.
- There is stigma associated with living in the near vicinity of a nursery which does affect housing desirability. We are wary of the way the nursery grows and develops and do not want to see problems increased for neighbours, with guarantees made and subsequently broken and not enforced by the planning department.

- Acoustic fencing would dampen noise but not reduce it. The solution is to not allow 55 additional children into a tightly-packed residential area rather than installing ugly fencing that will have negligible impact.
- Concerned that an increased number of children will lead to a worsening of the existing dangerous traffic manoeuvres by parents, parking too close to the traffic light junction and on yellow lines. This is a serious situation waiting for an accident to happen. There needs to be some kind of physical deterrent to prevent parents parking in a dangerous manner. Parents have no regard for the Highway Code. We regularly witness cars parking on the verge.
- Residents find it increasingly difficult to find a parking space close to home or even access their own driveway due to being blocked in.
- I can no longer open my windows at the front or enjoy a peaceful sunny day in the garden without hearing the noise of the existing nursery. This can only get worse.
- I sympathise with the current owners of 69B.
- The existing nursery at 69/69A has introduced a significant amount of noise to the area, audible throughout the day during the summer months when the outside spaces are being used. An additional 55 children closer to a large number of residents will be more disturbing and invasive in an area of relative peace and quiet.
- Heavier use of the property will impact on a wide selection of wildlife including foxes, hedgehogs, squirrels etc.
- Although the sound of children is often wonderful this proposal would have a negative effect on noise especially if the rear garden is used as a play area.

Comments in support of the proposals have been received from the occupiers of 69B as follows:-

- Initial concerns about noise from the nursery at 69/69A have been resolved. The noise abatement fence and amendment to times and use of the different garden areas has made a huge difference. When the nursery first opened they were probably not aware of the noise levels without feedback. Some of the assumptions made by neighbours are not accurate.
- The alterations to the traffic light system last year at the junction of Grand Avenue and Mill Road have greatly improved safety and we have not witnessed any accidents.
- The existing nursery is not the reason we are moving, we are retired and looking for a fresh start elsewhere.

The Worthing Society has no objection in principle but comment that it is important the proposals do not harm these local interest buildings in the Conservation Area.

The Applicant has responded to the points concerns raised by objectors as follows:-

#### Liaison with neighbours

- The operators of Home From Home Nursery are always open to communication with neighbours and we are disappointed that existing concerns have not been shared with us;

#### Management of outdoor play



- Home from Home operates a 'free-flow' which is a known method of reducing noise levels for neighbours, children and staff. At the allocated times of the day when free-flow is in operation children decide when to visit the garden as they do with activities indoors. With supervised unrestrictive free-flow it is often the case that fewer than 28 children are outside at any one time and you then don't get the situation where 28 children suddenly leave the indoors to go into the garden all at the same time. It is important to recognise that outdoor learning in the Foundation Stage is not like school playtime. During Foundation Stage outdoor time is based around activities, children are engrossed and not engaging in noisy unsupervised play. When children become aware that anything is restricted this heightens the desire, excitement and anticipation and then activity and noise levels increase on being allowed free access. Free-flow allows children outdoor time to fit in with their agenda so they see it as just another play space and maintain good conduct in the garden environment.

Outdoor learning is one of the core objectives of the Early Years Foundation Stage which the Nursery has an obligation to deliver. As educators our role is to start at an early age with hands-on experience of the outdoors. There is considerable evidence that concern for the environment is based on affection for nature that develops with autonomous, unmediated contact with it. Recent research shows that children must have more than 1 hour's continuous access to the outdoor for good quality play to take place.

The Nursery supports outdoor learning in other ways. Pre-school children attend 'wild beach' every morning, which means 10 children are away from the nursery. The Nursery has a 1:2 ratio for Under 2's with daily outings in two-seater buggies.

The application seeks to have up to 48 children outside (an additional 20 compared to existing). There are 6 'zones' in the garden, so each zone would have up to 8 children.

The use of the outdoor space between 9.30am and 4.30pm over the summer months 2018 did not raise any complaints to ourselves, or as far as we are aware, to the Council. There are still times in the day i.e. lunchtime/sleep-time when the garden is not in use.

Trikes and bikes are already in use at No.69/69A. This is not a new activity being introduced just relocated into an area with a noise abatement fence. The bikes and trikes we use are of a specialist design made from metal and rubber wheels and seats with no noisy plastic.

#### Demand for nursery places

- There is growing demand for places from existing and new families. The Nursery is full to Summer 2020. Most babies are siblings of children already at the nursery and it has not been possible to offer some younger siblings a place. The increase in funding to 30 hours means that the Nursery has been unable to offer some parents increased hours with children split across other

provision. The Nursery holds 3 viewings per week for prospective parents and viewings are now booking for May. Parents know there is a waiting list but are still keen to view.

There is limited provision for babies 6 months to 18 months in the area and a recent closure has heightened the shortfall.

Based on the waiting list, it is known that 50% of the proposed intake would be siblings attending the same sessions. 10% would travel on foot based on current statistics and 25% will be existing attendees taking up additional sessions. It is anticipated additional car traffic will be 20 per day maximum once full. The submitted Parking Beat Survey shows parking can be accommodated on-street.

It is estimated it would take up to 1 year to build up attendance levels. Notwithstanding the waiting list, only 2 new children per week can be 'settled' in a nurturing and caring way.

We are passionate about the type of childcare we provide and our unique ethos is in demand. We have such positive feed-back from our parents and those that come to view. We work hard to nurture and develop our team. We currently employ 28 staff at Worthing and will employ another 15 all whom live locally. Demand is greater than we can currently offer provision for and having researched other locations this opportunity to purchase the adjoining property presents the simplest opportunity to offer additional childcare with minimal effect on the surrounding area and will support existing families who are with us.

#### Adherence to planning conditions

- With regards the 2015 planning permission, it was not originally appreciated that the Garden Management Plan and Green Travel Plan needed to be submitted for approval (as these documents accompanied the original planning application). Once drawn to our attention, the relevant up-dated documentation was submitted and approved.
- The original consent involved closing-up the gateway for safety reasons as requested by the Highway Authority. This is currently fenced-off as the cost to rebuild the wall was prohibitive. On the basis the safety need was met by the fence, the Planning Officer at the time supported a delay until funds became available. The nursery has now secured the funds necessary as part of the development of 69B.
- The purpose of the condition requiring the swimming pool to be filled-in was to ensure it was decommissioned and could not be used so as to avoid detriment to the neighbours. We challenged the wording of this condition on cost grounds and it was agreed that decommissioning works involving draining it and fencing it off were adequate to demonstrate it cannot be used. The area is contained by robust 2.4m high acoustic fencing and is perfectly safe. OFSTED have signed this off as being so. We are aware that it is unsightly for the occupier of 69B and have always planned to deal with this area, but at a cost of circa £20,000 it is something we have had to work towards.

- It is acknowledged that during the first 6 months of operation some parents were parking in the car park but staff parking only was subsequently implemented. Ad hoc checks are carried out. Some of our staff have children that attend the nursery so some children do legitimately alight from cars on the drive. The wording of the condition was not practical and the use of the 'tensile' barrier has been agreed with the planning department instead of gates to avoid the creation of a separate pedestrian opening in the existing wall which was considered undesirable on Conservation Area grounds.
- There was no 'wedding event' held. The nursery opened for 3 hours one Saturday soon after opening to celebrate with parents and children and to raise money for the charity 'Coastal West Sussex Mind'.
- There is no afterschool club in operation in the Hove setting and this is not part of the business model.
- We work hard to make parents aware of their responsibilities with regard to parking. We have several blue badge holders who are entitled to park on the double yellow lines adjacent to the junction.
- For operational reasons staff need to access the nursery from 7.00am. The nursery is open for children from 7.30am.

