



WORTHING BOROUGH
C O U N C I L

16 June 2020

Worthing Planning Committee	
Date:	24 June 2020
Time:	6.30 pm
Venue:	Not applicable - held by Video Conference

Committee Membership: Councillors Paul High (Chair), Noel Atkins (Vice-Chairman), Paul Baker, Jim Deen, Martin McCabe, Helen Silman, 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 democratic.services@adur-worthing.gov.uk before noon on Tuesday 23 June 2020.

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 as 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. Public Question Time

Questions from the public should be submitted by midday on Monday 22 June 2020. A question cannot be put in relation to a specific planning application.

Where relevant notice of a question has not been given, the person presiding may either choose to give a response at the meeting or respond by undertaking to provide a written response within three working days.

Questions should be submitted to Democratic Services - democratic.services@adur-worthing.gov.uk

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

4. Confirmation of Minutes

To approve the minutes of the Planning Committee meetings of the Committee held on Wednesday 27 May 2020, which have been emailed to Members.

5. Items Raised Under Urgency Provisions

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

6. Planning Applications (Pages 1 - 22)

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

7. Interim Position Statement on Climate/Sustainability (Pages 23 - 28)

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

Appendix

8. Section 106 Monitoring Fee (Pages 35 - 42)

Part B - Not for publication - Exempt Information Reports

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.

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WORTHING BOROUGH
C O U N C I L

Planning Committee
24 June 2020

Agenda Item 6

Ward: ALL

Key Decision: ~~Yes~~ / No

Report by the Director for Economy

Planning Applications

1

Application Number: AWDM/0256/20

Recommendation – Approve

Site: 88 Salvington Hill, Worthing

Proposal: Proposed two-storey 2no. bedroom house with attached garage to rear garden of 88 Salvington Hill with access onto Firsdawn Road. Including associated landscaping and bin store.

2

Application Number: AWDM/0286/20

Recommendation – Refuse

Site: Flat 1, 12 Warwick Gardens, Worthing

Proposal: Retention of a timber bike shed in west front garden (Retrospective Application) (Re-submission of AWDM/1537/19).

Application Number: AWDM/0256/20

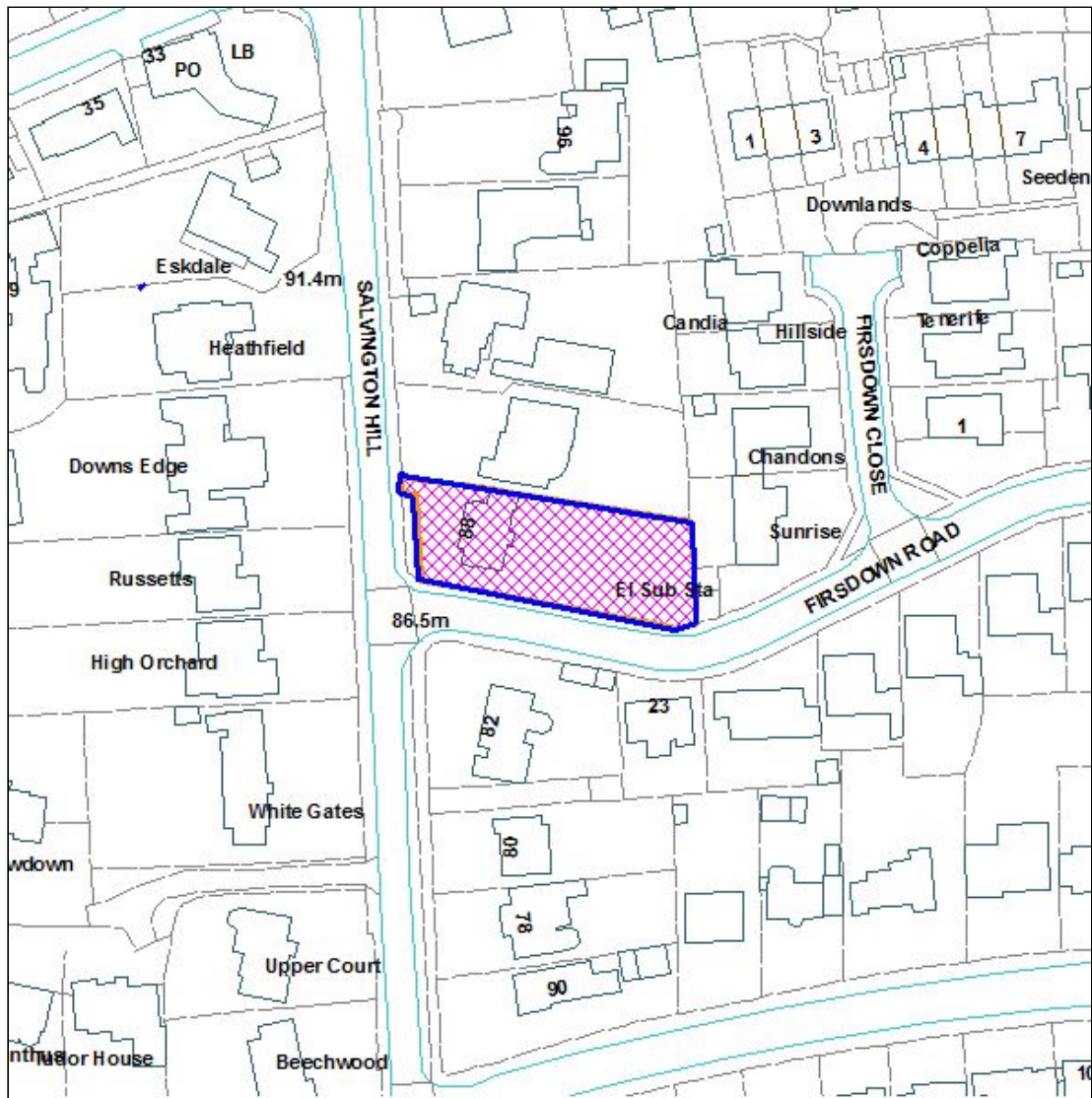
Recommendation – APPROVE

Site: 88 Salvington Hill, Worthing

Proposal: Proposed two-storey 2no. bedroom house with attached garage, to rear garden of 88 Salvington Hill with access onto Firsdow Road. Including associated landscaping and bin store.

Applicant: Mrs Susan Simpson
Case Officer: Jackie Fox

Ward: Salvington



Not to Scale

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Introduction

Cllr Richard Nowak has requested that the application come before the committee.

Site and Surroundings

The application site relates to part of the rear garden of a property which lies at the junction of Salvington Hill and Firsdow Road. The host dwelling No 88 Salvington Hill faces Salvington Hill with the garden to the east. The property is on a partly sloping site.

The application site is enclosed with a line of Leyland cypress trees to the southern boundary and a mixture of trees and mature scrubs to the eastern side. There are trees subject to individual and group tree preservation orders to the northern boundary. The site is currently at a higher level than the existing road to the south Firsdow Road.

Immediately to the east of the site is an electricity substation which is enclosed by close boarded fencing. Further to the east is a bungalow known as Sunrise. It has a rear west facing garden partly with a boundary with the application site. The bungalow is at a higher level than the application site.

This part of Salvington Hill comprises primarily detached two storey houses in spacious grounds. Firsdow Road and Close comprises primarily bungalows of various sizes with a mixed frontage. The south side of Firsdow Road has properties that are at a lower level

Proposal

The application which has been amended since originally submitted, to remove a central south facing dormer, proposes a chalet style dwelling with attached garage. The dwelling would be orientated north/south and would be set back approx. 5m back from the Firsdow Road frontage.

The proposed dwelling would have central front door with a living room on one side of the hall and a kitchen /diner to the opposite side, both rooms would be through rooms.

