



WORTHING BOROUGH COUNCIL

9 April 2018

Worthing Planning Committee

Date: 18 April 2018

Time: 6:30pm

Venue: Richmond Room, Stoke Abbott Road, Worthing

Committee Membership: Councillors Paul Yallop (Chairman), Vicky Vaughan (Vice-Chair), Noel Atkins, Joshua High, Hazel Thorpe, Paul Westover and Steve Wills.

NOTE:

Anyone wishing to speak at this meeting on a planning application before the Committee should register by telephone (01903 221006) or e-mail

heather.kingston@adur-worthing.gov.uk before noon on Tuesday 17 April 2018.

Agenda

Part A

1. Substitute Members

Any substitute members should declare their substitution.

2. Declarations of Interest

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

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

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

3. Confirmation of Minutes

To approve the minutes of the Planning Committee meetings of the Committee held on Wednesday 14 March 2018, which have been emailed to Members.

4. Items Raised Under Urgency Provisions

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

5. Planning Applications

To consider the reports by the Director for the Economy, attached as Item 5 -

5.1 Church House, Church Road

5.2 Tasman Way, Worthing

5.3 31A Marine Parade, Worthing

5.4 Avalon Guest House, 8 Windsor Road

6. Public Question Time

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

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

7. Enforcement Reports

(a) AWEN/0132/15 Panacea Medical Practice, 7a Shelley Road

(b) AWEN/0303/17 7 Blackbird Lane, Worthing

To consider the reports by the Director for the Economy, attached as 7(a) and 7(b).

Part B - Not for publication - Exempt Information Reports

None

Recording of this meeting

The Council will be voice recording the meeting, including public question time. The recording will be available on the Council's website as soon as practicable after the meeting. The Council will not be recording any discussions in Part B of the agenda (where the press and public have been excluded).

For Democratic Services enquiries relating to this meeting please contact:	For Legal Services enquiries relating to this meeting please contact:
Heather Kingston Democratic Services Officer 01903 221006 heather.kingston@adur-worthing.gov.uk	Sally Drury-Smith Lawyer 01903 221086 sally.drury-smith@adur-worthing.gov.uk

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



**WORTHING BOROUGH
COUNCIL**

**Planning Committee
18 April 2018**

Agenda Item 5

Ward: ALL

Key Decision: ~~Yes~~ / No

Report by the Director for Economy

Planning Applications

1

Application Number: AWDM/0144/18

**Recommendation – Approve, subject to
the resolution of domestic
waste/recycling collection and storage
arrangements**

Site: Church House Church Road Worthing West Sussex

Proposal: Retention and conversion of existing coach house and stables to provide 1 no. affordable residential unit and refuse and cycle store. Demolition of existing two-storey residential building and re-development to provide 13 no. affordable residential units with associated parking, landscaping and retention and improvement of existing access.

2

Application Number: AWDM/1465/17

Recommendation – APPROVE

Site: Tasman Way Worthing West Sussex

Proposal: Erection of building for mixed use including a community centre with cafe and sports hall with changing facilities and frontage parking (land north of 12-20 Hobart Close).

3

Application Number: AWDM/0097/18

Recommendation – APPROVE

Site: 31A Marine Parade Worthing West Sussex BN11 3PU

Proposal: Provision of external seating area at front of premises consisting of 8 tables and 32 chairs together with 7 no. removable barriers/windbreaks.

4

Application Number: AWDM/0036/18

Recommendation – APPROVE

Site: Avalon Guest House, 8 Windsor Road Worthing West Sussex

Proposal: Conversion of existing bed and breakfast into one family home.

Application Number: AWDM/0144/18

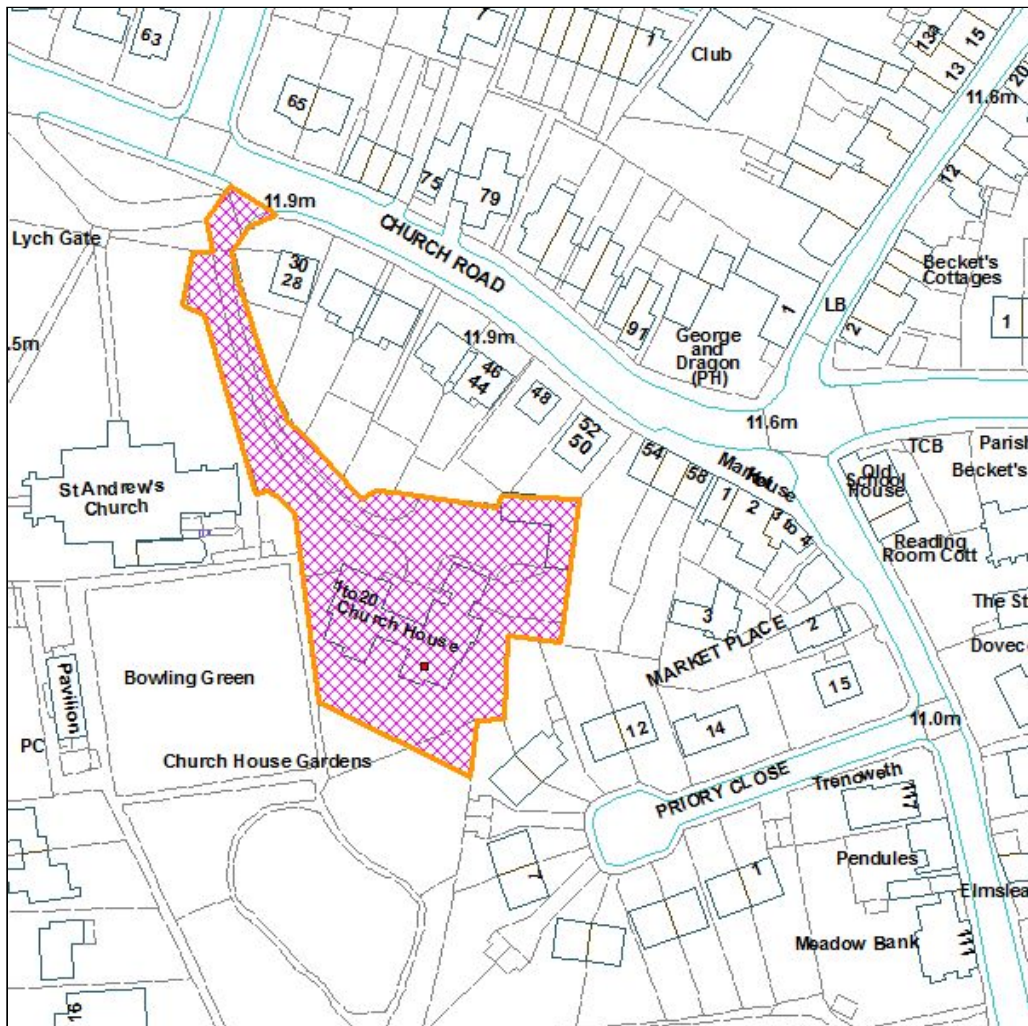
Recommendation – Approve, subject to the resolution of domestic waste/recycling collection and storage arrangements

Site: Church House Church Road Worthing West Sussex

Proposal: Retention and conversion of existing coach house and stables to provide 1 no. affordable residential unit and refuse and cycle store. Demolition of existing two-storey residential building and re-development to provide 13 no. affordable residential units with associated parking, landscaping and retention and improvement of existing access.

Applicant: Worthing Homes
Case Officer: Peter Devonport

Ward: Tarring



Not to Scale

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Site and Surroundings

This flat, irregularly shaped, 0.28 hectare site is owned by Worthing Homes and is situated in the heart of the West Tarring village and its Conservation Area. It sits just south of Church Rd and west of the mid nineteenth century suburban cul-de-sac of Priory Close and just to the east of the public park of Church House Grounds and south east of the grade 2* listed medieval St Andrews Church. It is generally secluded from public view apart from Church House Grounds.

It comprises a long, private, un-adopted single lane access road from Church Road (around 3ms wide) and the existing two storey recently vacated Church House and its grounds in which sit a somewhat dilapidated coach house and stables. Church House was built in 1966 as 18 sheltered housing units and warden's flat but has more recently been let on the market as bedsits.

Church House took its name from the original large house it replaced. This dated back to the eighteenth century or earlier as a manor or farm house and then parsonage and was demolished sometime after the second world war. The coach house and stables survived but only date from the late Victorian period.

The access is asphalted and opens out onto a turning head and open parking for 12 cars in the NE part of the site serving Church House. Along the way it also serves a service access to the Bowling club, whose bowling green is to the west of Church House, and bin storage areas. The access road is flanked by dense vegetation on both sides but is notable for the mature trees on its southern side adjacent to the church and graveyard. The mostly, reasonably deep rear gardens of the houses on the south side of Church Rd abut the access to the north, the boundary with which is marked by a substantial flint wall and, by Nos 42-to 48, a mature holm oak tree.

Many of the trees on the site are the subject of Tree Preservation Orders, including the aforementioned holm oak by its northern boundary, along the access road and a group of trees just to the NW of Church House. Consent to fell a large pine tree in this last group was recently granted due to its condition, subject to replacement.

Church House has an H shaped footprint and is angled to face the access road approach. It is designed in 1960s plain, modern period style with flat roof and mainly brick faced, with gardens to the south and east.

The coach house and barn are used for by Worthing Homes as garages and stores ancillary to Church House and are single storey, with plain tile pitched roofs and faced in mainly flint with some brick. They are characterful and look south and west but abut the NE boundary of the site. They are notable for their four rear (east) windows directly facing the deep rear yard of the listed cottage at No 54 Church Rd, which has built a small single storey privy off the building. The yard is separate from the cottage's small rear garden and is used for parking vehicles, including caravan and an outbuilding at the southern end. They also abut the very shallow

rear gardens of the two storey flats at Nos 52-54 Church Road, which are mostly owned by Worthing Homes, who have built stores onto the north wall of the stable.

The south eastern part of the site adjoins the very end of No 54 Church Rd's rear yard and the shallower rear gardens of the semi-detached houses at the end of Priory Close. The boundary at this point is a substantial flint wall. Closest are Nos 9 and 10 which are arranged so that their backs face the site. No 10's rear garden does contain some boundary planting which helps screen the application site but No 9's is more open. Much screening to Church House is provided by the three silver birch trees and shrubs, including a laurel bush in the application site's grounds.

The southern boundary to the mainly lawned park is defined by a row of mature trees and picket fence.

The western boundary to the bowling green is very open and features a relatively low hedge.

Planning History

82/66 Two Storey building comprising 18 bedsits for elderly people, communal lounge and warden's ancillary accommodation. Approved 15.3.66

AWDM/0182/11 - Application for consent under Worthing Tree Preservation Order No. 18 of 2002 to crown reduce by 20% one Sycamore (*Acer pseudoplatanus*) (Part of Group G1); and Section 211 Notice to crown lift to 4m one Scots Pine over adjacent bowling green in Church House Gardens (tree work in West Tarring Conservation Area)

STATUS: APP 20th July 2011.

AWDM/1227/14 - Installation of replacement (aluminium and plastic) windows and doors (all elevations)

STATUS: WDN 23rd June 2017.

AWDM/0032/18 - Application for consent under Worthing Tree Preservation Order No. 18 of 2002 to fell one Austrian Pine of group G1 and replace with a heavy standard sized Pine at least 12-14cm girth and 3m height within confines of Church House grounds and to coppice one Hawthorn (T1) within group G1 (both trees lie within West Tarring Conservation Area) **STATUS:** APP 22nd February 2018.

Proposal

The current application has been informed by extensive pre-application negotiations and has been revised post-submission to address residual design, amenity and access concerns.

The proposal is to demolish Church House and construct in roughly the same position, 2 x new, two storey blocks facing inwards, west and east. The eastern block proceeds to step down to single storey and refashion its form at its southern end and dog legs to face north and connect to a renovated and converted coach

house and stables. Their rear gardens sit adjacent to the boundaries. The development faces towards a central courtyard, comprising turning head, open parking area and soft landscaping.

The development provides 14 dwellings arranged as 3 x one bed flats; 9 x two bed houses and 2 x three bed houses. The barn is converted to a bin and cycle store.

In addition to the courtyard parking, there is open car parking on the northern side of the access road close to the new development which together takes the parking up to 12 spaces.

There would be some very limited widening of the mouth of the access road to improve passing (first 5 ms of the main access widened from 3.2m to 4.1m) and, as yet, detailed improvements along the access road to provide pedestrian refuge areas (such as a hoggin path), as well as new bollard lighting.

A sycamore and a hawthorn by the western boundary would be lost as well as some shrubs. However, the vast bulk of the trees and vegetation along the access road, the holm oak, three silver birch adjacent to 10 and 11 Priory Close and mature trees by the southern boundary are retained and some new planting is also proposed.

The redevelopment would be by and for Worthing Homes as affordable housing. All units meet the optional, higher Building Regulations M4 (2) category 2 standard in terms of accessibility (accessible and adaptable dwellings -. roughly equivalent to Lifetime Homes standard)

The design of the new two storey blocks is contemporary but modelled on the traditional form of a terrace of cottages. The roofs are pitched and faced in slate, the western block being double pitched to reduce height and the gable of the eastern block linking with the converted coach house having an asymmetrical form. Walls are mainly faced in grey brick. Features include box and picture windows and black window frames. The single storey building is clad in rainscreen cladding, with monopitch green roof and its orientation is angled.

The rear windows in the converted coach house (unit 14) and barn (cycle/bin store) are retained but obscure glazed and fixed shut. No others are added on this east nor the north elevation facing 54 and 50/52 Church Rd respectively.

The application is supported by Planning & Heritage Statement; Design & Access Statement; Statement of Community Involvement;; Landscape Strategy; Flood Risk Assessment & Foul and Surface Drainage Strategy; Sustainability/Energy Strategy; Preliminary Ecological appraisal and Bats Emergence Survey; Transport Statement; Arboricultural Impact Assessment and Tree Protection Plan.

Supporting Statements

The following extract is from the Planning and Heritage Statement

The site is in a sustainable location with good access to shops and services as well as sustainable transport options. It is within the Built Up Area boundary of the Borough, constitutes previously developed land and the proposals seek to make the best use of the site conforming fully with the requirements of the NPPF as well as the Spatial Strategy of the Worthing Core Strategy.

The proposed development is located within the West Tarring Conservation Area and seeks to positively enhance the character of the area through a development of high architectural quality.

The proposed development would replace an unsightly 1960s building of poor architectural quality.

As a result it would also enhance the setting of the adjacent Listed Buildings. The proposal would have significant social benefits as it provides 14 dwellings for affordable rent.

It is also considered that the development would have no harmful impact on the residential amenity of neighbouring residents.

Under the provisions of paragraph 14 of the NPPF 'Local Planning Authorities should positively seek opportunities to meet development needs of their area'. Furthermore, the planning authority is obliged to consider the application with respect to the tilted balance in favour of approving sustainable developments such as that proposed in this application, as set out in the NPPF.

The council is therefore respectfully requested to grant full planning permission.

Statement by Transport consultant on the access

The initial section of the access from the junction with Church Road is at least 6m wide for the first 10m, to where the main access starts. The first 5m of the main access we have widened from 3.2m to 4.1m (see attached plan ARD_SGR_CHU_080617_V1). This is sufficient queuing capacity to accommodate at least two cars leaving or entering the site, if they need to wait for a vehicle that is using the access road. We consider that this is adequate to serve the proposed development and is a betterment on the existing situation. Along the site access road that is circa 3m wide there are numerous informal sections of verge or hardstanding, such as at the entrance to the Church, that can accommodate a waiting vehicle. These sections at either end of the access road are inter-visible, meaning that vehicles can see each other as they approach the narrow section of the access road and wait if necessary. We do not support the request for formal passing bays, primarily because the exiting layout of the road with the new wider section will provide sufficient space for vehicles to pass. Providing a formal metalled area[s] would create an urbanised feel to the access road, which in our view will be an over engineered solution and would not offer any benefit.

Another factor to consider whether the proposed access is suitable to serve the development is the likely risk that vehicles will need to pass each other. The data

set out in the Transport Report shows that in the busiest hour there will be just over 2 vehicles arriving at the site and just over 4 leaving the site. This suggests on average one car every 15 minutes would be leaving the site and one car every 30 minutes would enter the site over the course of the 60 minute period from 8am to 9am. It would be highly unlikely, if not impossible, that more than two vehicles would be entering and leaving the site at the same time. As we have noted there is capacity for at least two cars to wait and/or pass each other. As such there is no risk that highway safety or capacity will be in anyway affected by this proposal. We do not believe that the traffic impact of the development without additional passing bays as requested by the Highway Authority are necessary to make this application acceptable.'

Statement from Worthing Homes

The proposed scheme at Church House will help meet the identified need for new affordable housing within the Borough, providing a mix of homes for single people; couples and small to medium size families. The existing scheme of bedsits are currently let as private units without seeking nominations from Worthing Borough Council, whereas the 14 new homes will all be allocated to eligible people on the local housing register, thereby helping to address local housing need. The homes will be let at either a maximum of 80% of Open Market Rents or the Local Housing Allowance for Worthing to ensure affordability.