#### Mitigation measures

- As part of the amendment to the current application, the internal operations of the buildings have had to be re-worked. It will now be pre-schoolers occupying 69B.
- There is a conservatory at the Hove nursery and privacy and sunlight is managed with the use of blinds. If noise becomes a problem we are happy to look at options such as triple glazing, a more permanent roof structure or even a more permanent structure overall. [The latter has significant cost implications and would be a longer term aim.] We will internally furnish this room to absorb sound and will be designated for quiet activities such as reading and numeracy.
- We have invested a lot of time and money in the existing acoustic fencing installed by an experienced contractor. We were advised that it resulted in a good improvement in noise reduction for the occupiers of 69B.
- We are open to installing acoustic fencing where it is required. We had originally planned to install it around the rear garden of 69B but if there is going to be no activity in that part of the garden it would be a considerable cost and would need to be taller because of the distance from the noise source.
- The parking beat survey shows there is more than adequate parking to support the additional 20 car journeys per day and we are working on initiatives to improve car sharing etc.
- We feel we are managing the driveway with the current measures but if it is considered important to gate this, we are more than happy to revisit the formation of a separate pedestrian access.

#### **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.

### **Relevant Planning Policies**

Saved Local Plan policies (WBC 2003): H18, TR9, RES7, SC8

Worthing Core Strategy (WBC 2011): Policy 3, 7, 9, 11, 16

National Planning Policy Framework (HCLG 2018)

National Planning Practice Guidance

### **Planning Assessment**

The Core Strategy, including the saved policies of the Worthing Local Plan, comprises the Development Plan here but the Government has accorded the National Planning Policy Framework (NPPF) considerable status as a material consideration which can outweigh the Development Plan's provisions where there are no relevant development plan policies or the policies which are most important for determining the application are out of date. In such circumstances paragraph 11 of the revised NPPF states that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development; or any adverse impacts of doing so would demonstrably outweighs the benefits, when assessed against the policies of the NPPF taken as a whole.

As such the proposal should principally be assessed in relation to the presumption in favour of sustainable development as set out in paragraph 11 of the revised NPPF and informed by saved Worthing Local Plan policies H18; SC8, TR9, and RES7, Core Strategy policies 3, 7, 9, 11, and 16; the policies set out in National Planning Policy Framework and allied Practice Guidance.

The key considerations are:-

- The loss of residential use;
- Impact on the character and appearance of the Conservation Area;
- Impact on the amenities of neighbours
- Parking and highway safety

### ***Loss of residential use***

The proposed development would result in the loss of an existing single dwelling house. Core Strategy policy 9 states that the existing housing stock will be retained unless the proposal results in a net increase in the family housing stock, the

housing and its environment is of an unacceptable standard, which cannot be improved or the loss would facilitate the delivery of a needed community use.

One of the key challenges identified in the Core Strategy is to ensure a full range of high quality community facilities are provided in accessible locations to help promote social cohesion and increase local inclusiveness (para 3.52). It recognises that improved educational facilities play a key role in contributing towards the growth of a thriving local economy. CS policy 11 seeks to retain and enhance all existing community provision and the supporting text identifies educational establishments, including pre-schools, as important focal points for communities, which meet an essential need.

Also relevant is saved Local Plan policy SC8 which supports the provision of day nurseries providing there is no unacceptable loss of amenity for nearby residents; no adverse effect on the character or appearance of the area and there is adequate provision of useable outdoor amenity play space (in the order of 6sqm per child 2-5 years). The supporting text states that where practicable, nursery facilities should be located within the residential areas they seek to serve so that they are accessible by foot.

The applicant's supporting statement sets out clear evidence of need for additional nursery provision in the local area and having regard to the comments of the Policy Officer it is considered the proposal would meet the test set out in CS policy 9 and can be supported in principle.

[The total area of the 6 no. outdoor play areas included within proposed Garden Management Plan exceeds the 6sqm per child aged 2-5yrs required by saved policy SC8 although it is worth pointing out that space standards are now overseen by OFSTED.]

### ***Effects on visual amenity and the character and appearance of the Conservation Area***

The Conservation Area is characterised by large Edwardian properties set within generous gardens. The existing dwelling at 69B makes a positive contribution to the historic character and appearance of the Conservation Area, most likely having been the original coach house to the far grander corner property (now 69/69A). Old OS records suggest the plot was enlarged to create a larger rear (west) garden and resulting in a smaller rear garden to 24 Mill Road. The detached garage on the frontage dates from the mid-1950's. A single-storey rear extension and conservatory was added in the late 1980's.

The only alteration to the dwelling would be the formation of a new door in the south side elevation in place of an existing window and the alteration to the roof of the existing store on the north side. The latter would involve raising the boundary wall by a couple of brick courses and replacing the existing polycarbonate roof with a flat felt roof. This would be visible from the private landscaped grounds of Dorchester Gardens but would be a very modest feature and not harmful to the character or appearance of the Conservation Area.

The side garden between the rear of the garage and south side of the house at 69B is enclosed by decorative wrought iron fencing. It is proposed to sub-divide this side garden with acoustic fencing and create an opening in the existing brick boundary wall as part of the proposal to surface the decommissioned swimming pool and use this space as a hard play area for trikes and bikes. The west side of hard surfaced play area would be enclosed by acoustic fencing along the rear part of the boundary with 24 Mill Road (extended northward adjoin the south side of the conservatory at 69B). The decorative wrought iron fencing at 69B could be retained in situ with the acoustic fencing erected behind it. The acoustic fencing would be set well back into the respective plots and screened from public view from Grand Avenue and Mill Road.

The applicant has agreed to infill former southern vehicle access at 69/69A onto Grand Avenue with flint walling to replace the existing fence (as per the planning condition of AWDM/0374/15).

### ***Effect on residential amenity***

The nearest and most affected residential properties are the flats in Dorchester Gardens to the north, the 4 no. flats at 24 Mill Road and 26 Mill Road to the south and west.

Nos.49-54 Dorchester Gardens consists of a 3-storey flat block set back from the road frontage of Grand Avenue by approximately 14.5 metres and sited approximately 6 metres from the common boundary with 69B Grand Avenue. . The block is orientated to face the street with its main windows to the front and rear although there are windows in the south side elevation, including French doors (with a Juliet balcony) on the first floor. The first and second-floor windows/doors overlook the deep front garden of No.69B, although those on the ground-floor are screened from view from within the garden of 69B by screen planting along the boundary.

Nos.43-48 Dorchester Gardens comprises a similar purpose-built flat block, sited behind (west of) and parallel to the frontage block. It is sited approximately 4.3 metres from the common boundary with 69B, directly adjacent to its rear garden. There are no windows in the south side of this block, but there are shallow projecting balconies on the rear (west) elevation at first and second-floor level, which enable views into the rear garden of 69B although mature trees in the grounds of Dorchester Gardens and the rear garden of 69B provide some filtered screening.

The rear garden of 69B is enclosed by a brick garden wall (approximately 1.5 to 1.7 metres high) to the north adjoining Dorchester Gardens, and west adjoining the rear garden of 26 Mill Road; and similar height woven fencing to the south side adjoining the garden of 24 Mill Road. There are some mature trees in the rear garden of No.24 and shrub/tree planting along this boundary within the garden 69B effectively screens views of the rear of No.24 from the garden of 69B.

As initially submitted, the Environmental Health Officer raised strong concerns about the noise effects of outdoor play in connection with the proposed nursery use of 69B on the amenities of neighbouring properties. It was considered that this would not be satisfactory addressed by the proposal to erect acoustic fencing enclosing the

rear garden in view of the close proximity and elevated position of receptors in Nos.43-48 Dorchester Gardens. It was considered that the use of the front garden of 69B would also have a similar adverse effect on the amenities of the frontage block Nos.49-54.

Following discussions with the EHO and the applicants, the application has been amended with an updated Garden Management Plan that excludes the use of the front and rear gardens of 69B for outdoor play. It is intended to continue to use the existing greenhouse for growing fruit and vegetables for use in the proposed new kitchen and small groups of up to 8 children would visit the greenhouse for up to 2 no. 30 minute periods per day to support learning about healthy eating. The amended plan shows the south side garden at 69B would be enclosed by acoustic fencing (as described above) in conjunction with the proposed surfacing and use of the decommissioned swimming pool at No.69/69A as a hard play area.