At the first floor there would be two bedrooms and bathroom within the roof space lit by pitched roof dormers. The windows to the rear (north) at first floor would have glazing below 1.7m which would be obscure glazed and fixed shut. The dwelling would be set into the sloping site being at pavement level on the eastern side.

The dwelling would have a floor area of approx. 99sqm and a garden area to the north and west totally approx. 164sqm.

The application would involve the removal of 8 leyland cypress trees on the southern boundary and their replacement with mixed border shrubs. A new access and drive is proposed to the eastern side of the plot providing access to the attached garage.

Relevant Planning History

04/01351/FULL- Erection of one detached dwelling and detached garage- REFUSED:

The proposed dwelling and garage would over-develop the site and create a cramped form of development out of character and detrimental to the amenities of the area. The proposed building line to Firsdawn Road is inadequate and the dwelling would appear overbearing in relation to the road, would be detrimental the appearance of the street scene and would detract from the amenities and outlook of the neighbouring dwellings. As such, the proposal conflicts with Policies DEV1 and CH1 of the West Sussex Structural Plan 2001-2016 and Policies BE1 and H18 of the Worthing Local Plan.

AWDM/0385/17- Single storey extensions to north and south elevations, with 1 metre high fence to south boundary atop existing wall

Consultations

West Sussex County Council:

Access

The applicant proposes a 3.7 metre Vehicle Crossover (VCO) at this location.

The LHA have no issues with the proposed width of the access point.

An inspection of data supplied to WSCC by Sussex Police over a period of the past five years reveals that there have been no recorded injury collisions within the vicinity of the site. Therefore, there is no evidence to suggest that the new access is currently operating unsafely. With all the above considered, the LHA would not anticipate that the proposal would generate a highways safety concern at the proposed access

Vehicle Parking and Cycle Parking

Under WSCC Car Parking Guidance (adopted August 2019), the LHA would anticipate that two parking spaces would be sufficient for a development of this size and location.

For the LHA and MfS to consider parking spaces towards the provision of a site they must first meet the minimum requirements of,

- 2.4 x 4.8 metres for a single bay parking space,
- 3 x 6 metres for a single garage space,
- 2 metres (obstruction free i.e. fence) or 2.4 metres x 6 for a single parallel parking space, With the above guidance, the LHA provides the following comments.

The applicant proposes a two car parking provision for the new dwellings.

These are in the arrangement of:

- one unallocated bay parking space,
- one garage parking space,

The dimensions of these spaces are,

- Bay Parking Spaces – 3 x 6.4 metres,

For the LHA to consider bay parking spaces towards the parking provision of the site they must first measure 2.4 x 4.8 metres (as per MfS guidance). The applicant has demonstrated such. As a result, the LHA would consider the parking spaces to provide a provision of one space.

- The garage space to be provided is existing and measures 3 x 5.1 metres,

For the LHA to consider a garage to provide a parking provision of 0.5, the garage must first measure a minimum of 3 x 6 metres (as per MfS guidance) internally.

As such, the garage would be considered to provide a NIL parking provision. From inspection of these findings the LHA provide the following comments.

The above findings show that under WSCC and MfS Guidance the development will provide one parking space towards the provision of the site. This is one below the minimum recommendation made by the PDC.

Experience has shown through other similar applications, that to substantiate that a shortfall of one car parking space could result in an unacceptable highway safety issue would be difficult to uphold. Therefore, the LHA does not consider this a justification for refusal on highways grounds.

The LPA may wish to consider the amenity implications caused by a small increase in on-street car parking demand.

The LHA wishes to advise the applicant that MfS and WSCC guidance also takes into account the utilities a garage provides, specifically the cycle storage aspect. As a result, the LHA views the proposed garage as providing adequate cycle parking by default and as such can be conditioned from the approved site plans as per listed below.

To summarise the LHA raises no concerns over the Parking.

Electric Vehicle (EV) Parking

In the interests of sustainability and as a result of the Government's 'Road to Zero' strategy for at least 50% of new car sales to be ultra-low emission by 2030, the Local Highways Authority (LHA) request that developers provide all new homes with electric vehicle (EV) charging points.

Based upon current EV sales rates within West Sussex, the applicant should provide a minimum of 20 % of all parking spaces with active charging points, with ducting in place for the remaining 80% to provide 'passive' provision for future upgrades.

Due to the small-scale nature of this proposal, the anticipated provision of active EV spaces for this development would be one space, in accordance with the above WSCC guidance.

Conclusion

The LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in 'severe' cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 109), and that there are no transport grounds to resist the proposal.

The LHA advises that if the LPA are mindful to permit the application to attach conditions and informative relating to the provision of access and parking:

Southern Water

Southern Water requires a formal application for a connection to the public foul sewer to be made by the applicant or developer

Adur & Worthing Councils:

Environmental Health Public Health

No objections and requires 2 conditions on hours of construction and a construction management plan.

Environmental Health Private Sector Housing

No objections

Engineer

Flood risk- No objections to the proposals from a flood risk perspective.

Surface water drainage- Following further information from the applicants agent the Councils engineer has requested a condition to submit details of the surface water drainage scheme.

Representations

There have been 17 letters of representations from residents of Firsdow Close, Firsdow Road, Downlands and Salvington Hill, Sunrise, Firsdow Close:-

- Loss of privacy
- Loss of trees and wildlife
- Dangerous access on a bend in the road

Chandons, Tenerife, Firsdow Close:-

- The dwelling is unattractive and out of keeping
- The application does not address the previous reason for refusal
- Dangerous access on a bend on park of a road which is heavily parked

3, 5, 7 Downlands Firsdwn Close:-

- Overdevelopment
- Access is on a dangerous bend
- Additional on street parking
- Out of keeping with existing development
- Loss of privacy of 'Sunrise'

23 Firsdwn Road:-

- Additional noise and disturbance
- Loss of privacy and light
- Overlooking of kitchen and bedrooms, property at a lower level
- Access on a blind bend
- Loss of trees and wildlife
- Impact on amenities

1, 3, 7, 19, 20, 21 Firsdwn Road:-

- Access on a blind bend
- Additional parking and traffic on a congested road
- Overdevelopment of the site
- Out of character
- Previous application refused on the site
- Existing trees in poor condition
- Loss of trees and wildlife
- Overbearing
- The proximity next to a substation may have an impact on health
- Contrary to policy BE1, H18 and DEV1 and CH1

Highdwn 90 Salvington Hill:-

- Previous application refused
- Loss of trees
- Noise and disturbance during building works
- Loss of privacy and overlooking
- Additional access and increased traffic
- Out of keeping with the street scene

78, 82 Salvington Hill:-

- Loss of two mature hardwoods on the front boundary which provide a positive contribution
- Out of character with Firsdwn Road
- Previous applications at 23 Firsdwn restricted in height to bungalow/chalet style
- The dwelling would have insufficient outdoor space
- Cramped overdevelopment of the site
- Previous application refused

Relevant Planning Policies and Guidance

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

Worthing Core Strategy (WBC 2011): Policy 7, 8, 16

National Planning Policy Framework (CLG 2012)

National Planning Practice Guidance
Space Standards SPD
Guide for Residential development SPD 2013
WSCC Guidance on Parking for New Residential Development (2019)
Developer Contributions SPD
CIL

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

Policy context

The policy context comprises the NPPF and the local development plan which consists of the saved policies of the Worthing Local Plan, Worthing Core Strategy Core and accompanying SPDs.

Policy CS8 seeks to deliver a wide choice of high quality homes to address the needs of the community with higher density housing (including homes suitable for family occupation) in and around the town centre with new development outside of the town centre predominantly consisting of family housing.

This policy was informed initially by the SHMA (2008), and the policy approach was subsequently supported by the SHMA Up-date (2012).