Consultations

Drainage Officer

The site lies in flood zone 1, and is predicted to be affected by surface water flooding according to EA modelling. I do not believe the site has any recorded instances of flooding.

Areas less than 80m to the west have suffered flooding. I acknowledge that the infiltration rate for It is concluded that there is no surface water drainage from the site, existing flows are discharged via soakaways to the made ground covering the site. This thin layer approx. 1.5m may well become waterlogged causing flooding elsewhere in the locality.

The site would therefore benefit from being drained of surface water by means of the local public sewers. Un-attenuated this off site flow would present an issue however the Flood Risk Assessment recognises this and the drainage proposals limit off site flows.

I consider the proposals as presented to be appropriate for the site.

Therefore should approval for this development be given we would like to see it conditioned such that:

Should this development be approved the surface water disposal methodology should be in accordance with the proposals contained in the CampbellReith FRA.

Any alterations or amendments should be referred to the Council Engineering Team for consideration before acceptance.

West Sussex County Council (WSCC), in its capacity as the Lead Local Flood Authority (LLFA).

Flood Risk Summary

<u>Modelled surface water flood risk</u>	<u>High risk</u>
<p><u>Comments:</u></p> <p><i>Current uFMfSW mapping shows that the access to the site is at high risk from surface water flooding although lower risk is shown to the south of the site where the dwellings are situated.</i></p> <p><i>This risk is based on modelled data only and should not be taken as meaning that the site will/will not definitely flood in these events.</i></p> <p><i>Any existing surface water flow paths across the site must be maintained or appropriate mitigation strategies proposed.</i></p> <p><i>Reason: NPPF paragraph 103 states – ‘When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.’</i></p> <p><i>Therefore, a wholesale site level rise via the spreading of excavated material should be avoided.</i></p>	

<u>Modelled ground water flood risk susceptibility</u>	<u>High risk</u>
<p><u>Comments:</u></p> <p><i>The majority of the proposed development is shown to be at high risk from ground water flooding based on the current mapping.</i></p> <p><i>Where the intention is to dispose of surface water via infiltration/soakaway, these should be shown to be suitable through an appropriate assessment carried out under the methodology set out in BRE Digest 365 or equivalent.</i></p> <p><i>Ground water contamination and Source Protection Zones.</i> <i>The potential for ground water contamination within a source protection zone has not been considered by the LLFA. The LPA should consult with the EA if this is considered as risk.</i></p>	

<u>Records of any flooding of the site?</u>	<u>No</u>
<u>Comments:</u>	

We do not have any records of historic surface water flooding within the confines of the proposed site. This should not be taken that this site has never suffered from flooding, only that it has never been reported to the LLFA.

Ordinary watercourses nearby?

No

Comments:

Current Ordnance Survey mapping shows no ordinary watercourses within the boundary of the site.

Local or field boundary ditches, not shown on Ordnance Survey mapping, may exist around the site. If present these should be maintained and highlighted on future plans.

Works affecting the flow of an ordinary watercourse will require ordinary watercourse consent and an appropriate development-free buffer zone should be incorporated into the design of the development.

Future development - Sustainable Drainage Systems (SuDs)

The FRA for this application proposes that sustainable drainage techniques (rain gardens and permeable paving with a restricted discharge to main sewer) would be used to control the surface water from this development to Greenfield run-off rates. This method would, in principle, meet the requirements of the NPPF and associated guidance documents.

It is recommended that this application be reviewed by the District Council Drainage Engineer to identify site specific land use considerations that may affect surface water management and for a technical review of the drainage systems proposed.

Development should not commence until finalised detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles, for the development have been submitted to and approved in writing by the Local Planning Authority. The drainage designs should demonstrate that the surface water runoff generated up to and including the 100 year, plus climate change, critical storm will not exceed the run-off from the current site following the corresponding rainfall event.

Development shall not commence until full details of the maintenance and management of the SUDs system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved designs.

Please note that Schedule 3 of the Flood and Water Management Act 2010 has not yet been implemented and WSCC does not currently expect to act as the SuDS Approval Body (SAB) in this matter.

Southern Water

Please find attached a plan of the Southern Water sewer records showing the approximate position of a public foul sewer within the site. The exact position of the public sewers must be determined on site by the applicant before the layout of the proposed development is finalised.

Please note:

No development or new tree planting should be located within 3 metres either side of the external edge of the public sewer and all existing infrastructure should be protected during the course of construction works. No new soakaways should be located within 5 metres of a public sewer.

Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site.

The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

Southern Water requires a formal application for a connection to the public foul and surface water sewer to be made by the applicant or developer. We request that should this application receive planning approval, the following informative is attached to the consent:

formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Sparrowgrove House Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. It should be noted that Southern Water is currently consulting on the New connections charging process as directed by Ofwat. Please refer to Southern

*Water's website
<https://www.southernwater.co.uk/new-connections-charging-consultation> for further details.*

The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is

maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

Thus, where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme

- Specify a timetable for implementation

- Provide a management and maintenance plan for the lifetime of the development.

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

It is the responsibility of the developer to make suitable provision for the disposal of surface water. Part H3 of the Building Regulations prioritises the means of surface water disposal in the order

a Adequate soakaway or infiltration system

b Water course

c Where neither of the above is practicable sewer

Southern Water supports this stance and seeks through appropriate Planning Conditions to ensure that appropriate means of surface water disposal are proposed for each development. It is important that discharge to sewer occurs only where this is necessary and where adequate capacity exists to serve the development. When it is proposed to connect to a public sewer the prior approval of Southern Water is required.

The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

We request that should this application receive planning approval, the following condition is attached to the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul and surface water sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

Highway Authority (WSCC)

In LHA latest comments dated 26th March 2018 further information was requested for appropriate demonstration of swept path tracking that does not encroach on the proposed parking spaces.

Amended plans have been received which detail the widened access point and show that spaces 11 and 12 have been recessed to allow for a refuse collection vehicle to turn within the site and exit on to Church Street in a forward gear.

As per previous comments the widening of the access road where it meets with the publically maintained highway should be carried out to a specification agreed with the Local Area Engineer under licence.

The LHA does not consider that the proposal would have 'severe' impact on the operation of the Highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 32), and that there are no transport grounds to resist the proposal.

If the LPA are minded to approve the application the following conditions should be secured:

Access (details approved, access provided prior to first occupation)

No part of the development shall be first occupied until such time as the vehicular access serving the development has been constructed in accordance with the approved drawing.

Reason: In the interests of road safety.

Vehicle parking and turning

No part of the development shall be first occupied until the vehicle parking and turning spaces have been constructed in accordance with the approved plan. These spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development.

Cycle parking

No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

Construction Management Plan

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

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

Reason: In the interests of highway safety and the amenities of the area.

INFORMATIVE

The applicant is advised that in addition to obtaining planning permission that they must also obtain formal approval from the highway authority to carry out the site access works on the public highway. The granting of planning permission goes not guarantee that a vehicle crossover license shall be granted. Additional information about the licence application process can be found at the following web page:

County Archaeologist

Summary

The application site, within the West Tarring Conservation Area and an archaeologically sensitive area, is close to the medieval church of St. Andrew. The present building is on the site of a house, formerly Church Farm, thought to have dated back to the 18th century (or earlier). Although the proposed new residential units partly overlap the 'footprint' of the existing flats, the application should take into account the potential for uncovering archaeological evidence of the early origins of West Tarring (at least dating to the early 10th century) or further medieval settlement evidence.

Comment

The application site is within the West Tarring Conservation Area and within an area of potential archaeological interest between St Andrew's Church and The Old Palace: a medieval manor house belonging to the archbishops of Canterbury from before the Norman Conquest.

In the early 1960s a number of sites within Tarring were subject to trial archaeological investigation by Ken Barton (then working with Worthing Museum) to test the potential for medieval settlement evidence. The sites available were in the vicinity of The Old Palace and it appears that a number of residents were prepared to make their gardens available for the various investigations. The most successful site was that of the Rectory garden orchard to the south of The Old Palace. Here, the site of a medieval house dating from the 13th to the 16th centuries was identified (see Sussex Archaeological Collections [SAC] Vol 102, pp9-27). Further

excavations on small sites have taken place in subsequent years. In 1978, a site on the west side of South Street, opposite The Old Palace, was investigated. The remains of at least two phases of house and then cottage were discovered which fell within a date range between the 16th and 18th centuries. The later cottage fronted directly onto South Street but the earlier house was on an E-W axis perpendicular to the street see SAC Vol 117 pp 234-237).

An archaeological evaluation in 2003 to the south of 1-4 Market House, South Street, found three medieval rubbish pits with a date range between the 11th and 15th centuries.

Documentary evidence for the origins of Tarring recall that the site of the early manor house was given by King Athelstan (AD 924 to 939) to Christ Church Canterbury. It remained under the jurisdiction of the Archbishops of Canterbury thereafter until the Reformation. However, the question of the extent of the early medieval, pre Conquest, settlement at Tarring remains unresolved. In the 1960s Ken Barton concluded that the evidence he had recovered, of which the earliest date was 13th century, correlated with the building of the church and the Archbishop's manor house or Palace but acknowledged that earlier occupation was likely to have been elsewhere. However, the West Sussex Historic Environment Record (HER) records that in the process of cable laying in the Recreation Ground to the south of the church and Church House a bronze sword chape and medieval pottery was found when digging one trench and daub and charcoal (undated) found in another.

The construction of the flats on the application site, built in 1966, were not subject to any archaeological monitoring at that time, as far as the HER is aware. The flats have adopted the name Church House which was the name of the previous building on the site which appears to have survived until after the Second World War (based on the evidence of the Ordnance Survey 5th edition 1:2500 series). This house is shown on the 1839 West Tarring tithe map and listed in the apportionment as being occupied by Thomas Marwick but owned by the Reverend P Guerrin Croft. To the west of the house was a long N-S orientated stable block which is still shown on the first edition 25 inch to one mile Ordnance Survey map of the 1870s when the house is named 'Church Farm'. By the second edition OS map of the late 1890s, the stable block to the west has gone to be replaced by the late Victorian stables and coach house (which are part of the present proposals). On the tithe map, the 'parsonage' is marked at the site of The Old Palace. To the north of the church and Church Farm are a collection of buildings and enclosed yards which are clearly agricultural. These are shown on the tithe map when they were described as 'homestead' but named 'Church Farm' on the second edition large scale OS map whereas the house had by then become 'Tarring Court'. The barns and yards had been demolished to make way for housing by the 5th edition OS map and the 1947 RAF air photograph suggests that they may have gone shortly before (or after) the Second World War.

The Victoria County History for Sussex (British History online) comments that 'Church Farm, south east of the church...had presumably become the manor house by the late 18th century' and is described as a two or three storey building with

dormer windows and originally a Horsham stone roof'. The date and origins of this house on the site of the present flats are unclear but it could have been of 16th century origin or earlier. Again, the HER has no record of any observations made during its demolition.

Recommendation

The NPPF section 128 states "In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

Historic England's 'Good Practice Advice in Planning:2' (GPA 2), July 2015, provides information to assist local authorities, planning consultants, owners, applicants and others in implementing historic environment policy in the NPPF.

The Planning & Heritage Statement prepared on behalf of the applicant by ECE Planning acknowledges (section 5.4) that the site is located within the medieval village of west Tarring and archaeological notification area. However, they recommend that a HER search should be conducted after planning permission. In view of the historical associations of Tarring, its early origins and the importance of establishing the extent of the historic village I consider that a search of the West Sussex HER should have been conducted before the submission of the application and an archaeological desk based assessment/ mitigation strategy should have accompanied the application documents much as the assessment of ecological impact discussed in ECE Planning's Statement, section 7.9.

I recommend that a planning condition along the following lines should be attached to the permission:

"No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

REASON: To enable the recording of any items of historical or archaeological interest, in accordance with the requirements of paragraphs 128, 129, 131, 135 and 141 of the National Planning Policy Framework"

The WSI shall be informed by a search of the West Sussex HER and include a desk based assessment of the known and potential heritage of West Tarring. Archaeological investigation and mitigation measures should consider a range of techniques including trial trenching, strip map and sample and monitoring the excavation of foundations and services (the final approach to be approved by Worthing Borough Council). The written scheme of investigation (WSI) shall be implemented before the commencement of construction and should consider provision for a watching brief on the demolition of the existing flats and clearance of rubble/ site preparation prior to, and in addition to, investigation by trial trenching or stripped open area once the site has been cleared.

County Ecologist

Conclusion

There is no ecological objection to the proposed development subject to the imposition of an appropriately worded condition.

Comment

A Preliminary Ecological Appraisal has been undertaken for the site with a bat emergence and re-entry survey completed to form the phase two assessment. The site is described as being generally of low ecological quality and the bat report concludes that “the development proposals stand a ‘negligible’ risk of committing an offence as stipulated under The Conservation of Habitats and Species Regulations 2010 (as amended).”

Recommendations have been made within the ecological reports for biodiversity enhancement that would assist in complying with NPPF para 118; these are acknowledged but not committed to within the Planning Statement. As there are no details provided for this element the LPA may wish to impose a suitably worded condition to secure planning gain for site biodiversity.

Recommended condition

“Prior to the commencement of development or any preparatory works an ecological enhancement scheme shall be submitted to the LPA for approval and will be based on the recommendations within the supporting ecological statements and as appropriate. All approved details shall then be implemented in full and in accordance with the agreed timings and details.

Reason: In accordance with NPPF (118).”

Environmental Health Officer

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 - appropriate sound insulation achieved through Building Control;*
- *air quality - no comments*
- *contaminated land - no comments.*

Council Arboriculturalist

I can confirm that the large Austrian Pine tree of group G1, has been given consent for removal under application AWDM/0032/18. The works will also see the reduction to ground level of the adjacent Hawthorn tree, which will then be allowed to re-grow. The Pine will be replaced in a similar position with preference having been given by the applicant for another Pine tree. It has been suggested that this should be a heavy standard of at least 12-14cm girth and 3 metres in height.

The Sycamore to the west of the existing building will be lost as part of the development. I consider that as this tree was not considered for protection in 2002, it can be accepted that it is not retained, or replaced.

Waste Strategy Manager

Concerns have been raised over the practicality of the proposed waste truck access arrangements. A site visit has taken place. Discussions are ongoing. Members will be updated.

Representations

The applicants have submitted a Community Involvement Statement.

The summary and key section state:

2.1. The consultation strategy has been to involve a wide range of interested parties. The target groups for engagement included:

Local residents

Local interest groups

Worthing Borough Councillors

Stakeholders and interested parties in close proximity to the site.

2.2. On the 29th November and 1st December, Worthing Borough Councillors, local residents and interest groups were invited to attend a public exhibition at Elizabeth House, Pelham Road, Worthing, BN13 1HZ to be informed of the proposed residential redevelopment at Church House, Tarring, Worthing.

2.3. The exhibition was publicised on 29th November through 100 invitation letters distributed among local residents and 5 laminated notices which were placed in prominent locations around the site (leaflet drop location can be seen at Appendix D). Borough Councillors were informed of the exhibition by email on 1st December.

2.4. All attendees were invited to record their comments by filling out a comments and feedback form. A total of 13 individuals attended the exhibition. In total 2 feedback forms were completed and returned, with 100% of respondents supporting the proposed development at this site. Feedback from the exhibition is summarised in Section 6.

2.5. The public consultation raised a number of points which Worthing Homes has taken into consideration. All of the comments made by local residents expressed support for the proposed scheme.

5. Public Consultation Feedback and Analysis

5.1. All attendees were invited to record their comments by filling out a comments and feedback form (Appendix C). In total 2 feedback forms were completed and returned. We have not received any further feedback forms via email.

5.2. The following responses were received:

5.3. Q1 - Do you agree that this is an appropriate site for redevelopment to provide new residential units?

Response No. of times raised

Yes	1
No	0
Maybe	1

5.4. In total, 50% of respondents supported the statement that Church House, Tarring is an appropriate site for new residential development, with a further 50% of respondents recording their view as 'maybe'. The comments received in relation to Question 1 are summarised below:

People who replied 'Yes' to Q1: Definitely provided it remains 100% Social Housing.

People who replied 'Maybe' to Q1:

Relatively happy with proposals as shown.
Had no issues for the past few years under its current use.