The planning permission granted in 2015 for the change of use of 69/69A to a day nursery was subject to a number of restrictive conditions including a limit on the number of children attending the nursery to 80, controls over arrival and departure times for the children to between 7.30am and 6.00pm Mon to Fri plus (amongst other things) a restriction on the use of the outdoor play space to between 9.30am and 4.30pm. The permission also sought the submission and approval of a Garden Management Plan to manage activities and specific use of different parts of the garden. The garden is currently sub-divided into 5 play zones with the zones on the less sensitive south side being used for more active play, with 'quieter' activities to the north. The hours of use of the different gardens zones varies.

As initially approved, the Garden Management Plan allowed the garden at 69/69A to be used between 9.30am to 11.30am and between 1.30pm to 4.30pm (with only the southern garden zones in use between 1.30pm to 2.30pm). As from May 2018 the additional use of the southern garden zones was agreed for a 3 month trial between 11.30am and 1.30pm to support the nursery's free-flow ethos. Currently only the 3 no. southern garden zones can be used between 11.30 and 14.30. There are 28 children maximum permitted in the garden (20 no. pre-school plus 8 no. under 2's).

As part of the current submission, the outdoor play area would include an additional garden zone comprising the hard play area for trikes and bikes (consisting of the surfaced, decommissioned swimming pool and side garden of 69B). The proposed Garden Management Plan (v7) would allow for 48 children in the garden at any one time (comprising 40 preschool children and 8 no. under 2's). The children would be in the garden between 9.30 am and 16.30 pm except that between 1.30pm and 2.30pm the trikes and bikes hard play area would not be in use.

The greenhouse would be available for use by pre-schoolers between 11.00am to 11.30am and 15.00 pm to 15.30 pm at a ratio of 1:8 children.

No complaints have been made to the Council in connection with the additional use of the southern garden zones trialled from May 2018. However, concerns about noise have been since been raised by a third party in response to the current application. In the circumstances, it would be reasonable to adopt the more cautious approach recommended by the Environmental Health Officer i.e. that hard

play area for trikes and bikes is not used between 12.30pm and 2.30pm in order to give neighbours additional respite during the middle of the day.

The Environmental Health Officer has suggested that the proposed 2.4 metre high acoustic fence is extended all along the common boundary with 24 Mill Road (adjacent to the existing beach zone and allotment zone). The allotment zone is sited adjacent to the east side elevation of No.24 Mill Road. Although this is a 'quiet' activity it is considered there is justification for extending the acoustic fence as far as the existing 'potting house' which adjoins the common boundary. The 'beach' zone is sited forward (south) of the front elevation of 24 Mill Road and it is considered there is less justification for extending the acoustic fence along this part of the common boundary where the fence would be visible in angled views along Mill Road. There are no windows in the main east side elevation of No.24 (although there are several ground and first-floor windows in the east elevation of the 2-storey rear outrigger which is set further back into the site).

As amended, there would be 4 playrooms for pre-school children on the ground-floor of 69B including the conservatory (plus WC/kitchen facilities), and 3 playrooms for toddler on the first-floor (plus WC/change facilities). Concern has been raised by a third party about noise emanating noise from the conservatory. However, the Environmental Health Officer is satisfied this can be dealt with by a condition which requires the conservatory windows and doors to be kept shut. This will necessitate air-conditioning to prevent overheating. [A similar arrangement is currently in place at 69/69A in respect of the first-floor windows in the west elevation of that building.]

It is proposed to convert the flat-roofed double garage building in the grounds of 69B into a kitchen to provide healthy meals for the children cooked on-site. The Environmental Health Officer is satisfied that a suitable extraction system to deal with cooking odours can be dealt with as a condition of planning permission before any cooking on the premises commences. Such a system would need to be discreetly designed and positioned on the building to avoid any harmful impact on the character and appearance of the Conservation Area.

### ***Parking and highway safety***

The applicant's Supporting Statement anticipates the proposed additional 55 children within the expanded nursery provision at 69B would result in an additional 20 car journeys per day. This is based on the current proportion of children that travel by car and taking into account that some of the intake would be siblings of existing children.

There is a large frontage area to 69/69A accessed from Grand Avenue which has space to informally accommodate up to 10 vehicles. A condition of the planning permission granted under AWDM/0374/15 limits the use of all parking on-site to staff only and deliveries. [The former detached garage building in the south-west part of the site adjacent to the boundary with 24 Mill Road is used for storage not parking.]



The submitted Green Travel Policy sets out the applicant's arrangements for drop-off and collection, and sets out the measures in place to encourage and promote alternative modes of travel than by car.

Grand Avenue consists of an attractive tree-lined avenue with a particularly wide carriageway of some 11.5 metres. Parents are required to park on-street when dropping off and collecting children. There are yellow lined parking restrictions in place around the junction of Mill Road and Grand Avenue, but no restrictions on the remainder of this part of Grand Avenue. Staggered drop-off and collection times are discussed with parents travelling by car (between 7.30am to 9.30am and 4.00 to 6.00pm), as are the benefits of lift sharing. Other strategies to avoid congestion at peak times include 'park and walk' where nearby roads with on-street parking capacity have been identified within a 5 minute walking distance, and alternative drop-off options, where parents drop-off children at predetermined locations, for example, in connection with the Forest and Beach School programmes.

There is a secure and covered buggy store (and hanging space for wet weather gear) to encourage parent to walk children to the nursery whatever the weather. Parents are also able to leave car seats to encourage lift-sharing. There is an outdoor bike rack and parents are able to leave child seats with their bikes for collection at pick-up.

West Worthing rail station is 5-10 minutes walking distance and there are 4 bus stops within a 5 minute walk from the nursery.

The Green Travel Policy commits to encouraging sustainable modes of travel through parents' evenings and internal forums as well as undertaking an annual survey of travel modes as a bench mark against which to monitor and review the strategies in place.

No.69B has a deep frontage onto Grand Avenue. The garage building is positioned forward (east) of the dwelling with a drive some 20 metres long accessed from Grand Avenue. It is not proposed to alter or extend the existing driveway which would be used for additional staff parking. An additional buggy store is planned plus an additional bike rack as part of the current proposals.

It is anticipated that all parents and children will enter and leave the nursery using a single entrance point comprising the existing main entrance at No.69/69A.

An up-dated Parking Beat Survey (Oct 2018) has been undertaken at the request of the local Highway Authority. WSCC has accepted the results which show that although overall parking 'stress levels' have increased by 1% (to 59%) since the last survey was undertaken in 2015, the local road network has a good degree of spare capacity to accommodate additional on-street parking. Notwithstanding the concerns raised by third parties the Highway Authority has confirmed there is no highway safety or parking capacity reasons to resist the proposed development.

### ***Conclusion***

The proposed development would provide a much needed community use within the local area it serves. It is located within a highly accessible location well-served

by buses and within easy walking distance of West Worthing rail Station. Following amendment to exclude the outdoor use of the front and rear gardens of 69B (other than the greenhouse) it is considered concerns about noise disturbance associated with the proposed additional number of children and the use of the outside play areas can be satisfactorily addressed and managed through the use of appropriate planning conditions. This should involve monitoring and review of the use of the different gardens zones after 1 year of implementation as recommended by the Environmental Health Officer. Whilst a number of third parties have raised strong concerns about the safety of parking arrangements, the local Highway Authority is satisfied the additional parking demand generated by the proposed increase of 55 children can be satisfactorily accommodated without resulting in unacceptable harm to the local highway network.