National planning policy contained in the NPPF post-dates the adoption of the Core Strategy. Paragraph 14 identifies at the heart of the NPPF a presumption in favour of sustainable development. For decision making this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole. The Council's self-assessment of the Core Strategy's Conformity with the NPPF demonstrated that, for the most part the Core Strategy 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 a 5 year supply of housing in relation to Objectively Assessed Needs (OAN) cannot currently be demonstrated. A housing study has been undertaken to address this requirement and to inform the forthcoming Worthing Local Plan. The subsequent report (Worthing Housing Study, GL Hearn 2015)

identifies an OAN of 636 dwellings per annum over the period 2013-33 consisting of *all* types of housing (that is, dwellings of all sizes and tenures).

Within this context the proposed dwelling would make a contribution to meeting housing need in the Borough.

The key considerations are the effects on the visual amenity of the area, residential amenities for existing and proposed residents, Tress, Highway access and car parking and CIL.

Visual amenity

The National Planning Policy Framework (NPPF) and policies within the Worthing Core Strategy attach great weight to sustainable development and that good design is a key aspect of sustainable development.

The 'Guide for Residential Development' (SPD) indicates that all new development will be expected to demonstrate good quality architectural and landscape design and use of materials. In particular, new development should display a good quality of architectural composition and detailing as well as responding positively to the important aspects of local character, exploiting all reason opportunities for enhancement. Where appropriate, innovative and contemporary design solutions will be encouraged.

Infill development is usually defined as development which fills a restricted gap in the continuity of existing buildings where the site has existing building curtilages, normally residential, adjoining on at least two sides. Infill development requires sensitive design and good landscaping if new buildings are to be fitted successfully into small sites in established residential areas. Insensitive infilling that will negatively impact on areas character or amenity will be resisted.

The application site is situated to the rear a property facing onto Salvington Hill but would have a frontage onto Firsdow Road. Firsdow Road comprises a cul de sac with Firsdow Close and Downlands running off it to the north.

The start of Firsdow Road and Firsdow Close comprise primarily detached bungalows some of which have rooms in the roof space, there is two storey development at the end of the cul de sac which has a very different character.

Firsdow Close rises to the north again primarily detached bungalows leading into Downlands which comprises primarily two storey houses. The primary views around the application site are bungalows of varying sizes and frontages to the road. The south side of Firsdow Road has properties at a much lower level and the north side with Firsdow Close is rising. The road is however open in plan with significant landscaping to the road frontages or within front gardens.

The application site itself is currently enclosed set behind a row of mature Leyland cypress trees which are in the region of 5-6m tall, they are prominent and partly overgrown over the highway on the north side of the entrance into Firsdow Road. Although providing a green edge the species itself does not make a significant

contribution to the street scene, several of the trees closer to Salvington Hill have already been removed. The application proposes removing 8 of the Leyland cypress trees with 5 remaining on the boundary between the boundary with 88 Salvington Hill and the application site. The council's arboriculturalist has not raised any concerns at the loss of these frontage trees and with retention of some trees on the boundary and additional landscaping on the frontage would mean that a green edge would be maintained.

The proposed dwelling is a chalet style with rooms in the roofspace, it is shown set back from the road by approx. 5m and would front and be parallel to the road at this point. It is shown set down into the site.

As indicated above Firsdow Road is primarily bungalows but there is also two storey development with a chalet style property opposite the site and two storey houses on Salvington Hill, Downlands and at the end of Firsdow Road. With the mixture of development in the area and modest design proposed, the design of the dwelling is considered to be acceptable.

It is considered that with its relatively small scale, its siting, its relationship to neighbouring properties and the landscaping being retained on the boundary that the proposed dwelling would not be unduly obtrusive or out of character with the area which is very mixed with properties at differing angles and heights. The proposed plot, although smaller than average in the area, is similar in particular to the property directly on the opposite side of the road.

The proposed lowering of the site means that the proposal would be to a similar height to the neighbouring property 'Sunrise' to the east. The juxtaposition of the houses means there is no clear building line and although the dwelling would protrude forward when viewed from the east it would not be unduly prominent the garage being set behind the electricity substation which is enclosed by close boarded fencing and the design would sit comfortably into the site

It should also be taken into account that the site has been subject to previous refusal for a dwelling on grounds that the development would be an overdevelopment of the site, detrimental to the character and amenity of the area. The refusal ground also indicated that the previous scheme would be overbearing and detract from the amenities and outlook of the neighbouring dwellings.

In relation to this previous scheme the proposed dwelling comprised an 'L shaped dwelling with detached garage. The previous refused proposed dwelling had a long frontage, with a gable end facing towards 'Sunrise' with a set-back of only 2.5m, the refused dwelling was much larger and closer to the road than the current proposal which has a width of 9.65m and a depth of 6.3 and a proposed setback of 5m.

The previous scheme was a much larger scale of development and its size and bulk would have been unduly prominent. The current scheme, although clearly still visible in the street scene, would due to its scale and siting be on balance appropriate for the size of the plot and in character with the area in general.

Residential Amenity

Neighbouring amenity

Saved Policy H18 requires new developments not to have an unneighbourly effect on existing dwellings by reason of unacceptable loss of privacy, light, outlook.

The 'Guide to Residential Development' SPD also provides guidance on siting and relationship of proposed development on neighbouring properties.

The most directly affected properties are 'Sunrise' Firsdow Lane, 23 and 22 Firsdow Road, 90 Salvington Hill and the host dwelling No 88 Salvington Hill. The application has also generated a number of representations from residents in Salvington Hill, Firsdow Road, Firsdow Lane and Downlands as set out above.

In terms of the impact on 'Sunrise', this property is situated to the east, it comprises a bungalow at the corner of Firsdow Road and Firsdow Close. Due to the lay of the land and its corner location, it is set back from the roads with landscaping to the frontage, with a relatively large front garden and short garden to the rear partly bordering the application site. The property has a garden in the region of 8m in depth which faces west. The proposed dwelling would not be directly behind this property, as the proposed dwelling is set further forward. The nearest element to this dwelling would be a garage which would be approx. 8.2m from the rear of the property, the higher element would approx. 11.5m and at an angle. The boundary between the two properties is currently heavily landscaped with mature hedging and some trees. The application would involve the removal and reduction of shrubbery on the boundary which will open up this boundary, although regrettable this could take place at present as this does not involve the loss of any TPO trees.

It is furthermore proposed that the dwelling would be set down into the site and would be no higher than 'Sunrise' which is a bungalow. There are no windows shown on the side elevation facing Sunrise and views from the first floor windows to the proposed rear would be at an angle. It is not considered with the distance proposed between the dwellings and the heights that the proposal would cause significant loss of light or detrimental overlooking of 'Sunrise'

With regards to the impact on 22 and 23 Firsdow Road these are situated on the opposite side of the road, they are however at a lower level with ground floor partly below the road. No 23 has a first floor which faces the application site. Although with the removal of some trees to the frontage it will open up the site and there will be inter-visibility between the properties the distances involved across a road would not be detrimental in terms of loss of privacy.

No 90 Salvington Hill has a large garden to the rear of which part would adjoin the proposed application site. The proposed dwelling would be within approx. 8m of the boundary. This northern boundary is heavily landscaped with mature trees and shrubs some of which are subject to a TPO. The trees will not be impacted by the proposal and would retain a good landscape boundary between the properties. Even without the landscaping there is good separation to the boundary and the

dwelling itself on the frontage is over approx. 23m away. The proposal is also set down into the site and would not cause loss of light or privacy to this property.

No 88 the host dwelling is on the frontage. The property would retain a garden of approx. 16m in depth and the back to side distance between the properties would be approx. 21m. Although there are windows on the ground floor in the proposed side elevation facing the rear of No 88 with a 2m high fencing between the properties and the set down proposed there would not be any unacceptable impact from the proposal.