5.5. Q2 - Do you agree that the proposed redevelopment makes better use of the current site than the existing flats?

Response No. of times raised

Yes	2
No	0
Maybe	0

5.6. In total, 100% of respondents supported the statement that the redevelopment of the site will make better use than the existing flats. The comments received in relation to Question 2 are summarised below:

*People who replied 'Yes' to Q2:
Great design
In keeping with Conservation Area
Adequate parking for each dwelling
More attractive outlook
More consistent with surrounding buildings*

5.7. Q3 - Do you agree that the redevelopment of this site will enhance the appearance of the Conservation Area?

Response No. of times raised

Yes	2
No	0
Maybe	0

5.8. In total, 100% of respondents supported the statement that the redevelopment of the site will enhance the appearance of the Conservation Area. The comments received in relation to Question 3 are summarised below:

*People who replied 'Yes' to Q3:
The existing flats have become eye sore
Would be difficult to be much worse*

5.9. Q4 - Do you welcome the 100% affordable housing aspect of this scheme?

Response No. of times raised

Yes	2
No	0
Maybe	0

5.10. In total, 100% of respondents supported the statement that the residents welcome the 100% affordable housing aspect of this scheme. The comments received in relation to Question 4 are summarised below:

People who replied 'Yes' to Q4:

Provided these remain for social rent

5.11. Any other comments are welcome...

5.12. Within this section, a range of comments were received with regards to the proposal as a whole; these have been summarised below:

*Concerns raised over security prior to and during development
Potential noise and intrusion post completion
Requested site is fully secure during demolition and while site is vacant
Residents do not need a repeat of the problems with the construction phase of "The Priory" in Tarring*

5.13. In addition to this, a number of comments were raised verbally at the consultation event by attendees. These can be summarised as follows:

Passing points should be provided along the main access to the site to allow two cars to pass each other and prevent cars having to wait on Church Road;

The development should be designed to prevent youths congregating in the south east corner of the site;

Concerns were raised regarding the construction phase of the development and the impacts this will have on existing traffic issues associated with Terringes Avenue, Church Road and Glebe Road. Construction vehicles should come in to the site from the west.

There are existing surface water issues in the area that the development should not exacerbate.

5.14. The project team have taken full consideration of all the comments and have sought or will seek to address each subject of concern accordingly and where required.

Representations received on the application are::

48 Church Rd

- *My concerns and fears are:-*
- *The northern stable block is single storey, but described as two storey. The rear corner forms part of my flint boundary wall, as a cut in. Please see photo. It's only thirty feet from my property. Whilst stabling for horses is the condition existing, how can it be permitted for residential use. It would be like giving permission to reside in my back garden, and I'm sure that would not be favoured by the Preservation Orders that are respected within Tarring.*
- *No windows could be permitted to the northern elevation.*
- *Over development of the site would result in unacceptable noise, litter and antisocial problems in a central position within the quaint aide worlde village.*
- *There is an existing problem with over-crowding of parked cars, on both pavement's, obstructing people with push chairs, and the handicapped in mobility scooters. This causes daily Bottleneck's...as some families own three or more car's. I implore you not to add to the over-crowding of Tarring village. It only requires one planning permit too many.*
- *From what I could make of it, the red line indicating my plot, was encroached. Not only is that unacceptable, I would not expect the wall to be touched, as I wouldn't permit any debris, or builder to end up on my land.*
- *The corner of the stable block, entering a parcel of my land, is presumably the cycle store.*

Planning Appraisal

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.

The Core Strategy, including Worthing Saved Local Plan policies, comprises the Development Plan here but the Government has accorded the National Planning Policy Framework considerable status as a material consideration which can outweigh the Development Plan's provisions where such plan policies are out of date; or silent on the relevant matter. In such circumstances paragraph 14 of the NPPF states that where the proposal is not otherwise in conflict with specific restrictive policies in the Framework, development should be approved unless the harm caused significantly and demonstrably outweighs the benefits when assessed against the NPPF overall (albeit recent case law indicates approval of development which is contrary to the Development Plan will be the exception.)

The Council's self-assessment of the Core Strategy's Conformity with the National Planning Policy Framework demonstrated that, in many respects, the Council's key Development Plan conforms closely to the key aims and objectives of the Framework. However, it is acknowledged that in response to the requirements of the Framework and informed by local evidence it is clear that Council cannot demonstrate a current 5 year supply of housing in respect of Objectively Assessed Needs and that all relevant policies which relate to and constrain housing delivery in the Core Strategy are out of date in respect of the National Planning Policy Framework. Accordingly the Council needs to assess the housing delivery strategy set out in the current Development Plan. A Housing Study and Issues and Options document was published to this end and a revised Local Development Scheme which commits the Council to undertake a full review of the Core Strategy and prepare a new Draft Local Plan for consultation by the summer of 2018 has been produced.

The main issues raised by this proposal are:-

- The principle of residential development, housing need, dwelling mix and tenure and density

- Height/massing/siting/form/detailing of the development and quality of the design and impact on local character and townscape, including Conservation Area and adjacent listed buildings.
- Impact on amenity of neighbours and amenity of new dwelling occupiers
- Parking and access arrangements
- Other environmental resource impacts, including drainage, archaeology, ecology and trees.

As such the proposal should be principally assessed against the statutory tests; saved Worthing Local Plan Policies H18; TR9, and RES7, Core Strategy Policies 7, 8, 10, 11, 12, 13, 14, 15, 16, 17 and 19; the National Planning Policy Framework and allied Practice Guidance; Worthing Borough Council Supplementary Planning Documents on; Residential Space Standards and Guide to Residential Development and Development Contributions; Worthing Heritage Guide; West Tarring Conservation Area Appraisal; and Community Infrastructure Levy Charging Schedule (2015)

The principle of residential redevelopment, housing need, dwelling mix and tenure

The site is sustainably located by a village centre and has a long established history of residential use. The proposal effectively seeks to replace a tired and somewhat outdated and now, vacant, 1960s building with a modern development, better suited to current needs and to convert and renovate some dilapidated and under-used storage buildings.

Whilst the development nominally results in a net reduction in units (19 to 14), total floorspace provided (i.e. including the coach house and garages) actually increases from 1056 sq ms to 1,119 sq ms and ,qualitatively, the accommodation is upgraded from market bedsits to a mix of one, two and three bed self-contained houses and flats. It is difficult to see how the quantum of development could be acceptably further increased on this small site, given the development constraints.

The fact that the proposal is exclusively for affordable rent housing, with good mix of dwelling types and upgraded accessibility and thermal standards, means it will make a small but especially welcome contribution to meeting the large and growing diverse needs for affordable accommodation in the town, including family units.

It is appropriate to secure the affordable status of the development by suitable conditions, including personal restriction to Worthing Homes.

To sum up, as a small infill residential development by a centre on what is mainly brownfield land within the urban area and which makes effective use of the site and achieves a good density, the proposal accords with the broad spatial strategy and Core Strategy policy 8, in particular.

Height/massing/siting of buildings and quality of the design and impact on local character and townscape, including Conservation Area and setting of listed buildings

Whilst the scale and siting of the existing Church House is reasonably sensitive to the location and setting, its architectural design is disappointing and it is classified as a negative contributor in the Conservation Area Appraisal.

In contrast with earlier pre-application proposals, the new scheme has grasped the opportunity to improve the quality of the replacement building as well as enhance the Conservation Area with a scheme that respects the history of development and the sensitivity of the setting and creates an appropriate sense of place.

Critical to this is the mainly two storey scale of the new build and its shallow roofs which are appropriately subservient to the adjacent listed Church and are congruent with the domestic scale of the adjacent housing. Following the broad siting of the existing building, the new building maintains historical continuity and avoids crowding its sensitive heritage neighbours. The retention of and refurbishment of the attractive and characterful coach house and garage and flint boundary walls retain a key heritage feature and link with the original Church House. The inward facing layout around the courtyard creates a sense of enclosure and identity, whilst the retention of the important trees and vegetation preserves the development's secluded and verdant feel, especially when viewed from the access road. At the same time, the development appropriately addresses the public realm by presenting its richest elevation directly onto the bowling green, enhancing the experience of this open space.

The short terrace form of the new blocks echoes the cottages characteristic of the village and the architectural design provides an interesting twist and clear contemporary identity, with a crisp, clean design.

The single storey unit at the southern end of the eastern terrace is an unusual form and somewhat at odds with architectural approach of the terraces but, interpreted as a folly enriches the development.

Details of design, boundary treatment and hard and soft landscaping and, in particular, the courtyard to lend it a domestic character with extensive paving, may be secured by condition. It is also appropriate to remove permitted development rights to protect design integrity in this very sensitive location.

Impact on amenity of neighbours and amenity of new dwelling occupiers

The residential neighbours closest are the flats and houses at 44 to 54 Church Road to the north and east and houses 9, 10 and 11 Priory Close to the south.

Starting with 44 to 54 Church Road, the garage and coach house adjacent to these are to be converted with no new windows on the elevations facing the residential neighbours and the existing windows on these elevation are to be fixed shut and obscure glazed. The new build terrace closest to these neighbours contains no windows at upper floor level in its facing elevations, serving habitable rooms and the closest unit is screened by the holm oak tree and a good distance away. The existing parking arrangements by the common boundary at this point are also unchanged and the boundary flint wall retained. The existing outbuildings belonging

to these neighbours abutting the converted garages are to be retained and the new terraces are a similar distance away as the existing building Church House and similar scale. Units 12 and 13 do take the development much closer to the rear yard of No 54 but are very remote from its garden and rear windows. No significant impact on these neighbours is likely.

Turning to 9, 10 and 11 Priory Close, for the most part, the new terraces are a similar distance and scale as the existing Church House. Units 12 and 13 are closer but are still 22ms away from the rear elevations of Nos 9 and 10. They, and Units 8 and 9, are also screened by the substantial boundary wall and retained three silver birch trees, as well as the vegetation in the rear garden of Nos 10 and 11. There are no upper floor windows in the facing elevations of the new terraces here, other than high level roof lights. The single storey element of the new build is close to Nos 9 and 10 but, given its modest height and substantial flint boundary wall, this would not be obtrusive, especially if the laurel bush were retained in the site as now agreed. For these reasons, no significant impact on these neighbours is likely either.

As for the quality of environment for the new occupiers, all the units meet relevant floorspace standards. The rear gardens of the western block are somewhat shallow but, given the communal space, urban location and proximity to Church Gardens, are adequate. The one shortcoming is the proximity of the two facing blocks at their southern pinchpoint with facing elevations, which include box windows, just 8 ms apart. Even for front elevations slightly angled and across a communal space, this is less than ideal in terms of privacy. However, future occupiers would be aware and would adjust expectations accordingly.

Necessary safeguards on windows may be secured by condition, as may relevant environmental controls over the demolition/construction process as recommend by the Environmental Health Officer. The close proximity of the neighbours and density of the scheme underline the need to remove permitted development rights.

Parking and access arrangements

The site is sustainably located by a village centre and close to reasonable public transport.

Access by motor vehicle is along a relatively narrow, slightly curved, private access lane, off Church Road. However, this is long established and appears to have safely and successfully served the existing Church House for many years.

Some initial concerns over the need for passing bays and to demonstrate the feasibility of servicing raised by the Highway Authority have been addressed. The applicants have shown that the proposed limited widening of the access lane provides *sufficient queuing capacity to accommodate at least two cars leaving or entering the site, if they need to wait for a vehicle that is using the access road and is a betterment on the existing situation.* They have also pointed out *that there are numerous informal sections of verge or hardstanding, such as at the entrance to the Church, that can accommodate a waiting vehicle. These sections at either end of*

the access road are inter-visible, meaning that vehicles can see each other as they approach the narrow section of the access road and wait if necessary. Moreover, due to the likely light level of traffic generation and its pattern it would be highly unlikely that more than two vehicles would be entering and leaving the site at the same time.

The parking layout has, additionally, been adjusted to seek to demonstrate a refuse truck can turn round on the site, with allied swept path tracking shown.

Quite apart from the above, the informal verge and hardstanding areas along the access lane provide pedestrian refuge areas. Nonetheless, it is opportune to provide some proportionate enhanced safety by selective improvements. Details may be agreed by a suitable condition.

Bollard lighting to provide frequent but unobtrusive lighting in the interests of safety and security has been agreed to replace the existing, old and broken and somewhat irregular lamp posts. Details may be secured by condition.

Importantly, the improvements to the access lane are respectful of the informal, rustic quality of the lane.

The 12 car parking spaces for the 14 dwellings are sufficient in the light of the size of the units, sustainable location and cycle parking but, particularly, their tenure. This lends further weight to the need to restrict the development to affordable housing.

The Highway Authority raises no objections but requests suitable conditions to secure and retain the access improvements; car and cycle parking and turning areas; and agree a Construction Management Plan.

Whilst the Highway Authority is satisfied that the reconfigured servicing arrangements are adequate, the support of the Waste Strategy Manager has not yet been given. The concern here is that *if the residents using spaces 7, 8, & 9 park badly we will not be able to get the vehicle to turn round and it is too long a reverse and we feel that a bin compound in a similar location to the existing collection point would be a better option given the constraints of the site.*

The applicants consider that *given, that refuse vehicles currently turn on the site after they have collected the refuse, it seems unreasonable that Waste Services would continue to raise concerns with this scheme when it provides a significantly improved turning head.*

The proposed solution of transferring refuse from the converted barn to the existing collection area for collection days would raise significant management issues. The residents are unlikely to take their waste from the barn to the existing collection area given all refuse would go into a large container and would be likely to result in residents carrying other people's waste to the collection area. Therefore it would be left for somebody from Worthing Homes to move all of the refuse which is hardly a good use of resources for a provider of affordable homes.

Discussions are ongoing over waste truck access and domestic waste/recycling storage and collection arrangements. Members will be updated.

Other environmental impacts including archaeology, ecology/trees, drainage

The site is in a low flood risk area and Southern Water, the Drainage engineer and WSCC are generally satisfied with the approach of the Drainage Strategy, subject to the development avoiding the sewer. Details of sustainable drainage may be reserved by condition as recommended.

Only a couple of trees would be lost but this is unavoidable with the design and the trees are of no great importance. The vast majority would be retained and some supplementary further planting is proposed. Replacement, planting for the consented felling of the Tree Preservation Order pine tree can be carried forward in the scheme as part of a landscaping condition as may tree protection. The Council Arboriculturalist is satisfied with the scheme.

The site is recognised as within an archaeologically sensitive area, with the potential for uncovering archaeological evidence of the early origins of West Tarring (at least dating to the early 10th century) or further medieval settlement evidence.

The County Archaeologist notes that to comply with relevant guidance a search of the West Sussex Historic Environment Record should have been conducted before the submission of the application and an archaeological desk based assessment/mitigation strategy should have accompanied the application. In light of the above, he recommends a condition requiring agreement of and the implementation of a programme of archaeological works prior to commencement of development and a written record of any archaeological findings to be supplied. The archaeological investigation and mitigation measures should consider a range of techniques including trial trenching, strip map and sample and monitoring the excavation of foundations provision for a watching brief on the demolition of the existing flats and clearance of rubble/ site preparation prior to, and in addition to, investigation by trial trenching or stripped open area once the site has been cleared.

This approach is supported.

The County Ecologist notes the submitted Ecological Appraisal and bat surveys' findings that the site is of generally low ecological quality with 'negligible' risk of harm to bats or their habitats but recommends suitable ecological enhancement opportunities should be secured by condition. This is supported.

Conclusions

The principle of residential redevelopment and conversion/renovation is supported on this sustainably located, partly brownfield site. The dwelling mix and form proposed is appropriate and the affordable rent tenure is especially welcomed as helping meet an acute need. It is appropriate to secure the affordable rent status of

the development. The proposal provides a generally good quality of accommodation and aligns with the spatial strategy.

The design is sensitive to the location and of a generally good standard and the retention of the coach house and garage applauded. The development is tight but is sensitively designed to avoid unacceptable impacts on neighbours.

The access and parking are generally satisfactory but the arrangements for waste collection and storage remain to be resolved. Ecological, archaeological and drainage and tree arrangements are generally acceptable.

Subject to resolution of the waste collection and storage arrangements and safeguards in the recommended conditions, the proposal should be supported.

Recommendation

Subject to the resolution of domestic waste/recycling collection and storage arrangements, grant permission, subject to the following conditions:

1. Implement within 3 years
2. Build in accordance with approved drawings.
3. No new windows in the east or south elevation of the store or upper floors or roof and units 8, 9, 12, 13 and 14.
4. Obscure glaze and fix shut east elevation windows in coach house/garages.
5. Agree and implement construction and demolition method statement, prior to works commencing.
6. Restrict construction and demolition works to 8am to 6pm Monday to Friday.
7. Agree external materials, hard landscaping, including courtyard/parking area/turning head, boundary treatment facilities, and soft landscaping and tree protection including replacement and supplementary planting (including laurel bush) prior to occupation and provide prior to occupation and retain and replace.
8. Agree and provide scheme to upgrade safety along service road including pedestrian waiting areas and bollard lighting and provide prior to occupation and retain.
9. Remove Permitted Development rights for extensions, outbuildings, and new windows and alterations.
10. Provide and retain parking and turning areas.
11. No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.
12. "Prior to the commencement of development or any preparatory works an ecological enhancement scheme shall be submitted to the LPA for approval and will be based on the recommendations within the supporting ecological

statements and as appropriate. All approved details shall then be implemented in full and in accordance with the agreed timings and details.

13. Agree details of the proposed means of foul sewerage disposal and provide The surface water disposal methodology should be in accordance with the proposals contained in the CampbellReith FRA.
14. The dwellings hereby approved shall not be used for any purpose other than affordable rent housing within the meaning set out in the National Planning Policy Framework.
15. This permission is personal to Worthing Homes.
16. Agree and provide domestic waste/recycling storage and collection arrangements and retain.