### **Recommendation**

#### **Approve subject to conditions:-**

1. Standard 3yr time limit
2. Approved plans
3. The use hereby permitted shall not commence unless and until the section of front boundary wall infilling the former southern vehicle access at 69/69A has been constructed in accordance with architectural details at a scale of not less than 1:20, and samples of exterior materials and finishes, including a panel of flint work, that has been submitted to and approved in writing by the local planning authority
4. The submitted Green Travel Policy shall be implemented and arrangements for monitoring and effective enforcement with any necessary new measures or interventions implemented accordingly
5. The use hereby permitted shall not commence unless and until an updated Garden Management Plan has been submitted to and approved in writing by the local planning authority which shall include a site plan showing the layout of the different play zones and times of use. The approved Plan shall thereafter be implemented in full accordance with a timetable to be approved as part of the Plan. The Plan shall also include arrangements for monitoring with a review to be submitted to the LPA for approval after 1 year of implementation plus measures for effective enforcement with any necessary new measures or interventions implemented accordingly.
6. At no time shall the outside area (at 69/69A and 69B together) be used by more than 48 children at any one time.
7. The use hereby permitted shall not commence until such time as the additional cycle and buggy storage has been provided on the site in accordance with details to be submitted to and approved by the Local Planning Authority. The cycle and buggy storage shall be retained and available for use at all times thereafter.
8. The conservatory doors and windows at 69B shall be kept closed at all times the nursery is in use.
9. The use hereby permitted shall not commence unless and until details of the height, construction and siting of the proposed additional acoustic fencing (including that erected alongside the boundary with 24 Mill Road) has been submitted to and approved in writing by the Local Planning Authority.

10. The use hereby permitted shall not commence until such time as the hard play area shown on the approved plan has been formed and the acoustic fencing agreed under condition 9 of this permission erected. The acoustic fencing shall thereafter be maintained in good condition.
11. The vehicular accesses and parking at the site 69/69A and 69B shall only be used by staff and for service deliveries.
12. Other than to service staff arrival and departure and deliveries, a gate or barrier shall be kept in place at the vehicular access from 69/69A onto Grand Avenue in accordance with details to be submitted to and agreed by the Local Planning Authority. Other than to service staff arrival/departure and deliveries, the gates at the vehicle access to Grand Avenue from 69B shall be kept closed and locked at all times the nursery is open.
13. The number of children attending the day nursery shall not exceed 80 at 69/69A and 55 at 69B (135 in total) at any time.
14. No children attending the nursery shall arrive or depart other than between the hours of 7.30 am and 6.00 pm on the same day Monday to Friday.
15. The outside areas shall not be used by children other than between the hours of 9.30am and 4.30pm on Monday to Friday
16. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), the premises shall be used as a children's day nursery only and for no other purpose within Use Class D1 as defined in the Town and Country Planning (Use Classes) Order 1987 or in any equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order with or without modification.
17. No use of the kitchen hereby permitted shall take place 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 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 any cooking is carried out in the kitchen and shall thereafter be maintained in accordance with the manufacturer's instructions.

Application Number: AWDM/1691/18

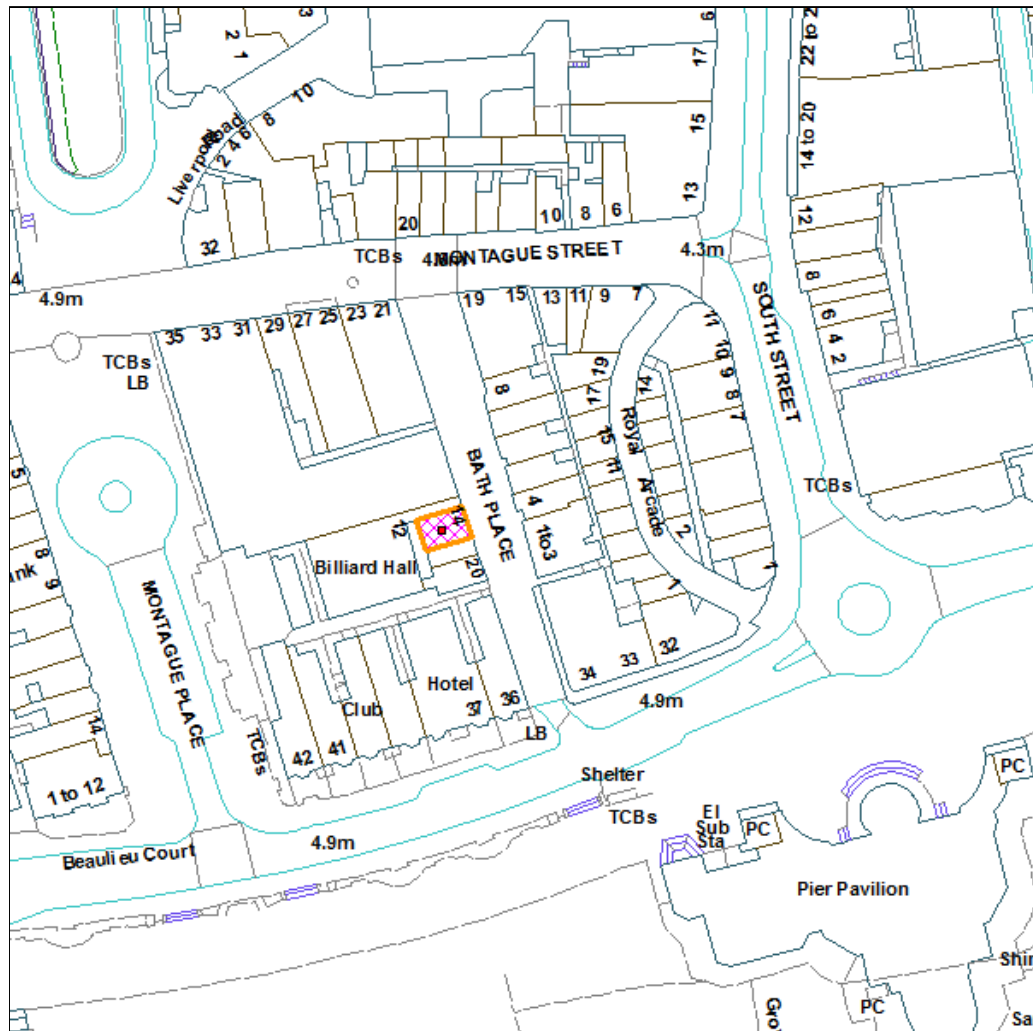
Recommendation – REFUSE

Site: 14 - 16 Bath Place, Worthing

Proposal: Change of use from Shop (Class A1) to Tattoo Shop (Sui Generis)

Applicant: Mrs L Loveridge  
Case: Gary Peck  
Officer:

Ward: Central



Not to Scale

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### Proposal, Site and Surroundings

This application seeks permission for a change of use from a retail shop (use class A1) to a tattoo shop which is a sui generis use – a use which does not fall into a particular use class.

The application site is a ground floor unit, currently vacant, situated within the Conservation Area on the western side of Bath Place. Its last use was as a vapor store with ancillary cafe.

### **Relevant Planning History**

Application for permitted development for prior approval for change of use from Shop (Use Class A1) to mixed use as Shop and Cafe (Use Classes A1 and A3): Prior approval required and granted. The reason given for granting the prior approval was:

*The introduction of popular cafes/restaurants has helped to improve the vitality of this locality. The current proposal seeks to diversify the offer for its clients and will encourage visitors to stay longer and may help to increase the footfall in this location. It is a use (cafe) that is encouraged in this locality. No policy objection has been raised on this basis.*

*Therefore, it is not considered that the change of use of this small unit to a mixed A1/A3 use will be undesirable because of the impact of the change of use on adequate provision of services falling within Class A1 shops or A2 financial and professional services; or that it would negatively affect the sustainability of the shopping area.*

### **Consultations**

### **Planning Policy**

There was a previous application (Notice/0011/18) for a change of use from A1 to a mixed use A1 and A3 to allow the vape store to also have a coffee shop to support the vape shop. This was approved (2018) and the report refers to the adopted policy WLP03 S8 and the Core Strategy. It also refers to the retail study and the recommendation that this area should be redefined as Secondary Zone A where more flexibility is permitted. Since then the Draft Worthing Local Plan policy has emerged with a draft policy which states that A1/A3 and A4 use would be permitted (a tattoo parlour does not fall within these use classes).

Bath Place links Montague Street with the Seafront and really needs to have a vibrant active frontage to draw people through from Montague St to seafront and vice versa. The Policy Team is not convinced that Tattoo parlour offers an appropriate active frontage. As far as we are aware this unit has not been vacant long and indeed the most recent application was in 2018 where a flexible permission was granted.