Future residents

Core Strategy policies 16 Built Environment and Design and Policy 8 Mix of Homes. Paragraph 7.13 refers to the adaptability enabled by Lifetime Homes and to the internal size and layout of homes which are both essential factors to consider if new homes are to be built to a standard which enables people to have a reasonable standard of living accommodation.

All new development including extensions need to comply with the 'Space Standards' SPD. The proposed two bedroom dwelling at approx. 99sqm would comply with the minimum space standards for a two bedroom house and with a garden of 164qm would comply with standard.

The proposed dwelling would orientate north/south. The plot has significant trees to the northern boundary which are subject to TPO and would not be removed by the proposal. All the rooms including the bedrooms would have dual aspect ensuring that there would be good light to all the habitable rooms. Outside the proposed dwelling would have a private garden to the north and west which provides adequate space and amenity for the property with good spaces to the boundaries. The proposed dwelling would provide a potential family house which would contribute to house supply.

Accessibility and parking

Access would via a new access point off Firsdow Road. The new access would be 3.7m wide and involves the removal of trees along the frontage and the lowering of the site. One external parking space is shown and a single garage.

Neighbouring residential properties have raised concerns regarding additional traffic, parking and the access is on an unsafe bend.

WSSC highways indicate that from data there have been no recorded injury collisions within the vicinity of the site. There is no evidence to suggest that the new access point is currently operating unsafely and they do not anticipate that the proposal would generate a highways safety concern at the proposed access.

In terms of Vehicle Parking and Cycle Parking, WSSC Car Parking Guidance (adopted August 2019), the LHA would anticipate that two parking spaces would be sufficient for a development of this size and location. They indicate that the single parking space would meet the standards for the size of space but the garage would

not meet the internal space standards to be included as a parking space. The development will provide one parking space towards the provision of the site. This is one below the minimum recommendation made by the PDC.

They indicate however that to substantiate that a shortfall of one car parking spaces could result in an unacceptable highway safety issue would be difficult to uphold. Therefore, the LHA does not consider this a justification for refusal on highways grounds. They further considered that a garage provides for cycle parking and concluded that they had no concerns over the Parking. They indicate that the parking space should provide for Electric Vehicle (EV) Parking.

In view of the comments set out above from the LHA, that the road is wide enough to allow parking and passing and many properties have parking on site a highway refusal ground would not be appropriate.

Trees and ecology

The application site is heavily treed to the boundaries at the present time. There are a number of TPO trees on the northern boundary including group TPOs. The order was made in 1978 and some trees have been lost in the intervening years although the retained trees still provide a significant presence.

The trees on the northern boundary would be retained and the plans submitted with the application indicate a root protection zone which indicates that the proposed dwelling would be outside this zone. A condition to ensure tree protection during construction would be appropriate

The application does include the removal of 8 Leyland Cypress trees on the frontage, the trees are overgrown and although currently a significant feature of the street are not worthy of order and the councils arboriculturalist has indicated that he has no concerns at their removal. Five of the trees along the frontage will be retained which maintain some softening of this frontage and retain ecology within them.

A condition to ensure retention of trees and shrubs to the north and eastern boundaries would be appropriate as well as a landscaping condition to ensure that suitable replacements are provided on the frontage.

CIL

The site will be subject to a Community Infrastructure Levy of just under £15,000.

Recommendation

APPROVE

Subject to Conditions:-

1. Approved Plans
2. Standard 3 year time limit

3. Agree external materials, finishes and architectural details
4. Agree and implement the details of hard and soft landscaping, trees to be retained and measures for protection of retained trees and shrubs
5. PD withdrawn for extensions and incidental buildings
6. PD withdrawn no additional windows
7. Agree and implement the details of boundary treatment
8. Agree the Details of ground level removal and slab levels
9. Implement refuse and waste facilities in accordance with approved plans
10. Provide the vehicular access in accordance with the approved site plan.
11. Provide parking including EV point prior to occupation
12. Provide cycle parking in accordance with the approved plan prior to occupation
13. Agree and implement surface water drainage scheme
14. Hours of work
15. Construction management plan to include, frequency and type of construction vehicles, routing of vehicles, parking, loading and unloading, security hoarding, wheel washing, no burning, public engagement and dust control.

Informatives

1. Pro-active amendment
2. New address
3. Vehicle crossover
4. Southern water
5. Infiltration rates

24th June 2020

Application Number: AWDM/0286/20

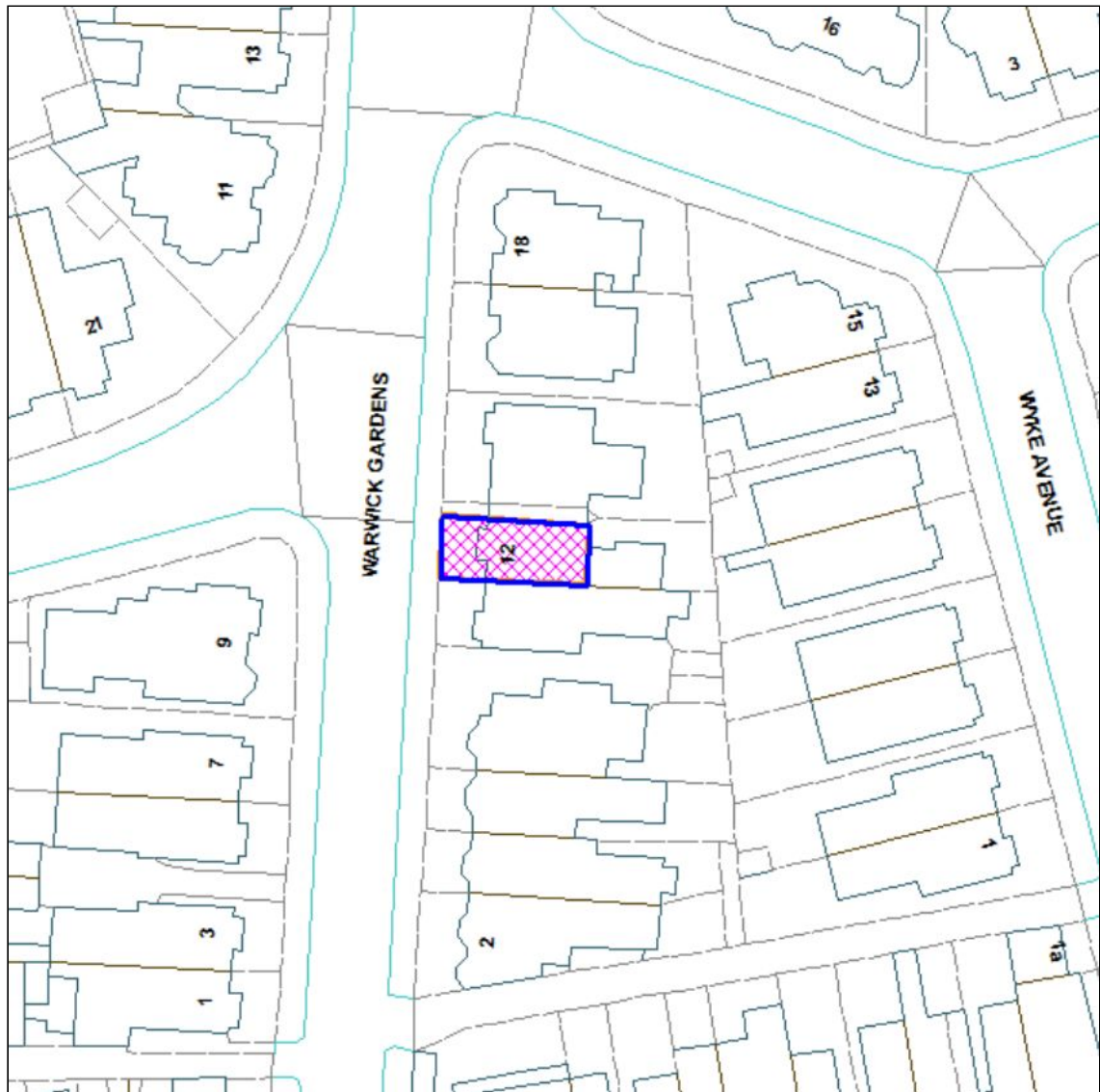
Recommendation – REFUSE

Site: Flat 1 12 Warwick Gardens, Worthing

Proposal: Retention of a timber bike shed in west front garden (Retrospective Application) (Re-submission of AWDM/1537/19).