Application Number: AWDM/1465/17

Recommendation – APPROVE

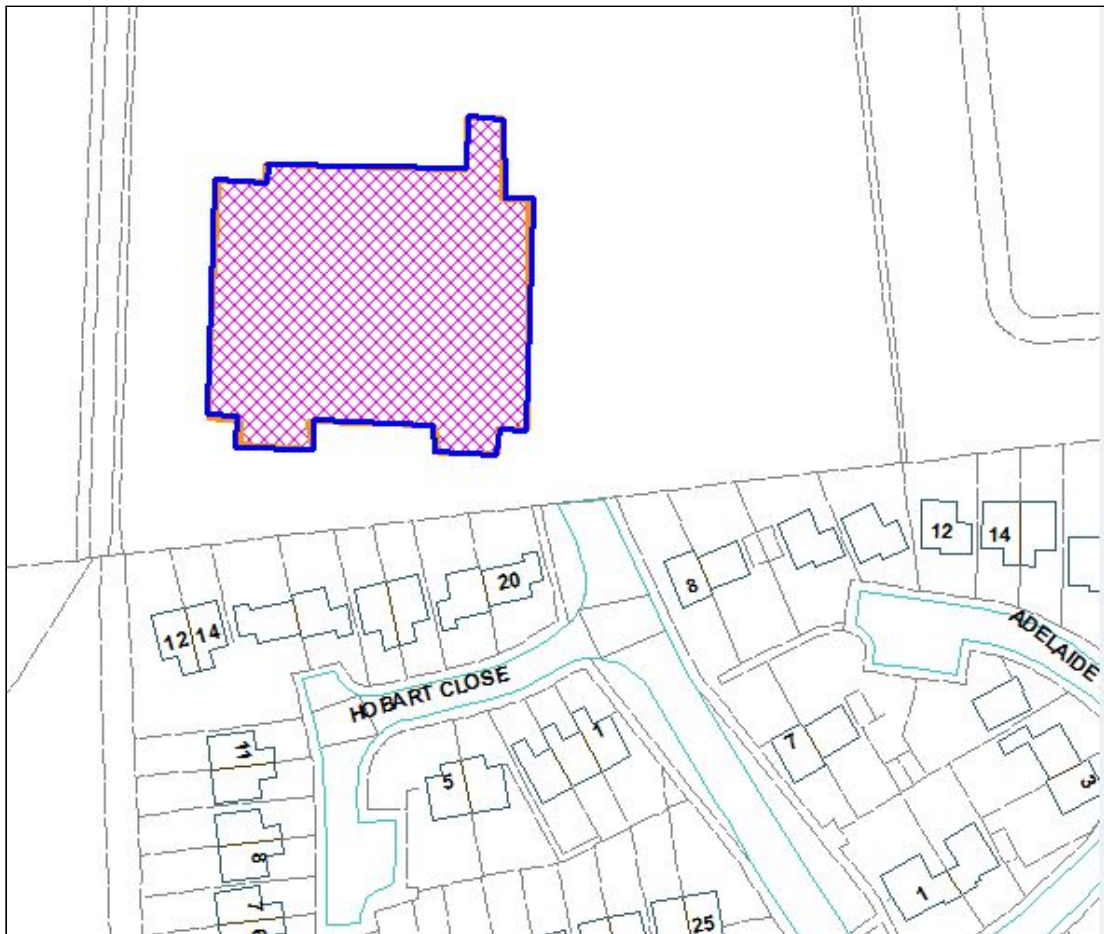
Site: Tasman Way Worthing West Sussex

Proposal: Erection of building for mixed use including a community centre with cafe and sports hall with changing facilities and frontage parking (land north of 12-20 Hobart Close).

Applicant: Bovis, Taylor Wimpey,
Persimmon

Ward: Northbrook

Case Officer: Jo Morin

**Not to Scale**

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Proposal, Site and Surroundings

The application relates to an area of former agricultural land (0.29 ha) included as part of the strategic housing allocation at West Durrington for which Outline planning permission was granted in 2012 for a residential development of up to 700 dwelling units plus recreation, community and education uses including the provision of a community building and sports changing facilities secured by a S.106 legal agreement.

The application seeks full permission for a mixed community and sports-use building and car park to fulfill the obligations of the above-mentioned legal agreement.

The site lies approximately 20 metres north of the rear gardens of residential dwellings in Hobart Close (Nos: 12 to 20) and the existing cul-de-sac terminus of Tasman Way. To the east (approximately 60 metres) are the Humber Avenue Allotments. To the south west are newly completed dwellings and dwellings currently under construction as phase 1 of the implementation of the above Outline planning permission and the subject of the Reserved Matters applications approved under AWDM//0569/14, AWDM/0603/14 and AWDM/0661/14, together with strategic roads, drainage and landscaping granted under AWDM/0663/14. The latter includes a restricted access road providing vehicular access to the community facilities and a bus link to Tasman Way.

The outdoor facilities of the 'community park' comprising a MUGA (multi-use games area), equipped children's play areas (LEAP/NEAP), sports pitches and allotment gardens will adjoin the proposed community/sport-use building to the north and east and are the subject of a separate Reserved Matters application (AWDM//0636/16 refers) which Planning Committee resolved to approve in September 2016 (subject to clarification of access arrangements to the 'education' land).

The proposed single-storey building would be maximum 36.5 metres wide and 18.7 metres deep consisting of three distinct components centred on the sports hall with the café (40sqm) and kitchen, dry stores, large (25.2sqm) and small (7.5sqm) meeting rooms, male and female WCs plus separate accessible WC on the west side of the sports hall; and 2 no. changing rooms (with showers and WC), 2 no. officials/referee changing rooms with shower and WC), first aid room, separate WCs, store rooms, cleaners cupboard and plant room on the east side. These 'wings' on either side of the central sport hall component would be finished in render with features picked out in brickwork under shallow mono-pitched, profiled zinc roofs with over-sailing eaves. The over-sail would be wider on the west side and wrapping around the north-west corner to create a 'covered 'area' adjacent to the café. The design approach has been to afford evening light to the community spaces and café on the west side and a view of the MUGA, LEAP and NEAP beyond. The central component would be finished in face brickwork with a taller mono-pitched roof having a maximum height of 8.6 metres high with clerestory lighting provided to the sports hall.

The car park would be located on the south side of the building with 2 no. vehicle access from the restricted access road linking to Tasman Way. The car park provides 37 car parking spaces (including 3 disabled parking bays).

The submitted Design and Access Statement states that an initial BREEAM assessment has indicated the building will achieve a rating of 'very good'. It confirms the building will be detailed to 'Secure by Design' standards and that the proposed changing facilities servicing the sports uses are based on Sport England's guidance for football changing rooms.

Consultations

West Sussex County Council:

The Highway Authority initially commented as follows:-

“The Highway Authority is unable to consider the application without the following key documents/further information:-

- *A Stage 1 Road Safety Audit (and Designer’s Response) – to cover all highway matters (access, pedestrian infrastructure etc.).*
- *Plan showing the how the development fits-in alongside the proposed bus control gate due to be constructed immediately outside. The plan submitted with the application shows a route through the car park permitting use of both access points which would mean that users could by-pass the bus gate, thereby creating a continuous connection to Tasman Way. This goes against the original development brief for the overall West Durrington development. The car park should, therefore, be severed in the middle with measures employed to prevent by-passing of the bus gate.*
- *A clear breakdown of floor areas for all the different uses.*
- *A document giving details of how the parking provision offered meets WSCC parking guidance.*
- *Plan showing details of secure and covered cycle and motorcycle parking and where it will be located.*
- *A short Transport Statement setting-out envisaged traffic impact (TRICS examples to be included).*

Please re-consult when this information is available, at which time the highway elements of the proposal will be considered further.”

Discussions have since taken place with the Highway Authority and the Consortium’s Highway Consultants and Architect, and an amended layout has been submitted showing restricted access through the car park, along with other supporting information to address the specific concerns raised above and during ongoing discussions. The further observations and response of the Highway Authority is awaited.

Sport England: Sport England has not provided a detailed response in this case, but would wish to give the following advice to aid the assessment of this application.

If the proposal involves the provision of a new sports facility, then consideration should be given to the recommendations and priorities set out in any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority may have in place. In addition, to ensure they are fit for purpose, such facilities should be designed in accordance with Sport England guidance notes.

Adur & Worthing Councils:

The Environmental Health Officer notes that the plans show two plant rooms within the building and no external plant. The following condition is recommended if any external plant is proposed:-

“Prior to the commencement of development a scheme for attenuating all external fixed plant which shall have regard to the principles of BS4142:2014 and aim to achieve a difference between the rating level and background noise level of at least -5dB shall be submitted to and approved in writing by the local planning authority. Within 1 month of implementation a test to demonstrate compliance with the approved attenuation scheme shall be undertaken and the results submitted for approval in writing by the Local Planning Authority.”

No details of external lighting are provided. The applicant should be advised that a separate application will be required if external lighting is proposed.

No information has been provided about the opening hours of the building. It would be reasonable for the opening hours to be controlled as follows:-

Between 08.00 to 23.00hrs on Monday to Saturday
Between 09.00 to 22.00hrs on Sundays, Bank and Public Holidays

As there is potential for amplified music to be played it may be advisable to set a noise limit as follows:-

“The level of noise emitted from the site shall not exceed 50dB LAeq 5mins at any boundary of the site. All doors and windows shall be kept closed when amplified music is played. No recorded or live music shall be played outside of the building.”

The following condition is recommended in relation to the extraction and control of cooking fumes from the café:-

“The café 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 (see attached guide). The ventilation and extraction system should be appropriate for the type of food produced. The equipment approved under this condition shall be installed before the café hereby permitted commences and thereafter shall be maintained in accordance with the manufacturer’s instructions.”

The **Strategic Waste Manager** initially questioned the siting of the bin storage in the far north-east corner of the site and queried the arrangements for collection.

Following submission of the amended car park layout, whilst welcoming the move to retractable bollards, some concern was expressed about the 'tightness' of the through-route at the same noting the tracking was based on a vehicle 1 metre larger than the Council's fleet vehicle.

A revised tracking diagram for the correct size of refuse vehicle has been provided and the further comments of the Waste Manager are awaited.

The **Council's Engineer** has raised no objection.

Representations

Two objections have been received from the residents of 17 and 19 Hobart Close raising the following concerns (which have been summarised):-

- This field already floods at times and becomes a lake. Not reassured there are adequate plans in place to ensure this doesn't happen in the future. In the past residents have had to dig a culvert at times of heavy rainfall to enable the large volume of water that forms behind these houses in Hobart Close to run away into the nearest drain in Tasman Way to avoid flooding.
- The access to the community centre was originally restricted to buses only. If this is no longer the case the pollution and noise caused by traffic will be unacceptable.
- The building appears to have been moved forward [south] and concerned about loss of light and effect on privacy, which has already been impacted by the building of the new houses. The community centre appears to be almost on the garden fence.
- Concerned about the effect on trees and plants caused by pollution from cars and buses passing so close to properties, as well as effect on human health.
- This year has been an absolute nightmare for the residents of Hobart Close being subjected to noise and filth due to the civil engineering project being undertaken on the field involving the erection of a tall earth mound.
- There is a perfectly adequate Community Centre in the Tesco car park and sport facilities at Worthing Sports Centre, Pond Lane and Palatine Park, as well as the private David Lloyd sports centre – all within easy distance of the new housing under construction.
- Object to the opening up of Tasman Way as a bus route since it is widely used for park cars and will not be accessible. The bus gate is not indicated on the plans.
- Having seen the subsidence within this field at first hand over a period of many years it makes no sense to build on it despite the civil engineering operation that has been taking place over the last year.
- Concerned at the level of democracy that has been involved in the process of approving development at West Durrington.

Relevant Planning Policies and Guidance

Saved Local Plan policies (WBC 2003): H18, RES7, RES9, TR9

Worthing Core Strategy (WBC 2011): Policies 1, 12, 15, 16, 17
National Planning Policy Framework (CLG 2012)
Planning Practice Guidance (CLG)
West Sussex Parking Standards and Transport Contributions Methodology (WSSC 2003)

Relevant Legislation

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

Planning Assessment

Principle

There is no objection in principle to the proposed development which has been established by the Outline planning permission granted under WB/11/0275/OUT and is supported by Core Strategy policy 1 and associated supporting text (paragraph 6.12) which identifies the provision of new community and leisure facilities as having an important role in the social regeneration of the Northbrook ward by spreading the benefits of sustainable new development and integrating with the existing community.

The precise nature of the accommodation and facilities provided by the building follow the detailed parameters set out in 'Community Building and Changing Rooms Specification' agreed under Schedule 8 of the S.106 legal agreement which forms part of the Outline planning permission (WB/11/0275/OUT), and follows pre-application discussions with Council Officers, including the Communities Team. The internal layout has since been amended to include a larger accessible toilet facility as part of the community provision (located within the west side of the building) that will meet the more generous space requirements of a 'Changing Places' toilet.

The key considerations are the effects on the residential and visual amenities of the locality and access and parking issues.

Visual amenity

The layout of the building has been deliberately designed to have two pedestrian entrances from the car park leading to the either the 'clean' community uses within the building (café, offices, sports hall/function room) or the 'dirty' sports uses

(changing rooms, stores); with two exits, onto the café patio and MUGA, or to the sports field.

All the proposed accommodation is at ground-floor level, but with the larger mass of the sports hall element having the larger scale of a 2-storey building. The over-sailing mono-pitch roof form of the 'wings' on either side helps to visually integrate this larger central component. The recessed building envelope on the west side adds visual in creating a deep overhang which provides shelter to the café patio and solar shading for the larger office on this side of the building.

Overall, the building has a fresh, contemporary appearance and will assimilate comfortably within the context of the surrounding 'community park'. The materials to be used for the external walls, consisting of a mix of brick and render, will help to articulate the different components of the building and complement the palette of materials used in the surrounding new housing development.

Residential amenity

The nearest residential properties are the semi-detached 2-storey houses Nos: 12-20 Hobart Close which have their rear aspect facing north towards the proposed development. The restricted access road comprising the bus route will, in due course, run roughly parallel to the rear site boundaries of these properties beyond an area of soft landscaping planted with a 'woodland mix' varying in depth between 9 to 13.5 metres, before linking into the northern end of Tasman Way. [This section of new road and associated landscaping approved under AWDM/0663/14 has not yet been implemented.] The car park and community centre/sport facility building will be sited on the north side of the restricted access road. There will a distance of approximately 20 metres between the entrance(s) to the car park and the rear boundaries of the properties in Hobart Close, and a separation distance of approximately 45 metres to the building itself.

The proposed building will be clearly visible from the rear of these properties although existing boundary planting in the rear gardens of the dwellings, and eventually the trees and shrubs within the adjoining landscaped area as they grow and mature, will provide an element of screening. However, the building will not be intrusive or overbearing at this separation distance and it will not result in any harmful loss of light or privacy through overlooking. Aside from sports use the Sports Hall has scope to be used as a function room, and along with other elements of the proposed building such as the café, has the potential to generate disturbance if left uncontrolled. This can be addressed by imposing conditions in accordance with the recommendations of the Environmental Health Officer including restrictions on hours of use and noise emissions. A future operator for the café has not been identified hence the extent/type of primary cooking on the premises is currently unknown. However, this can be dealt with by imposing a condition requiring details of a suitable extraction and ventilation system to be agreed prior to the café use commencing.

Residents will be aware of traffic accessing the car park from the east (via Tasman Way) and the west (via the new development). However, the siting of the

community centre and car park is not dissimilar to that indicated on the illustrative Masterplan which formed part of the Outline consent (WB/11/0275/OUT). The relatively limited amount and type of traffic generated by the community and sports uses would not result in an unacceptable loss of amenity for the nearest residents through noise and disturbance.

Access and parking

Vehicular access to the proposed community centre car park will be from the above-mentioned restricted access road, via one of the 2 no. entrances. The siting and layout of the 2 no. accesses was approved as part of the Phase 1 strategic roads, drainage and landscaping Reserved Matters application AWDM/0663/14. The 'bus gate' is located along this stretch of the access road, in-between the 2 no. entrances serving the car park.

As initially submitted, the internal layout of the car park was unrestricted and would potentially have allowed vehicles to 'by-pass' the bus gate. An amended drawing has been submitted showing the introduction of retractable bollards within the eastern part of the car park. This will mean vehicular traffic will only be able to enter and egress the site from either the 'western' access or the 'eastern' access. There will be no through route except for refuse vehicles (and in exceptional cases other vehicles that are too large to turn on site) which will drive over the retractable bollards.

Although it is anticipated the majority of traffic will access the site from the west (through the new development), it is considered important to include an element of on-site car parking provision (8 parking spaces) accessible from the east to help integrate the new community and leisure facilities with the existing Durrington community.

Pedestrian access will be from the car park and also linking to the north-south footpath to the west side. Cycling parking on the west side of the building will consist of 5 no. 'Sheffield' cycle racks.

In response to the initial comments of the Highway Authority, the Highway Consultant for the West Durrington Consortium has provided WSCC with the Stage 1 RSA (Road Safety Audit) for the wider site (including the section of road outside the community centre) together with the designer's response and plus the State 2 RSA and designer's response. A vehicle tracking diagram based on the amended car park layout with retractable bollards has been provided and the further comments of the Highway Authority and the Council Waste Manager are awaited.