### *WLP 03 States*

*Within Zone B of the Primary Area of the Central Shopping Area, as shown on the Proposals Map, permission will not normally be granted for the change of use of the ground floor of a shop (A1) to any other use. An exception may be granted where:- (i) the use proposed is an A3 use; (ii) the proposal causes no significant adverse effects for the occupiers of neighbouring properties; (iii) the proposal does not*

*intensify car parking problems; and (iv) the use does not extend or result in a block of non-shop uses with a frontage of more than 20 metres or result in the proportion of non-shop uses exceeding 35% within Zone B of the Primary Area as a whole. Proposals for changes of non-shop premises to uses outside the A1, A2 or A3 Use Classes will not normally be permitted.*

Overall, we are not convinced that this proposal should be allowed in this location - it would be preferable if it was located in Secondary B type areas.

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

This proposal is for the change of use from A1 shop use to sui generis use as a tattoo shop. The site is located on Bath Place, an un-classified pedestrianised street in Worthing town centre.

The application does not propose any parking provision or vehicular access to the site. However the LHA appreciate the sustainable location of the site, within walking distance of Worthing train station and local bus stops, and as such consider that there are viable options for sustainable modes of transport to reduce the reliance upon the private car. Whilst on-street car parking is limited in the immediate vicinity there are comprehensive parking restrictions prohibiting vehicles from parking in places that would be detrimental to highway safety. We would not consider that highway safety would be detrimentally affected through the proposed nil car parking provision. Furthermore, existing visitors to the shop would be by foot and considering that no parking is possible for the sui generis use the LHA anticipate that the level of traffic generated would be of a similar nature.

### Conclusion

The Local Highway Authority (LHA) does not consider that this proposal would have 'severe' impact on the operation of the Highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

### **Environmental Health**

In relation to the above application, PH&R have please the following comments:

- hours of demolition/construction/works - standard hours to apply;
- dust - appropriate suppression methods submitted prior to works (if necessary);
- noise - the proposed hours of 10.00 - 19.00 Monday to Friday, 10.00 - 16.00 Saturday and not open on Sundays or Bank Holidays are considered acceptable for this use;
- air quality - no comments;
- light - any external lighting to be installed so as not to adversely affect neighbouring properties;
- contaminated land - prior to commencement of any work, all site workers to be advised re. ACM as per the asbestos register;
- could the applicant please provide the specifications of any proposed equipment (to include any equipment specific to the proposed use,

refrigeration units, extraction systems, mechanised ventilation plant, etc.) and advise on how many noise generated will be managed.

The applicant responded to the above points:

*There is no demolition and therefore no dust.*

*I will inform my client re the lighting, although I note it is a commercial area and as such some may be expected.*

*Any such lighting to be subject to a future application if required.*

*There are no works intended for the property, but any work persons will be advised re asbestos.*

*Re noise, I do not see why this is necessary now. We made a similar application on number 39 Brighton Road application number AWDM/1490/17 and which was passed without this. The machines are limited to small hand equipment and as the hours are restricted I do not see why this is necessary. This is a tattoo parlour and does not have, and does not need extract systems. In addition there will be no refrigeration units other than a standard domestic fridge and which does not make any noise.*

No further response was received from Environmental Health

### **Representations**

None received

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

Saved Local Plan policies (WBC 2003): RES7, S8, H16, H18

Worthing Core Strategy (WBC 2011): 6, 16

National Planning Policy Framework (CLG 2012)

National Planning Practice Guidance

The Core Strategy, including the saved policies of the Worthing Local Plan, comprises the Development Plan here but the Government has accorded the National Planning Policy Framework (NPPF) considerable status as a material consideration which can outweigh the Development Plan's provisions where there are no relevant development plan policies or the policies which are most important for determining the application are out of date. In such circumstances paragraph 11 of the revised NPPF states that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development; or any adverse impacts of doing so would demonstrably outweighs the benefits, when assessed against the policies of the NPPF taken as a whole.

### **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 the effect of the proposal upon the vitality of the central shopping area.

The application relates to a currently vacant mid-terraced shop unit on the west side of Bath Place and under the current Core Strategy is part of the defined Central Shopping Area Primary Zone B within the Town Centre. Zone B allows a more flexible approach compared to the more centrally located zone A, which seeks to protect A1 retail uses, but this more flexible approach applies to A3 and A4 uses (restaurants and café's/drinking establishments) and not the use proposed under this application.

In the draft Local Plan, the application site would be part of Secondary Zone A which allows approach allows for a similarly flexible approach - A1, A3 and A4 but not for the use proposed under the current application.

Bath Place provides a north-south link between the seafront to the south and shopping in Montague Street to the north. It is an important link to the seafront and has benefitted from the A1 and A3 uses on its eastern side, which provide an active frontage but this is less so on the western side primarily due to the dead frontages of the side of units in Montague Street which extend deeply on this side of the road. It is noted that occasionally tables and chairs, seemingly from the users on the eastern side, have placed in front of this dead frontage resulting in an increased activity at certain times of the year while the previous use of the subject building as a vapour store with associated café also occasionally allowed tables and chairs to be placed outside.

The success or otherwise of Bath Place therefore seems to depend upon the encouragement of uses identified in the existing Core Strategy and draft Local Plan. The proposed use as a tattoo parlour would not comply with the requirements of the policy, therefore, nor is it likely to result in an active frontage that would complement the existing uses in the immediate area. Tattoo uses generally are located in edge of centre locations and predominantly have blank facades (albeit with coloured tattoo graphics). Officers are also mindful of the recent permission to relocate the amusement arcade from the seafront into Bath Place and there is concern that introducing a further none A use classes could impact on the vitality of this secondary frontage.

It does have to be borne in mind, though, that the unit is currently vacant and as such it does not make any contribution at present to the vitality of the area. Moreover, the Government has recently consulted on proposals to provide greater flexibility in the High Street, in part because of the many such vacancies in units in town centres, albeit Worthing has fared comparatively well in vacancy rates



compared to many similar towns. There could be a counter argument, therefore, to suggest that a proposed user who will bring customers to the town should be encouraged.

Nevertheless, the application must be assessed against Development Plan policies and these policies are quite clear in directing uses in this part of the town centre to A class uses. If a successful A class use were to be found for the application site, it would almost certainly contribute to the vitality of the area more than the non-conforming use proposed under this application and accordingly it is recommended that planning permission is refused. This is an, on balance, recommendation in light of the current vacancy of the unit and the emerging Government desire to increase flexibility in town centres.

### **Recommendation**

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

The proposal would fail to protect the vitality, viability and retail character and function of the town centre in an identified Primary Shopping Zone as it would not result in the occupation of the premises by an appropriate A class user. The proposal therefore fails to comply with policy 6 of the Worthing Core Strategy and guidance contained within the National Planning Policy Framework.