Applicant: Danya Gromski
Case Officer: Jiyong Suh

Ward: Central



Not to Scale

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This application is before the committee because the application has been called in by Cllr Jim Deen.

Proposal

The application seeks retrospective consent for the erection of a bike store to the front of the property. The store is made of painted, grey timber, is approximately 1.64m high, 1.8m wide and 0.8m deep. Retrospective consent was previously refused under application AWDM/1537/19.

Site and Surroundings

The site is located on the eastern side of Warwick Gardens within the Warwick Road Article 4 Direction and Warwick Gardens Conservation Area. The conservation area is small and predominantly made up of Edwardian villas and terraces. The application site is a two storey, mid-terrace property. The front garden is bounded by a brick and flint wall, a predominant characteristic of this conservation area.

The property is not listed however and is included in the buildings of local interest list.

Relevant Planning History:

AWDM/1537/19 - Retention of a timber bike shed in west front garden (Retrospective Application)

Consultations:

Due to the restrictions in place at the moment the Conservation Area Advisory committee have been unable to meet and provide comments on this application, however as there is no difference in this application to that previously refused, their earlier comments are reproduced below:

The proposed cycle store does not preserve or enhance the conservation area and partially screens an attractive building frontage.

Representations:

Relevant Planning Policies

Worthing Core Strategy (WBC 2011): Policies 8, 16
National Planning Policy Framework (CLG 2018)
Planning Practice Guidance (CLG 2014)

The Core Strategy, including the saved policies of the Worthing Local Plan, comprises the Development Plan here but the Government has accorded the National Planning Policy Framework (NPPF) considerable status as a material consideration which can outweigh the Development Plan's provisions where there are no relevant development plan policies or the policies which are most important for determining the application are out of date. In such circumstances paragraph 11 of the revised NPPF states that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular

importance provides a clear reason for refusing the development; or any adverse impacts of doing so would demonstrably outweighs the benefits, when assessed against the policies of the NPPF taken as a whole.

Relevant Legislation

The Committee should consider the planning application in accordance with:

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

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

Planning Assessment

There is no significant impact on residential amenity resulting from the bike store. The principle issue therefore relates to the impact of the bike store on the character and appearance of the conservation area.

The property is subdivided into two flats and the owner has advised that the tenants do not have access to the rear garden.

Visual Amenity, Historic Character and Appearance

The Warwick Gardens Conservation Area appraisal identifies among other things brick and flint boundary walls and a rigid building line as important characteristics of the area. The boundary wall creates a small forecourt which continues across the terrace. Recycling and refuse bins are often stored in the front garden which are just higher than the walls so are partially visible within the street. However, they are not development and therefore the planning authority has no control over these.

The road is consistent in its layout with close terraces and formal front gardens. The conservation area appraisal notes the importance of soft landscaping to soften the area's appearance. The importance of the frontages is further supported by the Article 4 Direction which restricts permitted development rights for the creation of hard surface to the front of the building as well as the erection or demolition of means of enclosure.

The bike shed sits approximately 0.5m above the wall, directly in front of the bay windows of the ground floor flat. Views from the north are partially obscured by trees and hedges in the neighbouring garden. However it is clearly visible from the front (west) and from the south. Particularly from the south, the bike shed is a prominent forward feature of the building line.

When considering development within a conservation area it must preserve or enhance the conservation area. This fails to enhance the conservation area and detracts from important characteristics identified in the conservation area appraisal

and would amount to less than substantial harm to the heritage asset. Where development will lead to less than substantial harm to the significance of a designated heritage asset, the National Planning Policy Framework (paragraph 196) requires that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing the optimum viable use of that asset.

While there is a presumption in favour of sustainable transport the property is in a central location within walking distance of buses and trains, and a bike store for the provision of two bikes does not provide enough public benefit to outweigh the harm to the conservation area. Even if such provision was felt to outweigh the harm to the Conservation Area, it is considered a structure of greater visual quality could be provided than that currently in situ.

Conclusion

It is considered that the structure adversely affects the character of the Warwick Gardens Conservation Area and if granted permission would set a precedent for further developments that would collectively undermine the visual quality of the surrounding area.

Recommendation

REFUSE for the following reasons:-

The bike store due to its height, design and position is a conspicuous and unsympathetic feature constituting an intrusive addition to the street scene that does not enhance or preserve the appearance of the area and would be harmful to the original character of the Warwick Gardens Conservation Area contrary to Saved Policy H16 of the Worthing Local Plan, Core Strategy Policy 16 and guidance contained within the NPPF.

24th June 2020

**Local Government Act 1972
Background Papers:**

As referred to in individual application reports

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Schedule of other matters

1.0 Council Priority

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

2.0 Specific Action Plans

- 2.1 As referred to in individual application reports.

3.0 Sustainability Issues

- 3.1 As referred to in individual application reports.

4.0 Equality Issues

- 4.1 As referred to in individual application reports.

5.0 Community Safety Issues (Section 17)

- 5.1 As referred to in individual application reports.

6.0 Human Rights Issues

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

7.0 Reputation

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

8.0 Consultations

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

9.0 Risk Assessment

9.1 As referred to in individual application reports.

10.0 Health & Safety Issues

10.1 As referred to in individual application reports.

11.0 Procurement Strategy

11.1 Matter considered and no issues identified.

12.0 Partnership Working

12.1 Matter considered and no issues identified.

13.0 Legal

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

14.0 Financial implications

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

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Interim Position Statement on Climate/Sustainability

Report by the Director of the Economy

1.0 Summary

- 1.1 Climate change has become an increasingly urgent issue. A Planning and Climate Change Interim Checklist (appended) has been prepared for Worthing which sets interim guidance in relation to climate change to bridge the gap between the current Core Strategy and emerging Worthing Local Plan. It is recommended that this guidance is approved for use by Worthing Council as a material consideration to inform decision making on relevant Planning applications. A separate Checklist has been prepared for Adur District Council.

2.0 Background

- 2.1 Climate change has grown in importance and urgency at both international and national levels. Adur and Worthing Councils have recognised this and responded by declaring a Climate Emergency in July 2019 and committing to work towards becoming carbon neutral by 2030. The Councils have also signed the UK100 Cities Pledge to achieve 100% clean energy by 2050, and published its Carbon Reduction Plan (2019).
- 2.2 The way in which we shape new and existing developments in Worthing can make a significant contribution to climate change mitigation and adaptation through carbon reduction and sustainable design. The National Planning Policy Framework (2019) makes it clear that mitigating and adapting to climate change, including moving to a low carbon economy is a core planning environmental objective. The planning system has a key role in the transition to a low-carbon society by shaping new and existing developments in ways

that reduce carbon dioxide emissions and building community resilience to problems such as extreme heat or flood risk.

- 2.3 The Worthing Core Strategy (2011) was written in the context of the South East Plan which provided policies on sustainable design, and national targets for energy efficiency and renewable energy. However national planning reforms resulted in the revocation of the South East Plan in 2013, and shortly after the withdrawal of the Code for Sustainable Homes and cancellation of the 2016 target for zero carbon homes. Due to these changes a number of the requirements and targets referred to in the Core Strategy no longer apply.