Recommendation

APPROVE, SUBJECT TO THE SATISFACTORY FINAL COMMENTS OF THE HIGHWAY AUTHORITY AND THE COUNCIL'S WASTE MANAGER ON THE ACCESS AND PARKING ARRANGEMENTS, AND SUBJECT TO CONDITIONS:-

1. Approved plans

2. Standard time limit
3. Materials and external finishes (including windows, doors, rainwater goods, solar shades etc.) to be agreed
4. Accesses, car parking and turning provision to be completed prior to commencement of use of the building.
5. Details of retractable bollards within car park to be agreed, implemented and thereafter maintained in good working condition.
6. Details of cycle parking to be agreed and provided prior to commencement of use of the building.
7. Prior to the commencement of development a scheme for attenuating all external fixed plant which shall have regard to the principles of BS4142:2014 and aim to achieve a difference between the rating level and background noise level of at least -5dB shall be submitted to and approved in writing by the local planning authority. Within 1 month of implementation a test to demonstrate compliance with the approved attenuation scheme shall be undertaken and the results submitted for approval in writing by the Local Planning Authority.
8. No external lighting within car park or other external areas of the building other than in accordance with details to be submitted and agreed prior to commencement of use of the building to be agreed.
9. Details of surfacing of car park, footpaths and other external areas to be agreed.
10. Agree hard and soft landscaping scheme
11. No boundary walls, fencing, gates or other means of enclosure
12. Hours of use restricted to between 08.00 to 23.00hrs on Monday to Saturday and between 09.00 to 22.00hrs on Sundays, Bank and Public Holidays
13. The level of noise emitted from the site shall not exceed 50dB LAeq 5mins at any boundary of the site. All doors and windows shall be kept closed when amplified music is played. No recorded or live music shall be played outside of the building.
14. The café 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 (see attached guide). The ventilation and extraction system should be appropriate for the type of food produced. The equipment approved under this condition shall be installed before the café hereby permitted commences and thereafter shall be maintained in accordance with the manufacturer's instructions.
15. Precautionary contamination
16. Hours of construction

Application Number: AWDM/0097/18

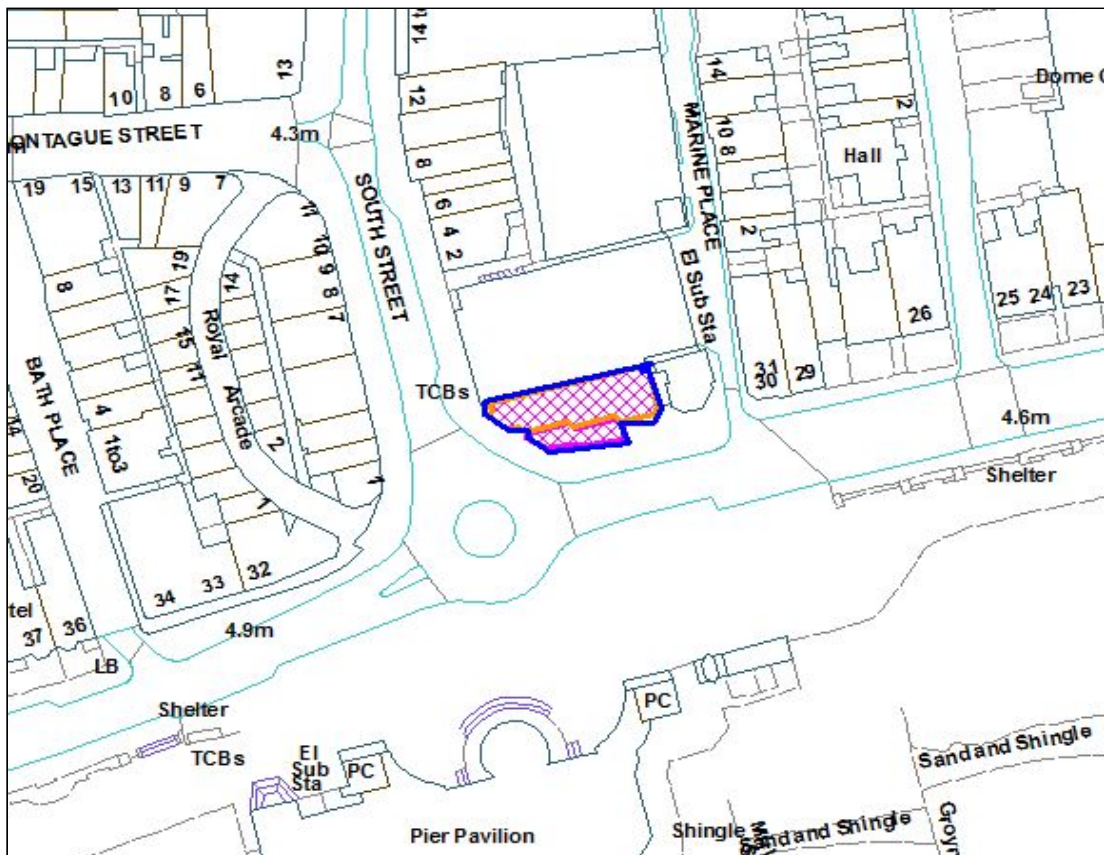
Recommendation: APPROVE

Site: 31A Marine Parade Worthing West Sussex BN11 3PU

Proposal: Provision of external seating area at front of premises consisting of 8 tables and 32 chairs together with 7 no. removable barriers/windbreaks.

Applicant: Mr Lee Christian
Case Officer: Jo Morin

Ward: Central

**Not to Scale**

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Site and Surroundings

The application relates to a licensed bar/restaurant, 'The Cow Shed', occupying the ground-floor of this part 2-storey/part 5-storey building on the seafront opposite the pier. This unit is relatively narrow in depth, but has a wide frontage approximately 28 metres long onto the north side of Marine Parade. The building dates from the early-1980s and includes 2 other retail units to the north and east of the application premises, with residential flats on the upper floors, comprising 1 - 12 'Seaspray'. The building is included within the South Street Conservation Area.

The frontage elevation of the premises is sub-divided into a series of angled bays which step around the corner from South Street and eastwards along Marine Parade. The shopfront dates from the late 1990s, comprising full height, vertically sub-divided, glazed panels. In addition to the main entrance at the far western end of the premises, there are 3 pairs of double doors within the 3 centre bays. The remaining shopfront bays consist of fixed windows. A planning permission granted in 1992 currently allows the siting of "4 no. small tables and chairs, 2 flower boxes and one menu board" on the narrow, irregularly shaped private forecourt between the shopfront and the public highway.

The public footway in front of the premises has been 'built out' as part of highway improvement works undertaken approximately 10 years ago. The new section of pavement has a slight 'camber' compared to the original narrower footway. There is a signalised pedestrian crossing point directly in front (south) of the eastern end of the premises. The footway is 8.3 metres deep at this point. An L-shaped section of textured surfacing extends northward from the pedestrian crossing, perpendicular to the edge of the carriageway, as far as the private forecourt of the application premises.

Proposal

Permission is sought for the placing of 8 tables and 32 chairs on the existing narrow section of private forecourt and extending onto the adjacent public footway for use as an external eating/drinking area. The submitted drawing shows that the external seating area would extend a maximum 1.8 metres onto that part of the public footpath closest to the building. The overall width of the external seating area including the area of private forecourt would be 14.7 metres wide, demarcated by 7 no. portable barriers. The barriers would be 1 metre high and 2 metres wide consisting of steel support poles and crossbeams, each with a PVC graphic panel. A minimum 5 metre deep footway would be retained beyond the line of the proposed barriers to the edge of the road carriageway.

Relevant Planning History

Planning permission was refused (WB/09/0105/FULL refers) for an external seating area in front of the premises comprising of 10 tables and 32 chairs with removable barriers/windbreaks on the grounds that the proposal would be likely to interrupt the free-flow of users on the public footway to an unacceptable degree and introduce a highway hazard.

Permission was subsequently granted for a temporary period of 1 year for an external seating area in front of the premises comprising 8 tables and 22 chairs with 4 no. removable barriers (WB/09/0505/FULL refers).

Consultations

West Sussex County Council: The Highway Authority has raised the following concern on highway safety grounds:-

“This proposal has been considered by means of a desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC map information.

The current available footway between the edge of the carriageway and the site varies in width from approximately 6-10 metres. The proposed seating area would utilise 45m² of Public Highway and would result in remaining footway widths of approximately 5m-6.5m. Manual for Streets (MfS) sets out a minimum footway width of 2m, which is required in order to allow two wheelchairs to pass simultaneously. MfS paragraph 6.3.22 states that additional width should be considered between the footway and a heavily used carriageway, or adjacent to gathering places, such as schools and shops.

An inspection of local mapping indicates that the level-access pedestrian footway and forward free-flow of pedestrians would be obstructed by the proposed seating area and pedestrians would be required to utilise the remaining footway which slopes up towards the carriageway. As such, the Local Highway Authority has consulted the Highway Licensing team to obtain their views on this application. The Highway Licensing team would not support the granting of a licence for tables and chairs in this location, as they would obstruct the level area of footway and cause an unacceptable inconvenience to pedestrians, particularly mobility impaired pedestrians. The Department for Transport’s Inclusive Mobility guidelines state that pavement café tables should be placed so as to leave clear pedestrian routes.

The Licensing team advises that the sloped pavement area would be a more acceptable location for a seating area, providing a minimum 2m footway width is maintained at all locations. The applicant may wish to consider exploring this option; however, this would have to be assessed under its own merits once a revised plan has been submitted.

The Local Highway Authority acknowledges comments received from local residents regarding the current utilisation of the sloped pavement area outside The Cow Shed by large delivery vans and lorries. Any illegal parking could be dealt with as an offence under Section 22 Road Traffic Act 1988 – (leaving vehicles in a dangerous position on the road including verge) and Section 137 Highways Act 1980 (wilful obstruction of the free passage along a highway). Both of these acts are enforceable by Sussex Police.

Conclusion

The Local Highway Authority considers that the proposal in its current form is unacceptable in highway safety terms due to the obstruction of the level footway. The applicant is advised to submit alternative plans to utilise the sloped area of footway, ensuring a 2m minimum footway width surrounding the revised site plan.”

Adur & Worthing Councils:

The Environmental Health Officer has commented that the increased number of table and chairs is likely to lead to an increased in noise and smoke from customers affecting the amenity of nearby residents and recommends that if permission is

granted the hours of use should be restricted to between 08.30 and 20.00hrs on Monday to Saturday and between 09.00 and 20.00hrs on Sundays and Public Holidays.

Worthing Conservation Advisory Group: Object on the grounds that the proposal does not preserve or enhance the area and would compromise the setting of the historic pier.

Representations

Objections have been received from the residents of Top Flat 30-31 Marine Parade, Flats 1, 3, 4, 6, 7, 8, 9 and 10 'Seaspray', and 83 Cross Road Southwick raising the following concerns:-

- The proposal will lead to the chance of higher noise levels and anti-social behavior occurring late into the evening which is very disturbing for local residents;
- The footpath is not wide enough to accommodate so much seating without forcing the public to walk along the sloping area up toward the road. This was apparent last year when the current owner exceeded the current outdoor space by placing planters on the highway. More tables will only cause a serious block and make movement on the sloping footway more difficult for sight-impaired people, parents with prams and buggies and mobility scooters etc.
- The planters are a danger to the public as they blow over in the wind.
- During the Summer this part of the footpath is extremely busy being the main crossing towards the pier and the pedestrian routes from the town centre to Steyne Gardens.
- The nuisance from noise and smoke affects the residents in the flats above forcing them to keep windows and doors closed on hot Summer days and is detrimental to their quality of life on a daily basis.
- Cars speed around the small roundabout and it only takes a second for a driver to misjudge and potentially plough into the people sitting outside. There are no traffic barriers to stop cars mounting the pavement as they do quite frequently.
- Delivery lorries and vans sometimes park on the pavement and pedestrians and invalid carriages would be forced onto the roadside making them more vulnerable to an accident of a speeding car.
- There is already 6 tables and 24 chairs and additional deck chairs and umbrellas during the Summer months.
- We have had to complain several times about the existing tables and chairs being left outside until the small hours and being taken in as late as 2.00am and thus making a noise.

Relevant Planning Policies and Guidance

Worthing Core Strategy 2006-2026 (WBC 2011): Policies 5, 6, 16
Worthing Local Plan (WBC 2003) (saved policies): RES7, H18
National Planning Policy Framework (2012)

Relevant Legislation

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

In addition, 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 South Street Conservation Area.

Section 17 of the Crime & Disorder Act 1998 requires all local authorities to exercise their functions with due regard to their likely effect on crime and disorder, and to do all they reasonably can to prevent crime and disorder.

Planning Assessment

Principle

There is no objection in principle to the placing of tables and chairs on the pavement adjacent to this licensed food and drink premises in order to provide a larger external seating area which would add to the vibrancy of this part of the seafront, focused on the nearby pier and promenade. This approach is supported by the Core Strategy (Policy 5) and the Seafront Strategy (2007) which recognise the importance of the seafront to the town's success and seek to enhance the visitor economy by (amongst other things) broadening the range and quality of the seafront offer in order to create: *"a vibrant destination which is inclusive and attractive to a wide range of people: residents, visitors, investors and businesses"*. The importance of capitalising on the role of the seafront as part of the town's distinctive visitor offer is further reinforced by the vision set out in the recent Seafront Investment Plan (2018).

The relevant considerations are the highway safety impact, the effects on the character and appearance of the Conservation Area, and on the amenities of neighbouring residential occupiers.

Effect on the Character and Appearance of the Conservation Area

Outdoor seating can add to the vibrancy and visual interest of an area and is entirely consistent with a seafront location such as this. On the other hand, an excessive number of tables and chairs within a confined area together with the associated paraphernalia of enclosures can add to 'visual clutter'.

In this case it is considered the proposed barriers will help to visually and physically segregate the outdoor seating area from the adjacent footway, as well as providing a more sheltered eating environment for customers. The precise colours and depictions used on the proposed graphic panels could be agreed as a condition of planning permission to ensure a suitably discreet appearance that is sensitive to character of the Conservation Area.

The proposed seating would be sufficiently remote from the entrance to the listed pier (40+ metres) that it would not affect the historic setting of the latter. The tables and chairs would not be a permanent fixture in any event, and would be put out on the pavement in the morning and stored away overnight.

Residential Amenity

Outdoor tables and chairs are currently placed on private forecourt (weather permitting) as allowed for by the planning permission granted in 1992.

It is recognised that the provision of an enlarged external seating area will have the potential to be an additional source of noise and disturbance for nearby residential occupiers, specifically the residents of 'Seaspray' located directly above. However, it is not considered the proposed increase in the number of tables from 4 no. to 8 no. with 32 chairs would materially worsen living conditions for these residents in a location where normal activity associated with a thriving town centre and seafront promenade can reasonably be expected to generate a degree of noise.

However the potential for disturbance is likely to be more apparent during the later evening where a shift in balance between those customers wishing to eat and those only drinking may occur.

A planning condition limits the use of the tables and chairs sited on the private forecourt to 21.00 hrs. The Council's Environmental Health Officer initially recommended that the hours of use of the tables and chairs proposed as part of the current application should be limited to 20.00hrs. However, planning permissions previously granted for other premises in the vicinity nearby (including Harry Ramsdens, 'Vita' Fish& Chips and Blue Ocean), have allowed external tables and chairs to remain in place until 21.00hrs and this would coincide with the existing situation regarding the private forecourt. It is considered there is merit in taking a consistent approach to control the hours of use of outdoor eating and drinking in this part of the town centre and the Environmental Health Officer has since advised that he would accept a condition limiting the use of the proposed outdoor tables and chairs until 21.00hrs.

It is important that, in the event of approval, a condition is imposed requiring the tables, chairs and barriers to be cleared from forecourt and pavement areas to prevent use after 21.00hrs. However, the limited space available inside the premises would mean that the outdoor chairs would likely need to be stacked outside the premises until after closing time. Representations from residents suggest that aside from customer activity, the noise associated with clearing away the tables and chairs can in itself be disturbing. The Applicant has been requested

to provide further details of the planned arrangements for clearing tables and chairs to prevent customer use after 21.00hrs and to minimise disturbance to nearby residents. This information is awaited.

With regard to the comments raised by the third parties concerning smoke drifting into the balconies/flats of 'Seaspray', the harm to health from secondary smoking is a recognised medical fact and it is acknowledged the occupiers of 'Seaspray' may suffer discomfort from persons smoking in the expanded outside seated area. However, there is no legislation in place to prevent any person smoking outside in a public area.

Highway Safety

The minimum width of the footway in front of the enclosed outdoor seating area would be 1.2 metres at the far western end, widening to 2.9 metres at its eastern end where it extends across the textured paving which demarcates the pedestrian crossing point.