27<sup>th</sup> February 2019

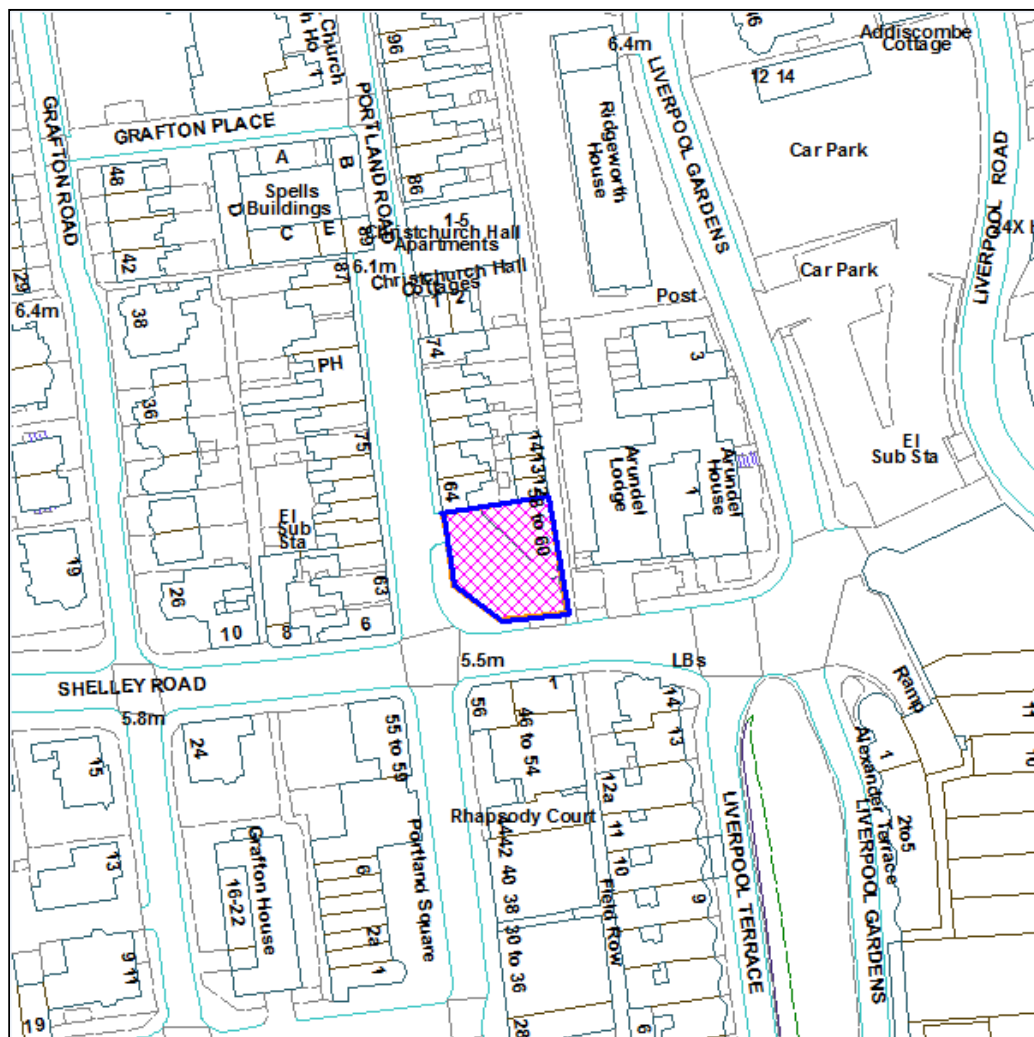
Application Number: AWDM/1780/18 Recommendation – APPROVE

Site: 58 - 62 Portland Road Worthing West Sussex BN11 1QG

Proposal: Change of use of former car sales building to mixed use of Use Class A3 (cafe) and Use Class A1 (retail) for the sale of sports equipment and sports drinks and use of existing forecourt parking as private pay and display car park for the public with 8 parking spaces.

Applicant: Mr Nick Brewer  
Case Officer: Jackie Fox

Ward: Central



Not to Scale

## **Background**

At the November 2018 meeting of the Committee, an application for the *Change of use from car sales to private pay and display car park for the public with 8 parking spaces* was requested to come to committee. Members of the committee resolved to refuse the application for the following reason:

The proposed car park would represent piecemeal development which would be detrimental to the Chapel Road Conservation Area and would not allow the site to be developed in a manner that preserves and enhances the Conservation Area. As such the proposal would be contrary to policy 16 of the Worthing Core Strategy and the policies of the National Planning Policy Framework.

## **Site and Surroundings**

The application relates to a building and open forecourt previously used for car sales. The site is prominently located on the corner of Portland Road and Shelley Road. The forecourt is separated from the adjacent footways by bollards, but is not otherwise enclosed or screened. Although there are other commercial premises in the immediate vicinity, the site is in close proximity to dwellings in Portland Road and Field Row and to flats on Shelley Road.

The site is located in the Chapel Road Conservation Area. The flint wall east side of Field Row, between Ambrose Place and Shelley Road is Grade II Listed in its own right. Nos. 63-67 Portland Road and Nos. 12-14 Field Row (inclusive) are all local interest buildings.

58-62 Portland Road is within a Key Office Location. However neither the existing use nor the proposed is B1 so Policy 4 of Worthing Core Strategy is not considered relevant to the determination of the application.

## **Proposal**

The current application seeks again full permission for the change of use of a car sales forecourt to a private pay and display car park for the public with 8 car parking spaces with access from Shelley Road and exit into Portland Road. The only alterations will involve marking the bays, erection of a pay and display meter and use of the existing signage.

The application also now includes the change of use of the sales showroom building to mixed use of Use Class A3 (cafe) and Use Class A1 (retail) for the sale of sports equipment and sports drinks. The northern half of the building would be used for retail approx. 40sqm plus a store of approx. 11sqm. The retail area is proposed to sell sports nutrition products and sports clothing. The central section is shown as a juice bar approx. 23sqm in area with a store area to the rear of approx. 8.5sqm. The juice bar would have a small seating area. The southern part of the building would remain as WCs and store area and would contain the parking meter.

A heritage statement indicates that the proposal would involve decorating and cleaning the existing showroom building and introducing seating and a serving bar within the A3 element and display areas in the retail element. The existing forecourt would be marked out with signage and would be kept clean and tidy at all times and maintained to a high standard.

The heritage statement concludes that the proposal is sensibly designed, proportioned and respects the setting, character and appearance of the conservation area with little change to the existing use of the site.

The applicants indicate that they can only see this proposal as an extreme benefit to the area, increasing trade in the town centre area, encouraging people to participate in health sports and activities, retailing healthy sports drinks and supplements. The parking ability at the front of the business is a unique selling point to the business as few town centre establishments have parking available at the site of business. Free parking for customers of the store is an attractive element. Employment opportunities within this store will be generated leading to full time work and the additional parking will take some pressure off the on street parking and provide shoppers with further parking options to access other town centre shops. Improved presentation of the existing showroom (which is currently vacant and in demise) and forecourt in terms of anti-littering and any maintenance weeds or rogue vegetation will be the added benefit of a visual deterrent to help prevent anti-social behavior in the area.

The applicants state that the proposals are considered to positively contribute to the character, appearance and setting of the conservation area with little or no change to the current usage of the forecourt.

### **Relevant Planning History**

AWDM/1125/12: Change of use from car sales to car valeting – application refused and appeal dismissed in 2013.

AWDM/1018/17: Change of use from car sales and display (sui generis) to cafe (A3) together with installation of replacement slide and fold entrance doors, outdoor seating (6 tables, 24 covers) and retractable bollards to Portland Road vehicular access – granted permission

AWDM/1141/18: Change of use from car sales to private pay and display car park for the public with 8 parking spaces- Refused

### **Consultations**

#### **West Sussex County Council (Highways)**

No highway objection

#### **Adur and Worthing Council**

Environmental Health – Highlighted that the site has potentially contaminated land. They recommended a full potentially contaminated land condition. However following correspondence with the applicant and confirmation that the application does not involve breaking ground have confirmed that the full condition would not therefore be required.

**CAAC-** No objection

Representations

### **The Worthing Society**

The Worthing Society objected to the proposal for a car park on this site arising from Application AWDM/1141/18. At the planning committee hearing James Appleton agreed that the proposal would be refused. The society had made a number of observations dated 23<sup>rd</sup> August 2018 prior to the hearing. Item 2 of these observations reads as follows: The site lies in Chapel Road Conservation Area and we note the appraisal document refers to the site as follows: Encourage development, should the opportunity arise, of this garage site so as to enhance the character and appearance of the Conservation Area

Following the refusal another application reference AWDM/1780/18 which in addition to the car park included the refurbishment of the existing sales office to become a juice bar and sports supplement.

The reasons for refusal of application AWDM/1780/18 are recorded as follows:

The proposed car park would represent piecemeal development which would be detrimental to the Chapel Road Conservation Area and would not allow the site to be developed in a manner that preserves and enhances the Conservation Area. As such the proposal would be contrary to policy 16 of the Worthing Core Strategy and the policies of the National Planning Policy Framework.