3.0 Proposals

- 3.1 Adur & Worthing Councils have prepared a Planning and Climate Change Position Statement which provides guidance on the relevant planning policies (within the context of climate change) that must be taken into account when formulating development proposals. This Interim Checklist builds on that Statement to provide guidance for developments, reflecting the higher standards in the emerging Worthing Local Plan. A separate Checklist has been prepared for Adur District Council that is similar in structure but refers to the requirements in the recently adopted Adur Local Plan (2017).
- 3.2 The Worthing Planning and Climate Change Interim Checklist provides a robust framework to climate change mitigation and adaptation including climate resilience and biodiversity net gain, to improve the sustainability of local developments. It was drafted with input from Development Management to ensure it provides a clear checklist that can be used by applicants in preparing planning applications and Officers in preparing Reports.
- 3.3 It is important to note that this Interim Checklist is not setting new policy requirements as this will be done through the emerging Worthing Local Plan.
- 3.4 However, the purpose of the Worthing Planning and Climate Change Interim Checklist is to clarify the policy direction, educate applicants and provide a clear checklist of sustainability measures. The Interim Checklist clarifies the requirements that must be met by relevant applications and also provides guidance and encouragement to go beyond this. The sustainability measures detailed within the Interim Checklist will be considered by the Council when determining relevant planning applications until the new Worthing Local Plan is adopted.

4.0 Legal

- 4.1 The Climate Change Act 2008 is the basis for the UK's approach to tackling and responding to climate change. It requires that emissions of carbon dioxide and other greenhouse gases are reduced and that climate change risks are prepared for.
- 4.2 There is a legal duty under section 19(1A) of the Planning and Compulsory Purchase Act 2004 to ensure that climate change mitigation and adaptation are core objectives integrated across all local planning policy. The National Planning Policy Framework states the planning system should support the transition to a low carbon future in a changing climate (paragraph 148). Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts (paragraph 149).

5.0 Financial implications

- 5.1 There are no direct financial implications arising from this report.

6.0 Recommendation

- 6.1 It is recommended that Members of the Planning Committee forward any comments to the Executive Member for Regeneration before he is asked to approve the Worthing Planning and Climate Change Interim Checklist (June 2020) to be used as a material consideration when determining any relevant planning applications.

Local Government Act 1972

Background Papers:

[Planning and Climate Change Position Statement](#)

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Schedule of Other Matters

1.0 Council Priority

- 1.1 Platform 3: Tackling Climate Change and Supporting our Natural Environment.

2.0 Specific Action Plans

- 2.1 (A) 3.10.1 and 3.10.3 The Worthing Planning and Climate Change Interim Checklist provides a robust approach to carbon reduction, sustainability and climate resilience in advance of the emerging Worthing Local Plan by clarifying policy and educating applicants to improve the sustainability standards of development through the planning process.

3.0 Sustainability Issues

- 3.1 The emerging Worthing Local Plan is being informed by a Sustainability Appraisal.

4.0 Equality Issues

- 4.1 Matter considered and no issues identified.

5.0 Community Safety Issues (Section 17)

- 5.1 Matter considered and no issues identified.

6.0 Human Rights Issues

- 6.1 Matter considered and no issues identified.

7.0 Reputation

- 7.1 It reflects the Council's commitment to addressing climate change and reducing carbon.

8.0 Consultations

- 8.1 Consultation has been undertaken internally with Development Management.

9.0 Risk Assessment

- 9.1 Without this Interim Checklist the sustainability standards of new development are unlikely to improve in advance of the emerging Worthing Local Plan. Current policy requirements for developments relating to climate change and sustainability are set out in the Core Strategy (2011), many of these are now out of date, or relate to cancelled national targets.

10.0 Health & Safety Issues

- 10.1 Matter considered and no issues identified.

11.0 Procurement Strategy

- 11.1 Matter considered and no issues identified.

12.0 Partnership Working

- 12.1 Matter considered and no issues identified.

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Worthing Planning and Climate Change Interim Checklist

June 2020

Climate change has become an increasingly urgent issue and many of the targets in the Worthing Core Strategy (2011) are no longer applicable due to changes in national policy. This Planning and Climate Change Interim Checklist therefore sets out the policy background and interim guidance to bridge the gap between the current Core Strategy and emerging Worthing Local Plan. These will be considered by the Council when determining planning applications and developers are therefore encouraged to meet them as far as possible.

The UN Special Report (2018) by the Intergovernmental Panel on Climate Change, presents clear and robust evidence that in order to have any chance of reducing the risks of dangerous and irreversible climate change in the future, the world needs to limit global temperature increases to no more than 2 degrees Celsius above pre industrial levels. On a national level, the UK has committed to becoming net carbon zero by 2050.

Adur & Worthing Councils declared a Climate Emergency in July 2019 and has committed to work towards becoming carbon neutral by 2030. The Councils have also signed the UK100 Cities Pledge to achieve 100% clean energy by 2050, and have published its Carbon Reduction Plan (2019) which sets out a pathway for the Councils to achieve carbon neutrality by 2030 for the Council's own direct emissions. Adur & Worthing Councils have also prepared a [Planning and Climate Change Position Statement](#) which provides guidance on the relevant planning policies (within the context of climate change) that must be taken into account when formulating development proposals. This Planning and Climate Change Interim Checklist builds on that Statement to provide guidance for developments, reflecting the higher standards in the emerging Worthing Local Plan.

The impacts of climate change are being acutely felt at all scales, globally, nationally and locally with the built and natural environment being vulnerable to the effects of climate change. Such effects include notably higher temperatures especially during the summer months, increased rainfall and flooding during the winter months and an increase in extreme coastal water levels driven mainly by sea level rise.

The planning system is one of many tools that can be used to help minimise vulnerability and provide resilience to the effects of climate change. The National Planning Policy Framework (2019) makes it clear that mitigating and adapting to climate change, including moving to a low carbon economy is a core planning environmental objective. The way in which we shape new and existing developments in Worthing can make a significant

contribution to climate change mitigation and adaptation through carbon reduction and sustainable design. In addition natural climate solutions can help address climate change by reducing greenhouse gas emissions, capturing and storing additional carbon dioxide from the atmosphere and improving resilience of ecosystems.

*Climate change **mitigation** seeks to limit the extent of climate change, primarily by reducing global greenhouse gas emissions.*

*Climate change **adaptation** aims to reduce vulnerability to the impacts of climate change that are already happening and those which are likely to occur in future at a local scale.*

The Worthing Core Strategy was adopted in 2011. At this time there was a national expectation that all new homes built after 2016 and new non-domestic buildings built after 2019 would be zero carbon. The South East Plan also formed part of the ‘development plan’ for the area and this contained specific policies on sustainable design, and targets for energy efficiency and renewable energy. However national planning reforms resulted in the revocation of the South East Plan in 2013, and in 2015 the Government announced it did not intend to proceed with the zero carbon Allowable Solutions carbon offsetting scheme, or the proposed 2016 increase in on-site energy efficiency standards. Due to these changes a number of the requirements and targets referred to in the Core Strategy no longer apply.

In 2019 the government launched a consultation on options to increase the energy efficiency requirement (through Building Regulations) of new homes in 2020, and to restrict Local Authorities from setting their own standards. The outcome of this consultation will therefore be critical to what can be achieved in terms of energy efficiency requirements through the Worthing Local Plan. Currently National Planning Guidance states that Local Authorities cannot require in excess of the equivalent of level 4 of the Code for Sustainable Homes which is approximately 19% above current (2013) requirements in national building regulations. The Government in 2018 also consulted on planning requirements for biodiversity net gain and the Environment Bill 2019-21 includes this as a mandatory requirement.