The Highway Authority has stated that despite the available space being wider than the recommended distance in the Government's 'Manual for Streets', the proposed would result in an obstruction. This is because the built out edge of the pavement has been constructed at a slight 'camber' or gradient compared to the original flat section of pavement closest to the application premises. The Highway Authority has suggested that the proposed tables and chairs could be placed on the cambered section of built out pavement instead leaving the flat section free for pedestrian use.

However, this is not considered a practical solution either in terms of the practicalities of comfortably eating and drinking when sitting on an uneven surface or the likely greater inconvenience to pedestrians having to walk through a narrow gap between the tables and chairs legitimately placed on the private forecourt and on the cambered section of built-out pavement, or the potential obstruction to pedestrians caused by customers and waiting staff passing back and forth between the premises and a seating area that is separated from the immediate frontage of the premises. The Environmental Health Officer also has reservations about this suggestion on the basis that noise would likely to be harder to control as customers would be further removed from the premises.

Thus, although the proposed siting of the outdoor seating area is not supported by the highway authority, it is nevertheless consistent with the previous decision made by the local planning authority in 2009. Nevertheless, it is worth pointing out that a licence under the Highways Act would still need to be obtained by the applicant, and may not be forthcoming.

Conclusion

The principle of outdoor eating and drinking is supported in this seafront location, in-keeping with the Council's Seafront Strategy. The proposal for an enclosed area of tables and chairs on this wide footway opposite the pier and promenade would enhance the vibrancy and interest of the seafront 'offer', without harm to the

surrounding Conservation Area. There has been a relatively high turnover of different restaurant and bar operators occupying this unusually shaped premises and an additional area of outdoor seating would help support a local business. Notwithstanding the comments of the highway authority, it is considered a sufficient width of pavement (not less than 5.3m wide) would be retained for pedestrian use and is considered more than adequate to allow safe passage notwithstanding the slight camber and taking into account the proximity to a busy crossing point.

Nevertheless a temporary permission of 18 months is considered appropriate to allow the proposed enlarged outdoor seating to be trialled over a period of time. Subject to the suggested limit on hours of use to between 0900 and 2100hrs and clarification of arrangements for clearing away and preventing customer use after this time, it is considered a reasonable balance would be provided between maximising the potential of this prime seafront location, whilst safeguarding the living conditions of the nearest residential occupiers.

Recommendation

APPROVE

1. Temporary period permission for 18 months
2. Approved plans
3. No more than 8 tables, 32 chairs and 7 barriers shall be in place on the private forecourt and adjacent public highway in front of the premises at any one time.
4. The tables, chairs and barriers hereby approved shall only be used between the hours of 0900 and 2100 on any day.
5. The tables, chairs and barriers hereby approved shall be cleared away and stored inside the premises, or such alternative secure location as may be agreed outside the hours specified in condition 4.
6. No permanent fixings, umbrellas, planters, windbreaks or other ancillary structures shall be installed or placed on the private forecourt or public footway other than as shown on the approved drawing and set out in condition 3 above.
7. The tables, chairs and windbreaks hereby approved shall only be used in connection with the ground-floor restaurant/café/bar at Unit 1, Marine Parade only and no other purpose.
8. The tables and chairs hereby permitted shall be contained at all times within the area defined by the windbreaks or barriers as shown on the approved plan.

Application Number: AWDM/0036/18

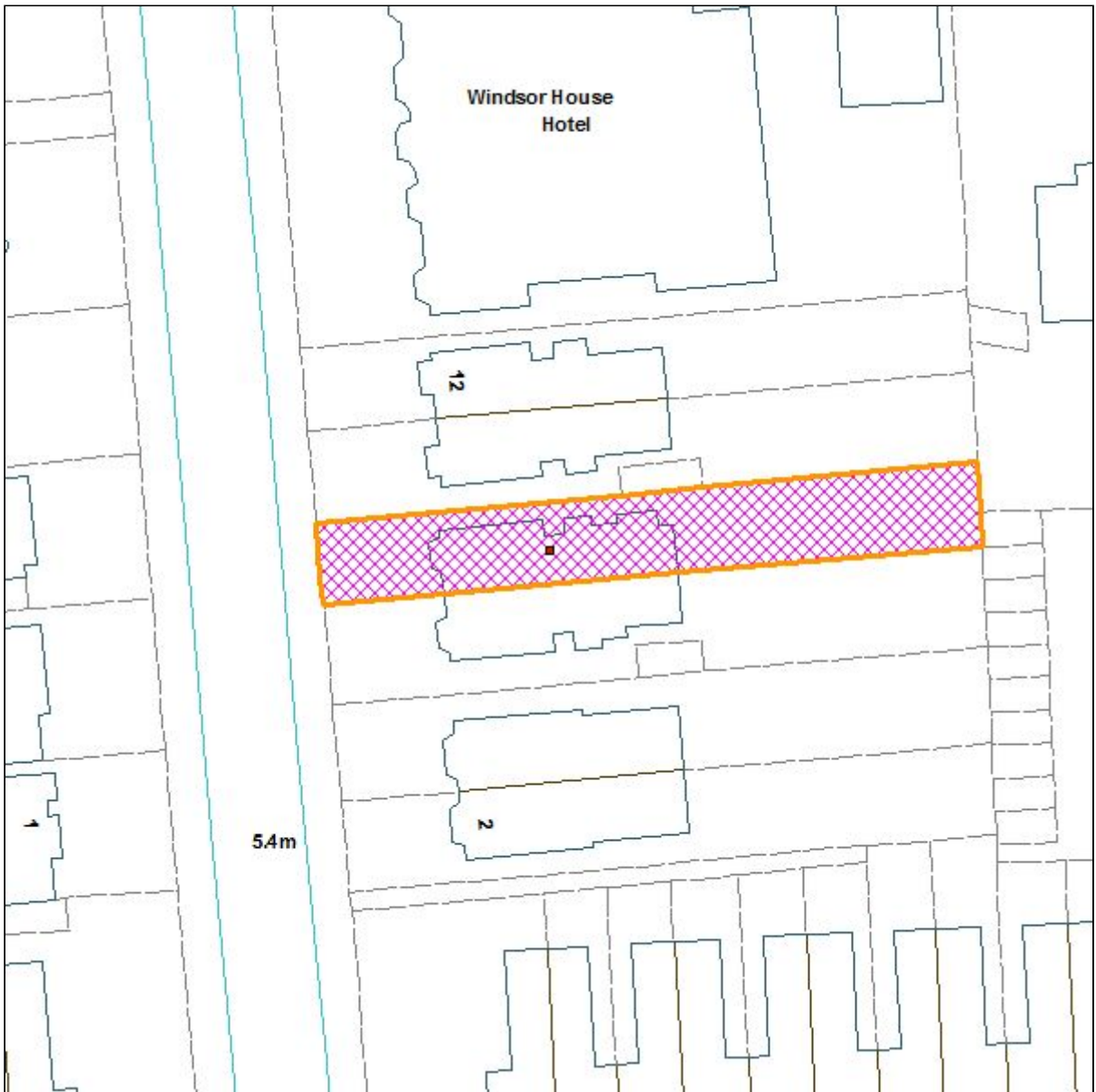
Recommendation – APPROVE

Site: Avalon Guest House, 8 Windsor Road Worthing West Sussex

Proposal: Conversion of existing bed and breakfast into one family home.

Applicant: Mrs Pauline Madeline Flint-Ely
Case Officer: Peter Devonport

Ward: Selden



Not to Scale

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Site and surroundings

The property is located in a largely Edwardian residential inner suburb of East Worthing, historically popular with guest houses, hotel and bed and breakfasts by the seafront and close to the town centre. The area is characterised by characterful and varied, large terraced and semidetached Edwardian houses, many of which have been converted to flats or guest houses, and, latterly, deconversion back to houses.

The property itself is an Edwardian large, semidetached house with characteristic period features and incorporating a deep rear outrigger. The period features include gabled square bay, arched porch, balcony and is largely rendered with hanging tile. It benefits from a hard landscaped forecourt used for parking and a reasonably deep rear garden.

It was converted to a guest house in 1968 and unselfcontained owners' accommodation added in the roof in 1981 involving a rear dormer extension. The business is run by the elderly applicant and her son.

The web site indicates it offers seven guest bedrooms) arranged as three single and four double room and kitchen and dining room and lounge. However, the owners report that the "owners' accommodation" in the loft, comprising bedroom and bathroom/WC, is almost uninhabitable and the owner and son use a double room each. This effectively reduces the available visitor accommodation to five guest rooms, only two of which have ensembles. It provides bed and breakfast only. The guest house has been operating for 50 years and by the current proprietors for at least 12 years.

There still remains some other visitor accommodation by the seafront close by including Glenhill and High Beach guest houses.

The property is adjoined by similar Edwardian properties. Castle Guest House is the paired semi to the south. It and the allied Wolsey Hotel were used for several years as accommodation for the homeless and may operate more as a hostel. The semi to the north is a house. Lock up garages (No 10) stand at the rear. No 10 includes one window at upper floor level in its facing flanks.

The property lies within a Controlled Parking Zone with residents' bays and allied parking controls.

Planning History

WB/1060/67: Change of use of house from two flats to guesthouse: Approved 23.1.68

WB/424/87: Provision of rooms in roof space of existing guest house for owners accommodation. Approved 26.5.87

Proposal

The proposal is simply to change the use to a single family residence. No external or internal physical alterations are proposed.

The application is supported by a personal statement; marketing and viability submissions - see below.

Applicant's Supporting Statements

The key (edited) extracts are reproduced below:

It is clear that the although our main reasons for change of use are on the medical and personal side it is the future possible loss of tourist accommodation in the town which is of great importance in this process.

I have run the guest house with my son for almost 20 years and lived in Worthing for almost 50 years, attaining our star ratings which we did not have when we arrived and winning Worthing in bloom on a couple of times along with good reviews on tripadvisor, and maintaining a competitive price and quality of service required in this sector of the market so feel it should be noted that we have made a considerable contribution to the town in the tourist sector in the past and as we have lived in Worthing for so long would not choose about applying for change of use if the issues we face were not there.

Putting aside our health issues for a minute I would like to concentrate on the financial issues we face and the implication of that which a purchaser would need to consider.

The costs we face now are huge compared to any return we are able to attain and as the demands from guests tourist organisations and various regulations (which are of course important) increase the harder it is to create a viable business opportunity. However one the biggest issue for us is the cost of the insurance and the costs it requires to ensure that if needed the policy is honoured. .This would apply to a future buyer even if it was to only be a guest house in name only as on planning would state that the property was still a guest house, and would still need a commercial insurance.

The property itself is just Edwardian and as such now requires substantial investment for improvements including a new heating system and especially if the guest house were to improve and keep up with tourist demands. The physical constraints of the property means that rooms would be lost in the renovation and the cost to do it would mean it would not be sustainable.

There is also the issue of the owners accommodation. Currently my son is taking one of the double rooms and I another. The designated owners accommodation

which is listed as a flat and has a residential council tax charge is actually an attic with bath toilet wash hand basin but due to very poor water pressure is not reliable with no separate entrance no heating and there an enclosed water tank and I feel is almost uninhabitable. I did used to sleep there but can no longer get up the stairs. There is also a rear private ground floor living room any future buyer would have to consider this when considering a purchase.

The listing in the core strategy report states we have 7 bedrooms however as I have said 2 double rooms are taken by myself and my son leaving 2 ensuite rooms and 1 single non ensuite room 2 other rooms are too small to meet the requirements and are no suitable at this moment to let. If somebody were too buy and carry out the renovations the loss of rooms plus the alteration for owners accommodation would I feel leave at best the same but more likely less actual viable beds spaces.so would not only be a waste of resources for the purchaser but also a loss of beds.

In the report 2013 report gave totals of bedroom spaces in the town in total and the worry the council has that further loss of beds by change of use. to whatever ends.

However the supply of accommodation I feel can easily be met and is even a surplus.

Referring to the report again It shows the loss of guest houses in the past it also states ref 5.1.5 the use of the Wolsey hotel and castles guest house operating as emergency accommodation for homeless people and no longer trading as a guest house and includes this as a loss of tourist beds. I feel this is an incorrect assessment and if this establishment had not been allowed to be used for said purpose tourist accommodation would have been kept at a higher level and as far as not operating as a guest house is concerned being listed as such and advertising as such means it is a guest house.

There is a need for emergency accommodation but a guest house /hotel is that and should be considered and included as viable tourist accommodation and not a loss.

In the applications of many guest house/hotel applications for change of use the impact of budget hotels is a big factor the Premier inn and Travelodge can have a serious issue for establishments who deal in that sector which is mainly of a corporate nature as are being undercut but bed numbers in the case of the premier inn is similar to when the beach hotel was there ,although they have advertised specifically at contract workmen in there T.V. commercials which has had I feel had considerable impact on us ,but in other sectors it has not as premier inns pricing are higher and are more in competition with hotels providing more of a corporate service.

The greatest competition we face is from the air b and b app. An article in the Worthing herald titled can we still attract tourists to Worthing told of the loss of many guest houses and hotels since the 60s-70s,and went on to say" but maybe technology and changing trends of the 21st Century could see an upturn in the prospects of Worthing as a destination". He went on to say that when he went on to

air b and b website 300 potential lets in Worthing (I have attached the full article which is dated September 2016) .and can also confirm myself as I went on as well.

The quality and variety able to be given is very high and prices low and cost of running very low, and should be considered a part of the viable tourist stock.

As I have said earlier our biggest issue is insurance as far as cost is concerned last year £2,500 and we had to lower the level of cover after a quick search for insurance for air b&b insurance companies are doing specific "bolt on insurance for air b and b at a fraction of the cost that we pay for a residential house, obviously guest house are able to join air b and b but as far as I can tell would have to still pay a commercial insurance so still would not be able to compete(I have printed an example if needed.

I have checked planning and by chance have seen an application for change of use from C2 residential institutions to C1 hotels/guest houses. AWDM/0123/18 although I do not know the number of guest accommodation beds that will be created and if granted would I feel also be an addition to the tourist accommodation stock.

This type of application is rare only looking much further back can evidence be seen, demonstrating that starting a guest house is not viable and that provision of accommodation is always evolving.

The final thing I would like to put forward is the sale in March 2017 of marina guest house as a guest house for £580,000. On the 23rd March an application was made by the new owners for change of use to a home for unaccompanied minors.

Although the application has at present been refused and is under appeal this shows that to even attempt to run as a guest house is not viable However as it stands no loss of viable tourist accommodation has been lost.

Although I can see the concerns about loss of specifically loss of guest house accommodation and loss of viable accommodation numbers in Worthing. I have tried to demonstrate that as time has moved on the type of accommodation has as well. The increase of apps such as Air B&B demonstrates this and I feel will be much more important in the future which is a good thing as this type of accommodation would increase and attract specifically a tourist based accommodation. unfortunately financially for us it has been devastating and to try to compete as a registered guest house with such apps as air b and b as it stands is impossible these facts would be relevant for a future buyer (if we were selling) and if were attempted would mean a loss of beds.

The issues and facts here demonstrate not only the financial difficulties we face but show that the viable tourist accommodation available is at a good level and will I feel increase in the future and the loss of Avalon guest house would not have a great effect on the town.

1 retirement age I shall be in my 75th year this April and do not wish to work such long hours which the guest house demands

2 I had to postpone an operation in Jan 3rd 2017 in order to pay forthcoming bills.

3 My son Matthew and I put in £800 a month from our private accounts in to Avalon account to help with the bills.

4 Over the years have tried to sell the guest house with local agents but any viewers have not been able to get a commercial mortgage....

It was marketed as a guest house that why people could not buy it because they would need a commercial mortgage weather it was to be used as a guest house or not.

Also the last agent stated it was currently used as a guest house.

The guest house was marketed for 234 days by the previous [agent as](#) a guest house.

Also the last agent stated it was currently used as a guest house.

Spratts worked with Micheal Oliver at the time. We chose Spratts as they do commercial sales why would we not?

Mark Oliver on their website confirms they do commercial sales however Whittington as you say appears to be residential sales

As you are aware we do not want to sell how would we get a commercial agent to take on the property for another year if we don't want to sell.

I have read over the weekend the core strategy report 2013 to familiarize myself with the requirements needed.

The first issue I need to address is marketing of the guest house of which we have touched on.

I have remembered that we did market the guest house in April 2010 for 746 days with Mark Oliver/spratts along with the marketing information you already have and have attached the document to confirm.

I do accept your observation that whittingtons is only a residential agent so could not be counted as an adequate means of marketing. However mark Oliver does state a commercial sector which can be seen on the web site, Spratts have a commercial side indeed more so and worked with Mark Oliver at that time

I do realise that the opinion may be still that we do not show enough marketing in the correct area, however it is a fact that agents both commercial and residential do use the web to sell their properties.

Right move has a direct link to a commercial sector. Which is where most if not all guest houses at some point have been listed, and by chance I have discovered Camelot guest house is on the market now for £559,950 with a residential agent and can be found by going to the commercial link

I may possibly use this when the subject of a sales opportunity but for now just wanted to show that a buyer who was looking for a business would be able to see it and indeed residential buyers too if they were looking to simply buy a large property. Obviously though a large hotel would be a different story As with the Kingsway Hotel.