In our opinion the current application AWDM/1780/18 does not preserve or enhance the Conservation Area and is therefore contrary to Policy 16 of the Worthing Core Strategy and the policies within the NPPF. We therefore object to the application contained in AWDM/1780/18. Furthermore, refusal by the Council could encourage an acceptable development of this site.

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

Worthing Core Strategy (WBC 2011): Policies 3,6,16 & 19  
Saved Worthing Local Plan Policies H18, H16, RES7, TR9  
National Planning Policy Framework (DCLG 2018)  
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 on visual amenity and heritage assets taking into account the previous refusal on the site, impact on town centre viability and vitality and highways.

The National Planning Policy Framework supports economic development, and advises that local planning authorities should pursue policies to support the viability and vitality of town centres (given local expression in Policy 3).

The National Planning Policy Framework seeks that LPA should look for opportunities for new development within Conservation Areas to enhance or better reveal their setting. It also indicates that proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

The site has been vacant for several months: the need to secure a new use for the site is a factor which weights in favour of the proposal. However, this must be balanced against members concerns and refusal of the previous application that the scheme represented piecemeal development detrimental to the Chapel Road Conservation Area and would not allow the site to be developed in a manner that preserves and enhances the Conservation Area.

### **Effect of the proposal on visual amenity and heritage assets**

Being located within the Chapel Road Conservation Area, there is a requirement to preserve or enhance the character or appearance of a Conservation area.

The Conservation Area Appraisal identifies the short section between Portland Road south of Grafton Place as providing strong enclosure which has been eroded by the insensitive forecourt to the south-east corner with Shelley Road. It confirms that the site is located on the fringe of the town centre and when heavily trafficked and parked the area appears cramped. The street retains its essentially residential character.

The Conservation Area document indicates that one of the enhancement opportunities along this stretch is for the application site, it indicates that should the opportunity arise the applicants be encouraged to redevelop the site to enhance the character and appearance of the Conservation Area.

Members considered that the previous proposal on the site for a car park was piecemeal development detrimental to the Chapel Road Conservation Area and would not allow the site to be developed in a manner that preserves and enhances the Conservation Area.

The current application includes a comprehensive scheme for the site which not only makes use of the forecourt area but also the existing building. As indicated above the proposal would include a mixed use of Use Class A3 (cafe) and Use Class A1 (retail) within the existing building and use of existing forecourt parking as private pay and display car park. The scheme would involve a smartening up of the existing building and forecourt.

Since the refusal of the previous application discussions have further taken place with the applicants and the owner of the site to look at whether there are opportunities for redevelopment of the site as a whole. As part of the discussions the owner has indicated that he is not looking to redevelop the site or sell the site. The Council's Environmental Health Officer has commented that the site is potentially contaminated, which could affect the redevelopment potential of the site, but in any case each application should be judged on its individual merits

The current scheme would not therefore involve a redevelopment of the site but does represent a more comprehensive use of the site than previously proposed and can be seen to demonstrate that the applicants are committed to the reuse of the site.

It should also be borne in mind that both proposed uses continue the status quo for the building and forecourt do not involve substantial investment and would still allow the site to be redeveloped should the right circumstances come along.

The building in its current form has an extant permission for a café, the only additional use would be for the retail element. The principle of retail is discussed below. However in terms of the impact on the Conservation Area it is not considered that this additional use would have a detrimental impact.

The use for the forecourt will be as a parking area, similar to the previous use although cars will be parked in an orderly manner within the designated parking bays.

It is appreciated that there is desire to redevelop the site in accordance with the Conservation Area appraisal, but in view of the fact the proposal now involves a comprehensive scheme for the site which would make use of and improve the visual appearance of the site and therefore preserve and enhance this section of the Chapel Road Conservation Area, it is not considered that a refusal could be justified on piecemeal development grounds.

### ***Town Centre viability and vitality***

The site is situated within Worthing Town Centre within an area allocated in the WCS as key office location. There are other small scale offices and commercial properties along the northern portion of Portland Road including a shop. The nearest area designated for 'Central Shopping Area' – secondary area is on the opposite side of Shelley Road which is over the road from the site. This part of Portland Road (South of Shelley Road) is also earmarked improvements including pedestrianisation. The proposal is currently for a specialised 40sqm shop and 23sqm juice bar. It is in a sustainable location just off the secondary shopping

frontage and high street in an area designated for office use. The uses would complement and enhance the retail offer at this part of the town centre and would not have a material impact on the viability or vitality of the central shopping area. Furthermore the proposal would create jobs.

### ***Residential amenity***

Businesses in the vicinity appear to operate largely from within buildings, and these commercial uses have no significant impacts on the ambient noise levels of the residential streets in the vicinity.

Facing onto the application site, No. 12 Field Row has first/second floor windows at the rear and No. 64 has a first floor window at the side. All windows serve what look like bedrooms.

The retail and café use would be retained within the building with potential for outdoor seating in the future just outside the juice bar. It is not considered that the uses would cause an unacceptable loss of privacy and overlooking to neighbouring residential properties. A café on this site with outdoor seating has also been previously accepted.

The proposed car park would involve cars going onto and off the site on a fairly regular basis and the use of the parking meter. The car park would be for 8 cars. The site is in a town centre location where there is already a number of traffic movements at a junction with a pedestrian crossing. Portland Road is also heavily parked with frequent car movements due to parking permits and restricted parking.

Although the use may give rise to additional car movements than the previous use at the garage, WSCC have not raised any concerns to the additional movements and location and nature of the proposed use would not give rise to unacceptable noise and disturbance.

Given this circumstance, the proposed use would not be un-neighbourly and living conditions would not be unduly harmed.

### ***Parking and Accessibility***

The application includes details of vehicles movements, entrance and exit points. WSCC highways have confirmed that there no highway objections.

### **Recommendation**

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

1. Approved Plans.
2. Standard time limit.
3. No part of the development shall be first occupied until the vehicle access, vehicle exit, parking layout, signage and meter have been constructed in accordance with the approved plan. The access, exit, parking and signage so provided shall thereafter be retained for their designated use.



4. No external lighting or floodlighting shall be installed except in accordance with details approved in writing by the Local Planning Authority.
5. No customer trade or business (including arrival, reception or dispatch of deliveries) for the A1 and A3 use shall take place on the premises outside the hours of:-

9.00 am and 6.00 pm of the same day, Monday to Saturday

9.00 am and 4.00 pm of the same day, Sundays or Public Holidays.

The premises shall be emptied of customers outside of these hours.

6. No raw materials, finished or unfinished products or parts, crates, packing materials, nor any other items shall be stacked, stored or displayed on the site except within the building or within enclosed storage areas shown on the approved drawings.
7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking and re-enacting that Order with or without modification), the building shall not be extended or altered externally or any incidental building erected.
8. No primary cooking of food shall take place on the premises whatsoever. Only pre-cooked food shall be warmed and/or re-heated on the premises by means of a microwave oven, panini grill, jacket potato oven, soup kettle or other similar means of warming or re-heating pre-cooked food, details of which shall have been submitted to and approved in writing by the Local Planning Authority prior to commencement of such use of the premises.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking and re-enacting that Order with or without modification), except as approved under this permission no external plant or machinery shall be installed, erected or replaced on the application site.