It is important that climate change is fully considered at an early stage of development to ensure that mitigation, design measures and landscaping can be fully integrated into schemes. The following table sets out interim measures in relation to climate change to bridge the gap between the current Core Strategy and emerging Worthing Local Plan. These will be considered by the Council when determining planning applications and developers are therefore encouraged to meet them as far as possible.

Development (excluding householder) should be designed in a way that meet the following criteria as far as is feasible and viable:

Climate Change Mitigation

- Major development should follow the energy hierarchy to contribute to achieving zero carbon emissions, which in order of importance seeks to 1) minimise energy demand, 2) maximise energy efficiency, 3) utilise renewable energy, 4) utilise low carbon energy, 5) and only then use other energy sources. This should be demonstrated in the submitted sustainability statement.
- New build housing will achieve as a minimum a 19% CO₂ reduction upon the requirements within Building Regulations Approved Document Part L. Major developments should submit details to demonstrate how the development has sought to maximise reductions in carbon emissions in line with the energy hierarchy. Developers will be expected to provide evidence of the level of carbon reduction achieved in the dwellings through submission of SAP calculation reports at the design and built stages.
- All new housing (including conversions and where retrofitting existing buildings) should achieve a 'C' rating Energy Performance Certificate.
- New build residential developments are encouraged to use the Home Quality Mark and Passivhaus design standards.
- Major development incorporating non residential floorspace is required to achieve at least BREEAM 'Very Good' standard.
- Major developments are expected to connect to an existing low carbon heat or energy network, or provide capacity to connect to any proposed future networks. Where these are not available, consideration should be given to the feasibility of creating a new network. This should be set out within the submitted sustainability statement.
- Major development should follow the waste hierarchy to minimise, reuse, and recycle waste during the construction phase and incorporate facilities that enable and encourage high rates of recycling and re-use of waste and materials. This should be demonstrated in the submitted sustainability statement.
- Major developments should promote walking, cycling and public transport to reduce reliance on the private car and enable car free lifestyles by providing attractive, safe and well connected walkable and cyclable neighbourhoods. All

developments should provide cycle parking/storage. Town centre sites are encouraged to consider car clubs.

Climate Change Adaptation

Increased flood risk

- Where a Flood Risk Assessment is required it must demonstrate that development will be safe for its lifetime taking into account the vulnerability of users, considering current and future flooding from all sources, and that residual risk can be safely managed, taking account of the impacts of climate change.
- Surface water drainage schemes are required to use Sustainable Drainage Systems (SuDS) (unless demonstrated to be inappropriate) and be designed to provide adequate capacity with an allowance for climate change.
- Major developments at risk of flooding should consider opportunities to reduce flooding that deliver multi-functional benefits for people and wildlife, such as through natural flood management and naturalised SuDS.

Restricted water supply

- As a minimum, new housing should incorporate measures to limit water use to 110 litres/person/day (lpd), and where possible to 100 litres/person/day.

Temperature extremes

- All new development should incorporate design measures to maximise opportunities for natural ventilation and summer cooling to avoid contributing to the urban heat island effect and reduce vulnerability to overheating, unless it conflicts with the need for noise mitigation.
- In all new developments there should be no net loss of trees and any trees removed should be replaced on a 1:1 basis to maintain current levels of canopy cover, and planting increased if possible.
- Major developments should integrate elements of multifunctional green infrastructure onsite to provide urban cooling and access to shady outdoor space.

Fragmented habitats and species

- All development should protect, create and enhance habitats and where necessary follow the mitigation hierarchy.
- Major developments should demonstrate at the planning application stage how the design of new development enhances existing wildlife habitats and provides new



areas and opportunities for wildlife to achieve a net gain for biodiversity onsite.

- Major developments will be required to integrate elements of multi-functional Green Infrastructure (GI) onsite. Where possible this should create, protect and enhance wider green infrastructure assets and/or networks.
- Major developments are encouraged to achieve Building with Nature Full Award (Excellent).

NOTE - Major development is defined in the Town & Country Planning (Development Management Procedure) (England) Order 2010 as 10 or more dwellinghouses, or sites of 0.5 hectares or more where it is not known if the development will have 10 or more dwellinghouses; the provision of a building or buildings where the floorspace to be created is 1,000 sqm floorspace or more, or development on sites of 1 hectare or more.

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WORTHING BOROUGH
COUNCIL

Ward: All

Section 106 Monitoring Fee

Report by the Director for the Economy

1.0 Summary

- 1.1 The Community Infrastructure Levy (CIL) Regulations 2010, as amended from 1st September 2019, allow for an authority which collects contributions through the use of S106 agreements, to lawfully charge a fee to cover the cost of monitoring and reporting on delivery of that section 106 obligation. The monitoring fee must meet the test criteria set out in the CIL Regulations (see Legal section below) and must not exceed the authority's estimate of the cost of monitoring the development over the lifetime of the planning obligation.
- 1.2 Worthing Borough Council enters into S106 agreements to mitigate the impact of development on infrastructure such as affordable housing. In addition, for larger schemes in the Borough S106 agreement can be used to mitigate flood and water management, open space, and transport impacts. This may take the form of a financial contribution towards infrastructure improvements or as non-financial obligations to be undertaken by the site developer or their subcontractors. All agreements require monitoring to ensure compliance with site specific mitigation requirements and to ensure that financial obligations are fully met. The s106 sets out when a payment or infrastructure improvement has to be made and is often called the trigger point/date.
- 1.3 The recommendation is that the S106 monitoring fee for Worthing Borough Council is set at £300 per trigger, with the fee for each signed S106 agreement payable upon commencement of the development. There will be no cap on the maximum fee charged for a S016 agreement, however there will be some flexibility for major applications with multiple obligations, which could allow a single monitoring fee to be negotiated and agreed. The same

fee will apply for any Deed of Variation or Supplemental Agreement, which introduces new trigger points or dates.

- 1.4 The monitoring fee will be regularly reviewed and updated as required. The amount of money collected each year, through the charge, will be reported in the Infrastructure Funding Statement (IFS) and the Annual Monitoring Report (AMR), both published on the website.

2.0 Background

- 2.1 Section 106 (S106) agreements (planning obligations) are agreements made between local authorities and developers, which are attached to a planning permission to make acceptable development which would otherwise be unacceptable in planning terms. A developer can also submit a Unilateral Undertaking to make a payment or infrastructure improvement (a one sided agreement). The planning obligations contained within S106 agreements represent an important funding stream for the provision of infrastructure services needed to deliver sustainable growth.

- 2.2 In recent years there has been a rise in the number of Local Planning Authorities (LPAs) and County Councils who have introduced a fee for monitoring compliance with planning obligations. This charge has been levied to cover the administrative burden on local authorities to ensure effective monitoring. For example, from 1 April 2020 West Sussex County Council (WSCC) has introduced a S106 monitoring fee to mitigate against the administrative work involved in monitoring the legal obligations contained in Section 106 Agreements.

- 2.3 The updated CIL Regulation from 1st September 2019 states that:

“Authorities can charge a monitoring fee through section 106 planning obligations, to cover the cost of monitoring and reporting on delivery of the section 106 obligation. Monitoring fees can be used to monitor and report on any type of planning obligation, for the lifetime of that obligation. Monitoring fees should not be sought retrospectively for historic agreements.” CIL Guidance (NPPG) Para 180 Ref ID: 25-180-20190901.

- 2.4 Many LPA's, including Worthing Borough Council, are now CIL charging authorities which reduces the use of S106 agreements to mitigate the impact of development. However, the introduction of a CIL charging regime does not eradicate the need for planning obligations. They will continue to be required under certain conditions:

- ❑ Where CIL is introduced there will remain a need for such obligations on strategic and other sites where on site infrastructure requirements cannot be secured and off site improvements are required (open space, play space etc).
- ❑ Obligations will continue to provide infrastructure items which are not being funded by CIL such as on-site affordable housing.