We have told you that we do not wish to sell the property (as I am requiring a major operation and do not wish to have the upheaval of moving and need to be in familiar surroundings according to my surgeon for at least six months to aid with my recovery) So telling a commercial agent to market the property now but we had no intention to sell is not going to happen.

I also remembered that I did try to sell in 2000 with Russel Ponsford but as it was such a long time ago would not be relevant as it is doubtful records still exist and was only on for a short time

5 Reasons for decline of Guests

Two new budget hotels, over 300 air b/b properties in Worthing in last couple of years

6 My son Matthew has an illness which is controlled but the continued extra pressure of trying to run the guest house is a worry as it is well documented that extra stress is a contributing factor his condition.

The planning list says it is a flat when it is only an attic conversion with no separate entrance no heating plus the water tank is there as well although a bath wash hand basin and toilet have at some stage been (before our arrival) been put in.

8. The application AWDM/0123/18 change of use from C2 residential institutions to C1 Hotels /guest house is for 19 bedrooms many of which are able to accommodate double occupancy. If this sizable increase is passed it would easily offset the loss at Avalon guest house and help to replace tourist stock accommodation that has already been lost in the last few years. The down side for us is that this would increase the amount of competition which would also be of interest to a future buyer of the guest house as to the viability of the business. The parking pressure in Windsor Road is well known and our application would ease that pressure considerably to the benefit of neighbours, and the Windsor Hotel.

9. I can confirm that our visit Britain 3 star rating ceased in September 2016 due to costs.

Statement from Whitingtons (estate agents)

I would like to confirm that we marketed your house from 20.1.15 to 14.2.15 and had several viewings from potential buyers. The issue every time was they could not get the finance on it as a commercial property, every buyer was looking to use it as a residential home. There was no demand from anyone wanting it to remain as a guest house and it was previously marketed for 234 days with a different estate agent for less money without any success.

Consultations

Place and Investment (tourism)

Having met the owners of Avalon and other guest house owners, I think it is important to recognise the difficult economic climate caused by trends away from traditional B&B to air B&B. Much of the income for Avalon as with many of the guest houses now comes from long term stays from construction workers rather than visitors.

In light of this I personally think it would be unfair to resist a change of use back to a family home - without this the value of the property would presumably be significantly reduced. Equally an increase in demand for family homes is imminent as more families move into the area and those who have recently moved in with small kids look to upsize

Highway Authority

This application has been dealt with in accordance with the Development Control Scheme protocol for small scale proposals which include up to 5 residential units or extensions to single units accessed from roads that do not form part of the Strategic Road Network (SRN). As such the comments provided by Planning Services should be considered to be advice only, with respect to this planning application.

This proposal has been considered by means of a desktop study, using the information and plans submitted with this application, in conjunction with other available WSCC map information. A site visit can be arranged on request.

I refer to your consultation in respect of the above planning application and would provide the following comments.

This application seeks the conversion of an existing bed and breakfast at 8 Windsor Road, Worthing into one family home. No change are to be made to any access or parking arrangements.

After review of the submitted documents the Local Highway Authority does not consider that the proposal would have 'severe' impact on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 32), and that there are no transport grounds to resist the proposal.

It would be beneficial if the dwelling be afforded a secure and covered cycle parking provision in the interests of suitability.

Environmental Health Officer

No objections

Representations

None

Planning Assessment

The main issues for consideration are:-

- i) The loss of a guest house and impact on the visitor economy and principle of residential use and conversion mix.
- ii) The impact on the amenities of future and neighbouring occupiers.
- iii) Impact on access and parking.

As such the proposal should be principally assessed against saved Worthing Local Plan Policies H18; TR9 and RES7; The Core Strategy Policies 5, 7, 9 and The National Planning Policy Framework Supplementary Planning Documents; Residential Space Standards and Sustainable Economy.

The loss of a guest house and impact on the visitor economy and principle of residential use as single family house.

Core Strategy Policy 5 recognises an important role for the tourism/visitor economy in the town as part of a wider town centre and seafront renaissance and this is underlined by the Adur and Worthing Tourism vision Action Plan. The Core Strategy reports that studies show that there is a strong market demand for budget hotels and good quality guesthouses/B&B's and supporting existing visitor accommodation by repositioning and upgrading the offer will be critical to the future success and development of this sector. To this end, Policy 5 resists the loss of visitor accommodation unless it can be demonstrated that such accommodation is unviable; is the only way of improving the accommodation and the alternative uses contribute towards the visitor/tourist economy.

Certainly, the loss of the guest house would be regrettable, not the least because the premises are a long established guesthouse, advantageously located in a popular tourism district, close to the seaside, town centre and other visitor accommodation and facilities. The effect would be to further erode the town's stock of visitor accommodation, with potential attendant harm to the town's image, tourism function and broader town centre and seafront economic regeneration objectives. It would also further thin the established cluster of guest house and B&B's in the neighbourhood and impact to some degree on the local economy from lost spending by guests on meals out, entertainments etc. Indeed, the proposal follows

on the heels of a several permissions over the last 8 years to convert the nearby Tudor Guest House in Windsor Road to a house (WB/0936/FULL refers); Blair House in 11 St Georges Rd (WB/10/771/FULL); 77 Manor Road AWDM/0707/11 and Olinda Guest House 199 Brighton Road (AWDM/0838/13) and Park House 4 St Georges Road (AWDM/0982/14).

That said, the steady erosion of the traditional B&B and guest house sector that this latest application represents must also be seen in the context of the changing face of the hospitality industry, as attested by Place and Investment. New providers such as the corporates Premier Inn and Travel Lodge have opened up large premises in the town in very recent years, followed by a significant expansion of Air B&B. These cater for changing visitor tastes and budgets and have in many cases provided stiff competition for the traditional B&Bs, small hotels and guest houses. The continuing strategic need for the historical scale of the traditional B&B and guest house sector in the town is, therefore, increasingly questionable and the current Core Strategy Policy will be reviewed as part of the new Local Plan preparation. As Place and Investment note, guest houses are now more likely cater for longer term visitors such as construction workers rather than tourists.

In terms of the specifics, arguably, the contribution of this small guest house (effectively only 5 rooms and lacking full ensuite facilities) to the town's offer is quite limited.

Turning to the merits of the proposal itself, the evidence supplied by the applicants to justify the loss indicates that the current proprietors have experienced difficult times over the past 5 years or more and face a still more challenging situation if the business were to continue, from necessary renovation and upgrades and basic ongoing costs.

The background to this is the increased and, probably, unsustainable competition from the corporates such as Premier Inn and Travelodge and Air BnB highlighted above and cited by many other guest house in the recent applications to withdraw from the sector

Equally, it is also directly linked to the personal circumstances of main operator and her son. The applicant is elderly, and, combined with her and her son's medical conditions, this makes running the business to the high standard required in this very competitive and cost-sensitive market, extremely challenging, if not impossible. Financial costs would only rise unsustainably if outside staff were brought in to try and cover a number of tasks otherwise undertaken by a proprietorial couple in the normal business model for B&B's. The cost of insurance is already currently cited as a major obstacle.

Unfortunately, the personal cost of the additional work and stress has taken its toll on the couple. It is very possible that the business may even cease shortly, regardless of the outcome of this application, due to these pressing circumstances, not least an imminent operation to the applicant which would render her unable to fully manage the property for a significant time.

The submitted evidence of business supports the claims of increasingly tenuous viability, the owners subsidising the costs of running the business.

As for marketing, full details to meet the tests of the SPD have not been supplied. However, the couple have plainly sought to sell and move out of the B&B business in response to the increasing competition and their personal circumstances. The property was placed on the market in 2010 for a couple of years with a recognised commercial agent; for 7 months between 2013 and 2014 with a residential agent and more recently for a short period, albeit with residential agents. No viable offer was made for guest house use.

Whilst the case presented is short of demonstrating that no B&B business could be successful here, the special personal circumstances of this case justify a flexible approach to the policy. Indeed, given that the business may even close of its own accord, it is difficult to see what advantage would accrue from resisting the application proposal. Likewise, there is the danger that the property would convert to an unregulated HMO type use.

In these circumstances, the loss should not set a harmful precedent.

The other side of the coin in this application is the return of the property to residential use. In terms of policy, this would, otherwise, be welcomed as the property is sustainably located in a mixed residential/tourism area. Furthermore, the Core Strategy in Policy 9 and supported by the Strategic Housing Market Assessment has indicated the need for family housing in the town and the conversion of to a large family house would be therefore be welcome. That said, the house is very large and may attract future pressure to convert to flats but this is outside of the scope of the current considerations.

The proposal would also contribute towards local housing targets

The impact on the amenities of future and neighbouring occupiers and visual amenity

No physical extensions are proposed, nor any external conversion works.

Current intervisibility between the property and its residential flanking neighbour would be unaffected.

The conversion provides a good standard of accommodation.

However, restrictions on future Permitted Development rights are justified to prevent harm to any neighbour, given their proximity; safeguard the appearance of this attractive property and to prevent its unregulated use as an HMO or hostel or similar short let accommodation.

Impact on access and parking

The site is sustainably located, close to the town centre and seafront. Parking demand is expected to be no greater and probably less than use as a large guest. Furthermore, the site sits in a Controlled Parking Zone where there is no waiting list for residents' parking permits, suggesting sufficient capacity on-street with allied parking controls to prevent inconsiderate or dangerous parking.

Conclusion

The proposal has been assessed in relation to saved Worthing Local Plan Policies H18; TR9 and RES7; The Core Strategy Policies 5, 7, 9 and The National Planning Policy Framework Supplementary Planning Documents; Residential Space Standards and Sustainable Economy and all other material circumstances. The loss of an established guest house from the visitor economy is regrettable but is justified, on balance, because of limited current viability due to the personal circumstances of the applicants. Conversion to a family house is acceptable at these premises in this sustainable location and meets recognised housing need in a satisfactory fashion. No unacceptable harm to neighbour amenity or the character of the property would result and parking and access arrangements are acceptable. As such, and subject to the recommended conditions, the proposal is supported.

Recommendation

Planning Permission be granted subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
2. Works to conform to approved drawings
3. Remove Permitted Development rights

**Local Government Act 1972
Background Papers:**

As referred to in individual application reports

Contact Officers:

Peter Devonport
Principal Planning Officer (Development Management)
Portland House
01903 221345
peter.devonport@adur-worthing.gov.uk

Jo Morin
Principal Planning Officer (Development Management)
Portland House
01903 221350
jo.morin@adur-worthing.gov.uk

Schedule of other matters

1.0 Council Priority

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

2.0 Specific Action Plans

- 2.1 As referred to in individual application reports.

3.0 Sustainability Issues

- 3.1 As referred to in individual application reports.

4.0 Equality Issues

- 4.1 As referred to in individual application reports.

5.0 Community Safety Issues (Section 17)

- 5.1 As referred to in individual application reports.

6.0 Human Rights Issues

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

7.0 Reputation

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

8.0 Consultations

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

9.0 Risk Assessment

9.1 As referred to in individual application reports.

10.0 Health & Safety Issues

10.1 As referred to in individual application reports.

11.0 Procurement Strategy

11.1 Matter considered and no issues identified.

12.0 Partnership Working

12.1 Matter considered and no issues identified.

13.0 Legal

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

14.0 Financial implications

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



Report by the Director for Economy

ENFORCEMENT REPORT

AWEN/0132/15

ALLEGED UNAUTHORISED BUILDING WORKS: LAYING OF
HARDSTANDING AT PANACEA MEDICAL PRACTICE, 7a SHELLEY
ROAD, WORTHING

1. CURRENT SITUATION

- 1.1 This matter was last reported to the Committee in October 2017. The minutes of the meeting state:

'After some discussion, the Head of Planning and Development suggested an alternative solution to address the issues raised by the neighbour and the car park issues for the business. The Officer stated the Committee could agree to proceed with the Enforcement Notice, but the Notice could include certain conditions to allow the car parking use to continue whilst mitigating the harm to the neighbouring resident. Members agreed with the Officer's revised recommendation.'

Decision

*Members **AGREED** to proceed with the Enforcement Notice, but the Notice to be drafted to include conditions to reduce the harm the use is causing to the neighbouring resident.'*

- 1.2 Following the Committee meeting, a meeting was held with the planning agent and representatives from the Medical Practice upon whom the notice will be served while further material was received both from the complainant and her solicitor, both of whom attended

the previous Committee meeting. This material raised questions regarding the minutes of the meeting, as outlined above, as well as in respect of the actual drafting of the Notice itself. The Head of Planning and Development and Planning Services Manager have also revisited the site.

- 1.3 The Enforcement Notice was in the process of being drafted by the then Senior Lawyer & Deputy Monitoring Officer before he left the Council in December. In light of the additional information received and the length of time that has elapsed since previous consideration of this case, your Officers have brought the case back to Committee for further consideration. A possible draft Enforcement Notice is attached to the report for Members information.

2. PLANNING HISTORY

- 2.1 For member's information, the planning history of the site as included within the last report is set out again in the following paragraphs:
- 2.2 In May 2015, a complaint was received regarding the laying of a hardstanding on the site of a former scout building in the grounds of a former Church building now adopted by a Company providing medical services.
- 2.3 The former scout building was granted temporary planning permission in 1980 and subsequently granted permanent permission in 1990. A condition imposed upon the permission stated that the building could only be used for purposes ancillary to the then United Reformed Church.
- 2.4 The main building was used as place of worship until 2005 when the congregation moved to another Church and the building became empty soon after.
- 2.5 In 2009, a Certificate of Lawful Use application was submitted for the proposed use of former church building as a health centre (Class D1). The Certificate was granted but but did not include the land occupied by the scout building.
- 2.6 In 2011, an application was received for the replacement of the former scout building to provide a diagnostic clinic and hydrotherapy unit in

connection with the health centre. Permission was granted, but was not implemented and subsequently lapsed.

- 2.7 The building was subsequently removed and hardstanding, which has been used for parking, constructed in its place. Upon receipt of the complaint, the Council investigated the matter and considered that the laying of the hardstanding comprised unauthorised development for which a planning application was required.
- 2.8 An application to retain the hardstanding was submitted shortly after but was invalid because of insufficient information and therefore was never registered. In the absence of a valid application an Enforcement Notice was served in October 2015. The site owner immediately appealed against the Notice.
- 2.9 On receipt of the appeal, the Planning Inspectorate raised a query that the Notice alleging the breach of planning control as the laying of a hardstanding was defective as the requirements of the Notice related to the use of the land rather than the operational development itself. As the requirements of the Notice covered a use of the land and not the operational development the Planning Inspectorate stated that it was not clear if the notice complied with section 173 of the Town and Country Planning Act 1990 (as amended). The Planning Inspectorate, therefore, recommended that the Council should withdraw the Notice.
- 2.10 In December 2015, a revised Notice was served which attempted to take account of the comments of the Inspectorate and the original Notice was withdrawn.
- 2.11 The withdrawal of the original Notice meant that the appellant was entitled apply for costs for work undertaken in respect of an appeal against a Notice which the Council subsequently withdrew. The costs application was allowed and a full award of costs made to the appellant. In awarding costs, the Planning Inspector stated:
- 'For the avoidance of doubt, this decision should not be taken to imply any view on the Council's decision to take enforcement action in respect of the alleged unauthorised development.'*
- 2.12 A second, similar, Enforcement Notice was issued and the site owner again appealed and made a second application for costs, stating that the second Enforcement Notice was again invalid.

2.13 The appeal decision found that the second Enforcement Notice was indeed, again, invalid. The Inspector stated in the appeal decision:

'The notice with which I am concerned alleges the laying of a hardstanding and the requirements are to cease the use of the hardstanding for car parking and to erect a wooden fence. The notice therefore combines an allegation of operational development with requirements relating to a material change of use. This formulation does not accord with the statutory requirements of the purposes of the notice as provided for in s.173(4) which are purposes dependent on the allegation, that is, either a material change of use for which the requirement is to discontinue the use; or operational development for which the requirement is restore the land to its condition before the breach took place; or to remedy any injury to amenity which has been caused by the breach.

The Council's case is that the requirements seek to remedy the injury to amenity caused by the breach and it is under-enforcing pursuant to s.173(11) because complete removal of the hardstanding would be excessive. But to my mind this argument is misconceived because the injury to amenity must arise from the breach, in this case, the operational development of laying the hardstanding. This is an argument the Council appear to accept as it is also said in its statement that 'it is not the physical works of the laying of the hardstanding which are harmful rather the resulting use of the area so created'.

Similarly it seems to me that any under-enforcement also has to relate to the operational development alleged. It is notable that the Council also appears to acknowledge this in that it states 'a second notice could be served relating to the unauthorised change of use of the land for car parking'. However, the Council did not issue a second notice because it considered 'this would have placed an additional burden on the Appellant and was felt to be excessive when one notice could suffice

For the reasons given above I find that although the notice is flawed it does contain the statutory requirements as provided for in s.173, albeit incorrectly applied, and it is not therefore a nullity but it is invalid.'