Application Number: AWDM/0131/19

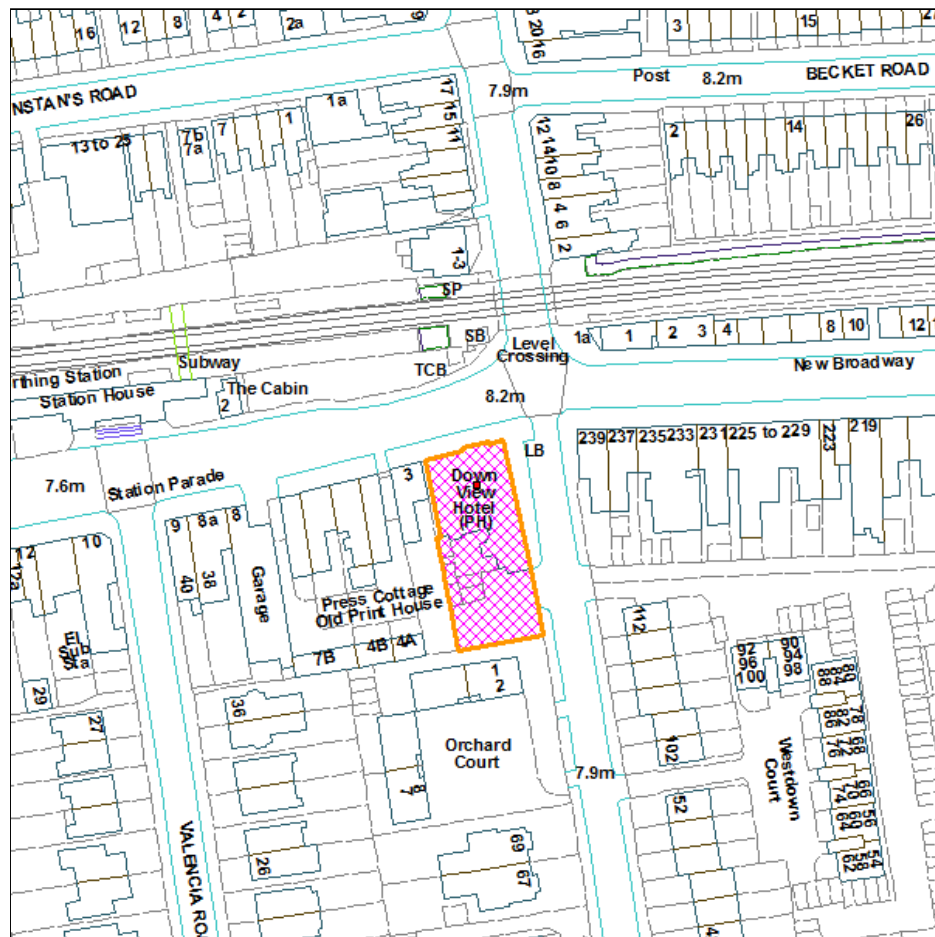
Recommendation – APPROVE

Site: The Downview, Downview Road, Worthing

Proposal: Non-Material Amendment to planning permission AWDM/1834/17 including new rooflight to east elevation, omission of rooflights and some windows to west elevation, lower pitch to roof of function room and other minor amendments to dormer windows and fenestration on south elevation.

Applicant: Worthing Borough Council  
Case: Gary Peck  
Officer:

Ward: Heene



Not to Scale

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### Proposal, Site and Surroundings

This proposal is a non-material amendment application to the planning permission granted previously on the site primarily for alterations to rooflights and windows, as well as the altering of a roof pitch of the old function room part of the building.

The non-material amendment process is part of the government's flexible options for amending previous planning permissions where the alterations proposed are so minor that is not considered necessary to require a new planning application. The proposal is not an application for planning permission, therefore, and there is no requirement for formal consultation. Applications of this type are not normally brought to the committee for consideration as the determination period for them is 28 days, after which permission is deemed to have been granted if the Council has not come to a decision. In this case, however, the Council is the applicant and it is felt appropriate to bring the application to committee for a decision: the 28 day period does not expire until 7 March, hence a decision made at the meeting will be within the specified timescale.

Planning permission was granted in 2018 for the conversion and alterations to the former Downview public house to provide 9 residential units , retention of the commercial use on part of the ground floor for Use Classes A1 (retail), A2 (professional services) or B1(a) (business) and the erection of new terrace of 4no. 2-bedroom houses on land to south with parking on frontages. Following the grant of planning permission, the site was purchased by the Council to develop. This application only relates to the main building.

The application site sits on the south western corner of the Tarring Road, South Street, Downview Road crossroads opposite West Worthing railway station with the associated level crossing gates immediately to the east of the station. A range of retail/commercial uses at ground floor level with residential above sits on the south side of Tarring Road (the application site also sits within the defined neighbourhood shopping area of Tarring Road) while to the rear of the site on the southern side is the small residential development of Orchard Court. There is further residential development on the eastern side of Downview Road which appears similar to the style of the proposed terraced dwellings

### **Relevant Planning History**

AWDM/1834/17: Conversion and alterations to former public house to provide 9no. residential units comprising 7no. 1-bedroom and 2no. 2-bedroom apartments with bin and bike storage to rear (south) and retention of commercial use of part of ground floor for Use Classes A1 (retail), A2 (professional services) or B1(a) (business). Erection of new terrace of 4no. 2-bedroom houses on land to south with parking on frontages – Permission granted in June 2018

### **Consultations**

None undertaken

### **Representations**

None received

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

Worthing Core Strategy (WBC 2011): Policy 16

National Planning Policy Framework (CLG 2018)  
Planning Practice Guidance (CLG 2014)

The Core Strategy, including the saved policies of the Worthing Local Plan, comprises the Development Plan here but the Government has accorded the National Planning Policy Framework (NPPF) considerable status as a material consideration which can outweigh the Development Plan's provisions where there are no relevant development plan policies or the policies which are most important for determining the application are out of date. In such circumstances paragraph 11 of the revised NPPF states that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development; or any adverse impacts of doing so would demonstrably outweighs the benefits, when assessed against the policies of the NPPF taken as a whole.

### **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 assessment in respect of this proposal is solely whether the alterations are acceptable – the principle of development is not a matter for consideration as the previous permission remains in place.

The alterations can be summarised as below:

- The residential staircase has been rationalised to be one stair not two, fitted between the main wing of the public house, (facing Downview), and the secondary wing (west side/left looking from the south), as before.
- There is a rooflight shown between the two dormer windows on the Downview elevation
- All of the rooflights and some of the windows on the west elevation have been omitted
- The roof pitch over the existing first floor function room, (west side looking at the south elevation, east looking at the north), has been made slightly shallower, with the large dormer windows previously shown retained but taken to the front and back walls (north and south) as part of the overall roof area. The ridge height of this pitched roof is as the approval.
- Minor amendments to fenestration on the south elevation; some of the larger windows have been split into two smaller ones to suit internal layouts. Other windows have been slightly reduced in size.

- Doors to a meter cupboard and a louvre to ventilate the bin store are shown on the south elevation. (The louvre could be omitted in favour of louvred doors to the bin store but this is felt to be a solution more in keeping with the street façade).
- Amendment to the staircase area with a window in lieu of a rooflight

Your Officers consider that the alterations are minor in nature, and in general the alterations to the fenestration, which mostly relate to the rear elevation, will result in a simplified elevation. The main alteration is to the roof pitch over the old function room referred to above, which will be made slightly shallower, but still of the same ridge height as previously approved, hence meaning the eaves height of this part of the building when viewed from the neighbouring property to the west will be slightly higher. This needs to be balanced against the omission of 8 rooflights and 2 of the windows that were shown under the approved scheme, resulting in a generally simpler western elevation and with the removal of the dormer on the eastern side of the roof also forming part of the proposal, it is considered that the resultant proposal is less 'busy in appearance than the approved scheme and accordingly is an acceptable non material minor amendment.

In conclusion, therefore, the amendments are considered acceptable.

### **Recommendation**

APPROVE the non-material amendments in accordance with the application and accompanying plans.

For the avoidance of doubt these plans comprise:-

Drawing number (08) 01 rev A – Existing Plans and Elevations

Drawing number (08) 02 rev A – Proposed Floor Plans

Drawing number (08) 03 rev B – Proposed Elevations

Existing planning permission AWDM/1834/17 still stands and that the conditions imposed upon it continue to apply to the development except that the above plans can be substituted for Drawing Numbers:

03 Rev D Proposed LGF and GF Plans (where it relates to the ground floor only)

04 Rev C Proposed 1<sup>st</sup> and 2<sup>nd</sup> floor plans

07 Rev A Elevation – Downview Road

08 Rev B Elevations to Station Parade

09 Rev A Rear Elevations

10 Rev A Western Elevation

27th February 2019

**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.