3.0 Proposals

3.1 It is recommended that the S106 monitoring for Worthing Borough Council is set at £300 per trigger. The monitoring fee for each signed S106 agreement will be payable upon commencement of the development. There will be no cap on the maximum fee charged for a S016 agreement, however, there will be some flexibility for major applications with multiple obligations, which could allow a single monitoring fee to be negotiated and agreed. For example, to assist with the monitoring of West Durrington the Council secured funding for an Independent Clerk of Works to oversee the project. The same fee will apply for any Deed of Variation or Supplemental Agreement, which introduces new trigger points. The monitoring fee will be reviewed on a regular basis and updated as required.

3.2 National Planning Practice Guidance states that, ‘fees could be a fixed percentage of the total value of the section 106 agreement or individual obligation; or could be a fixed monetary amount per agreement obligation (for example, for in-kind contributions).’ In all cases monitoring must reflect the actual cost of monitoring. At Adur & Worthing Councils, monitoring is undertaken by Officers within the Planning Policy team and involves:

- ❑ Recording the obligations of an S106 agreement onto the database
- ❑ Local planning authorities are required to keep a copy of any planning obligation together with details of any modification or discharge of the planning obligation and make these publicly available on their planning register
- ❑ Highlighting the triggers for the obligations contained within the S106 agreement
- ❑ Monitoring the progress of the development in order to identify when obligations are due
- ❑ Calculating the sums due after and interest and indexation are applied
- ❑ Where necessary, conducting site visits to ensure non-financial contributions have been complied with
- ❑ Updating the database when payments are made and works have been completed in compliance with the S106 agreement

- Production of an Infrastructure Funding Statement (IFS), published at least annually, for reporting on the agreements signed, amount of financial contributions received and the expenditure of contributions on infrastructure projects
- 3.3 More than one member of staff is involved in this work but it equates to approximately 0.5 full time employee (FTE) in order to manage efficiently. An average salary base for the team members undertaking these tasks is currently estimated at £20,000 per annum, inclusive of pension, employer NI contributions and other packaged benefits. This therefore, is the basis for the calculation of the fee, reflecting the actual cost of monitoring over the course of the S106 agreement, that WBC will charge for S106 monitoring.
- 3.4 In order for the fee to be related in scale and kind to the development the fee should be based on the amount of monitoring for the specific S106 agreement in question. Contributions are met by the introduction of specific triggers, such as commencement of development, or occupation of a number of units. Consequently, the overhead for monitoring a S106 agreement is based on the number of triggers it contains, and the fee should reflect this. As a result, and in line with many other local authorities, WBC will take a fee on a per-trigger basis, for each S106 agreement that it monitors.
- 3.5 What do we mean by a ‘trigger’? Typically, legal agreements will have a ‘trigger point’ when payments are required to be made or when affordable housing or other infrastructure should be delivered. In many cases, a trigger point will be related to the number of new houses that have been built and/or occupied.
- 3.6 Adur & Worthing Councils has entered into an average of 4.6 agreements, per year, over a five year period of 2016-2020. There is an average of 2.8 triggers across all live S106 agreements, causing around 65 triggers to be monitored on an annual basis.

£20,000 salary/65 triggers = £300 per trigger

There is no distinction between financial triggers and non-financial triggers, meaning they carry the same monitoring overheads as a result of the length of time they require monitoring.

- 3.7 Example: An S106 agreement has 5 financial obligations and 3 non-financial obligations. The agreement contains 6 different trigger points, e.g. Upon

commencement of development, prior to occupation of the first dwelling, owners profit reassessment at 50% and 100% completion etc:

6 trigger points x £300 per trigger = £1,800 monitoring fee.

- 3.8 Your Officers are currently looking to purchase a web-based monitoring solution for CIL and s106 which will make the process easier to monitor in the future and allow for greater transparency for the public to view what funding is available and how it is to be spent to improve infrastructure across the Borough.
- 3.9 The Joint Strategic Committee approved the Infrastructure Investment Plan (IIP) on the 9th June and this sets out the Council's priorities for spending CIL over the next 3 years. This document will be available for the public to view on the Council's website.

4.0 Legal

- 4.1 The CIL Regulations 2010 (as amended on 1st September 2019) include regulation 122 which relates to planning obligations:
- 122.—(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.*
- (2) Subject to paragraph (2A), A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—*
- (a) necessary to make the development acceptable in planning terms;*
- (b) directly related to the development; and*
- (c) fairly and reasonably related in scale and kind to the development.*
- (2A) Paragraph (2) does not apply in relation to a planning obligation which requires a sum to be paid to a local planning authority in respect of the cost of monitoring (including reporting under these Regulations) in relation to the delivery of planning obligations in the authority's area, provided—*
- (a) the sum to be paid fairly and reasonably related in scale and kind to the development; and*
- (b) the sum to be paid to the authority does not exceed the authority's estimate of its cost of monitoring the development over the lifetime of the planning obligations which relate to that development.*
- 4.2 Planning obligations (S106 agreements) come under Section 106 of the Town and Country Planning Act 1990 (as amended)
- 4.3 As soon as practicable after approval of implementation of a S106 monitoring fee, a document explaining the monitoring fee and how it is calculated will be placed on the Council's website.

5.0 Financial implications

5.1 By introducing the monitoring fee the Council will help to cover the cost of monitoring and reporting on delivery of that section 106 obligation

6.0 Recommendation

6.1 **To approve the introduction of a S106 monitoring fee for Worthing Borough Council is set at £300 per trigger, with the fee for each signed S106 agreement payable upon commencement of the development.**

Local Government Act 1972

Background Papers:

- CIL Regulations 2010 (as amended)
- Planning Practice Guidance - 'Planning Obligations'

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Schedule of Other Matters

1.0 Council Priority

- 1.1 'Platforms for our Places', in particular Platform 4: Good Services and New Solutions. We will be moving towards using a cloud-based piece of software (Exacom) for the monitoring of all S106 agreements.

2.0 Specific Action Plans

- 2.1 The government, through the introduction of the Infrastructure Funding Statement (IFS), seeks to increase the transparency of the amount of Section 106 contributions collected and spent by each Local Planning Authority. By introducing the Section 106 monitoring fee, the Council will help to cover the costs incurred with monitoring and reporting on the agreements that are signed.

3.0 Sustainability Issues

- 3.1 Matter considered and no issues identified.

4.0 Equality Issues

- 4.1 Issues relating to race, disability, gender and equality have been considered and it is not felt that the approach outlined in this report will have an adverse impact on any social group.

5.0 Community Safety Issues (Section 17)

- 5.1 Matter considered and no issues identified.

6.0 Human Rights Issues

- 6.1 Matter considered and no issues identified.

7.0 Reputation

- 7.1 The approach outlined within this report will ensure that local policy will continue to be in line with national guidance and in line with West Sussex County Council, who are often signatories on S106 agreements. This, in turn, will help to ensure that the Council's reputation is not damaged.

8.0 Consultations

8.1 The issue of the introduction of a Section 106 monitoring fee has been discussed with colleagues in Planning Policy and Development Management, as well as with the Head of Planning & Development. Colleagues at WSCC have also been informed of our intentions to introduce a monitoring fee.

9.0 Risk Assessment

9.1 Matter considered and no issues identified.

10.0 Health & Safety Issues

10.1 Matter considered and no issues identified.

11.0 Procurement Strategy

11.1 Matter considered and no issues identified.

12.0 Partnership Working

12.1 Colleagues at WSCC have been informed of our intentions to introduce a monitoring fee and a draft proposal has been shared.