- 2.14 In respect of the second award for costs, the Inspector again found in favour of the appellant stating:

'The Guidance advises that although a Council has a general discretion to take enforcement action it is expected to exercise care when deciding to issue a notice and is at risk of an award of costs if it is concluded that an appeal against a notice could have been avoided if it had ensured that the notice was accurate. Given the similarity between the withdrawn notice and the notice in this appeal I consider that the Council acted unreasonably in issuing a second notice with the same flaws. In reaching this view I note that the Council appeared to be aware of the inconsistencies in the notice in that it says in its statement that 'it is not the physical works of the laying or the hardstanding which are harmful rather the resulting use of the area so created' and 'a second notice could be served relating to the unauthorised change of use of the land for car parking'.

3. SITE DESCRIPTION

- 3.1 The area in question is accessed via Grafton Road, with the former Church building now housing Panacea Ltd, being situated to the north in Shelley Road. To the south of the site are residential properties in Chandos Road and there are other residential properties to the west in Buckingham Road.
- 3.2 The entire area is rectangular in shape, with the eastern side historically used for parking. When the former scout building was removed, hardstanding was laid in its place. There is also some landscaping in the south western corner of the site although this does not rise above the low boundary wall that borders the site in that location. The western boundary has a 2 metre high close boarded fence while properties towards the south eastern side of the site have erected their own close boarded fence behind the low boundary wall. Essentially, in terms of neighbour impact any harm is primarily on the properties in Chandos Road to the south western corner as they have no other screening than a boundary wall and are closer to the additional parking area.

4. ASSESSMENT

- 4.1 Members will recall from the previous report that the agent acting for the medical practice does not consider that planning permission is

required for the additional car parking area, it being ancillary to existing area used for car parking. The Council disagrees with this view and had requested a planning application be submitted to retain the use. If such an application were granted permission, it could have been subject to conditions to protect the amenities of neighbouring properties. Your officers remain of the view that this would have been the simplest solution to the issue and it is regrettable that the applicant's agent did not follow the Council's suggestion.

- 4.2 The key issue remains as set out in the previous officer conclusion that the retention of the hardstanding causes harm to the amenities to properties in Chandos Road to the extent that, without mitigation, planning permission would be refused for its retention.
- 4.3 Essentially, the consideration of the case depends on whether an Enforcement Notice can be served which achieves such mitigation.
- 4.4 As outlined above, the previous Enforcement Notices failed because they combined an allegation of operational development with requirements relating to a material change of use. The Inspector considered this formulation does not accord with the statutory requirements of the purposes of the notice as provided for in s.173(4) which are purposes dependent on the allegation, that is, either a material change of use for which the requirement is to discontinue the use; or operational development for which the requirement is restore the land to its condition before the breach took place; or to remedy any injury to amenity which has been caused by the breach.
- 4.5 At the previous meeting, members resolved to consider whether conditions could be used to remedy the breach which is effectively 'under enforcing'. This would give the result that the remaining parts of the breach which are not contained within the Enforcement Notice are effectively granted planning permission under the terms of the Notice.
- 4.6 The issues in the previous Enforcement Notices were that the Council were seeking to under enforce against an alleged breach of operational development. As such, it would be more appropriate if the Council sought to enforce against the material change of use that has occurred instead.
- 4.7 As Members will again recall from the previous meeting, some landscaping had been undertaken in the south western corner of the

site. This has grown over time and to a limited extent has the ability to mitigate some of the harm caused by the car parking. Your officers are of the view that the erection of a fence in addition to the retention of the landscaping would, in combination, satisfactorily mitigate the harm caused by the change of use of the western part of the site to car parking. The properties further to the east in Chandos Road are already screened from the car parking by their own existing fencing. It would be difficult to argue that either the existing or extended car parking adversely affects the amenities of these properties (especially given that no complaints have ever been received from those properties). Using a similar assessment to the property further west of the complainant, then it is considered that the erection of a similar fence, but set further away from the mutual boundary and with the existing landscaping maintained in between would result in an acceptable level of mitigation and would balance the needs of an operational business in the town with the need to protect neighbouring residential amenity.

4.8 It is strongly contended by the complainant and her solicitor then any under enforcement is almost bound to fail and that, at the very least, the erection of the fence and the cessation of parking should be specified in the Enforcement Notice and preferably the hardstanding should be removed as well.

4.9 Your officers have considered these points very carefully and have been made aware of the complainants concerns on a number of occasions. A significant amount of material from the complainant has been considered recently by the Council's lawyer but it is felt that the appended Enforcement Notice would successfully meet the requirements of the Planning Act. However, it must be borne in mind that it is not clear cut that the Council would win any enforcement appeal given that there have not been widespread complaints concerning the use from other residential properties in close proximity to the site. Equally, though, the Council has resolved to serve two previous enforcement notices and to that end it is felt that the revised Notice balances the competing objectives of the business and residential amenity.

5. COMMENTS OF THE SOLICITOR TO THE COUNCILS

5.1 The legal power to take enforcement action is contained in Section 172(1) Town and Country Planning Act 1990 (as amended), that

states that a Local Planning Authority may issue an enforcement notice where it appears to them:-

- (a) that there has been a breach of planning control; and
- (b) it is expedient to issue an enforcement notice, having regard to the provisions of the development plan and to any other material considerations

5.2 The revised notice has been drafted taking into account and remedying the previous comments made by the Planning Inspector in respect of the previous defective notices. However, as with any enforcement notice, the risk of a further appeal cannot be ruled out.

5.3 The recipient will have until the date specified in the notice in which to appeal, which must be at least 28 days from the date the notice has been served. Accordingly, once served, the Council will know whether the notice has been confirmed and the desired outcomes achieved, or contested within a relatively short period of time.

5.3 Paragraph 207 of the National Planning Policy Framework reiterates that enforcement action is discretionary, and local planning authorities should act proportionately in responding to breaches of planning control.

6. CONCLUSION

6.1 Members are therefore requested to endorse the recommendation and the file will then be passed to Legal Services to facilitate the erection of a fence and the retention of the existing landscaping.



Report by the Director for the Economy

ENFORCEMENT REPORT

7 Blackbird Lane, Worthing

AWEN/0303/17: Erection of fence and incorporation of land designated as public open space into residential curtilage contrary to condition 13 of planning permission AWDM/0521/12 and associated legal agreement

1. BACKGROUND

- 1.1 In October 2017, the Council received a complaint that an area of land had been fenced off and incorporated into residential curtilage at 7 Blackbird Lane.
- 1.2 Blackbird Lane is part of the development originally permitted under reference AWDM/0521/12 for *Proposed mixed use development comprising; 117 residential properties (including 17 affordable units), car showroom (Sui Generis) and care home (C2) with associated access roads and landscaping on land east of Northbrook College.* Many of the properties have now been constructed and occupied.
- 1.3 The development was subject to both a landscaping condition and legal agreement. The legal agreement required landscaping to be carried out in accordance with the approved landscaping plans, and made specific reference to a landscaping Masterplan that was submitted with the application (see attached).
- 1.4 The Masterplan showed the area of land in question to be outside of any residential curtilage and therefore to be maintained as public open

space as part of the overall Masterplan for the development. The land is immediately to the south west of the retained copse which forms a central part of the open space strategy for the development as a whole.

- 1.5 Following a site visit in connection with the complaint, it was established that the area of land had been fenced off with a close boarded fence on its western side and incorporated into the residential curtilage of 7 Blackbird Lane, a property which sits to the south east of the land in question. The land in question is therefore in front of the property, to its north west. There is already a rear garden to the south of the property.
- 1.6 Upon further investigation, your officers found an unusual situation. Although relatively newly built, the current occupier of the property is the second owner of the property. The erection of the fence and enclosure of the garden had been undertaken by the previous owner of the property who had purchased the land from the housing developer, Bloor Homes. The sales particulars of the property from sale of the property to the current owner clearly show the incorporated area of land and indeed listed it as an additional benefit of the property: *'the property offers a unique prospect having additional garden space to the side that measures 125m² which could offer a number of options'*. The Council had not been made aware of the original sale of the land by Bloor Homes. It is noticeable that the sales details described this as additional garden.
- 1.7 In accordance with the planning permission and s106 agreement the land in question should have been transferred from Bloor Homes to the Management Company. On this basis this would constitute a breach of the s106 and there has been an unauthorised change of use from public open space to residential curtilage. The fence is also unauthorised on the basis that it does not accord with the approved landscaping or boundary plans submitted with the application.
- 1.8 Unfortunately the first owner purchased the land from Bloor Homes and erected a fence enclosing the land as residential curtilage and this land has now been sold again to the current occupier. Shortly after the occupation of the property by the current owner (when a second much smaller fence was erected around the remainder of the incorporated curtilage), the complaint in connection with the unauthorised development was received.

1.9 Where an Enforcement Notice is served, it must be served upon the current owner of the land, regardless of whether the actual breach of planning control was carried out by themselves. It became apparent to Officers that the current occupier was unaware of the legal agreement and planning conditions. In the first instance, therefore, your officers approached Bloor who, presumably, would have been aware of the restrictions relating to the property.

1.10 In response to your Officer's original enquiry, Bloor responded in December 2017:

I would inform you that when we sold this property there was no fence enclosing this area as a residential garden!!

This fence has been erected relatively recently by either the current property owner or the previous occupier.

The ownership of the land is not relevant in terms of the fact of management and if the homeowner has erected a fence that breaches your planning rules, then that must be down to them. The land has not been sold by us as a separate transaction, it would have been conveyed at the time of the original sale from us.

The descriptive on the estate agents details, is again not relevant to this Company, what they describe is a matter for them and was not representative of what we sold to the original purchaser.

You are correct in that the current property owner did not purchase this property directly from Bloor Homes, he did indeed buy it from our purchasers who bought the property back in July 2015.

The current property owner will be in the "buyer beware" situation known as "caveat emptor" and any issues relating to a breach of planning or otherwise, would and should have been dealt with by his solicitors acting through his own buying process from the original owner.'

1.11 Your officers did not consider this a particularly helpful response to the matter given that it did not indicate why Bloor had sold the land in the first place or had made the planning status of the land clear to the then purchaser. Moreover, upon revisiting the site, your officers also

noted that the fence erected is exactly the same design as erected elsewhere on the estate and indeed physically adjoined the fence of the property to the south, 4 Skylark Rise.

1.12 The subsequent response from Bloor stated:

'The fact that it appears the same in terms of its construction and indeed material is not evidence enough for the assumption that we put it there!! It is also not for us to prove that someone else has put it there.

The fact of the matter is that you have not had complaints of it being there since the original transaction took place between ourselves and our original client until recently, something must therefore have changed.

We are not able to prove that our client or the current occupier installed it.

I do however attach the enclosures plan and the conveyance plan relating to this phase. It is these details to which we would have installed fencing and conveyed land.

The conveyance plan clearly shows this element of land would have been transferred as part of the original plot transaction.

All of the above being the case, I would confirm that this Company is neither the landowner nor the responsible party for erecting the relevant fence and I would therefore suggest any actions you wish to take will need to be directed elsewhere.

1.13 Your Officers advised the current occupier of the property of the responses from Bloor Homes as it appeared unlikely that a solution could be reached via Bloor and hence any serving of an Enforcement Notice would fall upon the current occupier, even though the breach had not been carried out by him.

1.14 Upon further investigation, your Officers noted that the orientation of the plot immediately to the south of the land in question (4 Skylark Rise) had altered (via subsequent planning permissions submitted as non material minor amendments) but the legal agreement was not amended in relation to the area of land currently in dispute. This

matter was also raised with Bloor (and had also been raised by the current occupier of No. 7 Blackbird Lane).

- 1.15 Bloor responded to the latter point, (which included reference to the approved masterplan on the unamended legal agreement):

Whilst I can only agree with the extract from the masterplan that you have noted, there was a later revised consent for phase 2, which you will note, revised the position and orientation of plot 24.

This created a different configuration to the open space at that point and magnifies your point regarding closure of the boundary by plot 23.

I do not see any issue with ownership of the area of land on the proviso that the area is not enclosed and is laid out to the appropriate consent, which I believe it originally was.

- 1.16 As seemingly acknowledged by Bloor in their last correspondence, there is a clear breach of the planning permission and associated legal agreement as a result of the fencing off of the land and the incorporation of the land into public open space.
- 1.17 The current occupier of the land, who had erected a second smaller fence around the northern section of the land, has stated that the enclosure of the land is necessary as there had been a long standing issue with unauthorised access to the privately owned frontages of numbers 3-7 Blackbird Lane, to the extent that the police had visited as the current occupier had suffered verbal abuse, stoning of windows, theft from the garden and trespass.
- 1.18 Your Officers, aware of the concerns of the current occupier, suggested that a planning application be submitted to incorporate the land into residential curtilage. Your officers did indicate, as a without prejudice to any decision, that it was unlikely that such an application to retain the fence in its current form would be recommended for approval, but that given the circumstances of the situation, the final decision would be made by the Committee. The submission of a planning application would have allowed a formal period of public consultation where the views of all surrounding neighbours could have been sought and reported to the Planning Committee. However, the current occupier, it is understood on solicitor's advice, has declined to submit an application. As there is a clear breach of the original

planning permission and legal agreement, with an outstanding complaint, it is therefore necessary to consider whether enforcement action should be taken to remedy the breach.

2. ASSESSMENT

- 2.1 This is an unusual and highly unfortunate situation. Nonetheless, the Council must consider the planning merits of the situation - it is for the relevant individuals concerned to consider any civil action arising out of the sequence of events. The relevant planning policies in respect of this consideration are contained within the National Planning Policy Framework, Planning Practice Guidance and Policy 16 of the Worthing Core Strategy.
- 2.2 The layout of the development in this area centres around the retained copse which is rectangular in shape and faced on 3 sides by the recently built properties to the north, south and west. To some extent, it could be considered surprising that the area of land in question, which is to the south west of the copse, was designated as public open space. However, the road serving properties in Blackbird Lane runs along the southern boundary of the copse towards Skylark Rise but is a cul de sac. The designation of the land as public open space was therefore to maintain a landscaped buffer between the two roads in question. It also allowed a view across to the copse when travelling along Skylark Rise, the road serving the northern part of the development, from the south west as well as a view from the properties to the west which were built as part of a later phase of the development. The occupiers of these properties would have been aware of the approved plans and purchased their properties on this basis.
- 2.3 Regrettably, the enclosure of the land as residential curtilage has compromised these objectives. The erection of the close boarded fence in particular on the western boundary of the land in question has not only blocked the open view of the copse from Skylark Rise and the properties to the west, but also introduced an unnaturally long section of fencing in an area characterised by open frontages, albeit the relocated plot to the south has a small, approved, section of fencing alongside its side garden (it is apparent this was planned purposely as the section of fence aligns with the frontages of properties in Blackbird Lane). Your Officers are of little doubt that had the erection of the fence and enclosure of the garden into residential curtilage before it

had taken place, then an unfavourable response would have been given.

- 2.4 Your Officers are aware that prior to the erection of the fencing, the land in question appeared to be used as a cut through towards the copse area, to the apparent detriment of the amenities of the properties in Blackbird Lane. Had this been identified as an issue, though, it was open to Bloor to, for example, improve the landscaping in this area to prevent such occurrence.
- 2.5 Not only is it considered that the fence has a detrimental appearance to the character of the area, but the use of enclosed land as a residential curtilage when it is located diagonally in front of the property in question also appears illogical. No. 7 Blackbird Lane does not lack amenity space as it has one of the larger rear gardens on the estate and there is not a space requirement, when measured against garden space standards for an additional portion of land serving the property.
- 2.6 Accordingly, therefore, your Officers have no option but to conclude that the retention of the fencing and the use of the land as residential curtilage rather than public open space is unacceptable.
- 2.7 However, your Officers do have some sympathy for the current occupier of the property as he has purchased the property in good faith and had assumed that the extended garden was part of his property. Whilst, the legal agreement is a charge on the property and binding on successors in title, it does appear that the original error was by Bloor Homes in not transferring the land with the adjoining copse as open space to the Management Company and the Company should not have sold the land with the original plot. As indicated earlier, however, the Council can only take action against the current owner of the land.

3. COMMENTS OF THE SOLICITOR TO THE COUNCILS

- 3.1 The legal power to take enforcement action is contained in Section 172(1) Town and Country Planning Act 1990 (as amended), that states that a Local Planning Authority may issue an enforcement notice where it appears to them:-
 - (a) that there has been a breach of planning control; and

(b) it is expedient to issue an enforcement notice, having regard to the provisions of the development plan and to any other material considerations

3.2 Section 172(2) of the Town and Country Planning Act 1990 confirms that an enforcement notice should be served on the owner or occupier of the land and any other person having an interest in the land that is materially affected by the notice. Paragraph 207 of the National Planning Policy Framework reiterates that enforcement action is discretionary, and local planning authorities should act proportionately in responding to breaches of planning control.

4. RECOMMENDATION

4.1 It is recommended that Committee authorises enforcement action to remedy the breach of planning control with the file passed to Legal Services to review and consider enforcement proceedings. This could entail the removal of the fence to ensure that the character of the area is maintained but if members felt it appropriate for the area of land in question to remain within the ownership of 7 Blackbird Lane, then any Enforcement Notice could specify, for example, the necessity to plant hedging to prevent public access to the land in question.