



WORTHING BOROUGH
C O U N C I L

8 December 2020

Worthing Planning Committee	
Date:	16 December 2020
Time:	6.30 pm
Venue:	Remote meeting

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 15 December 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

So as to provide the best opportunity for the Committee to provide the public with the fullest answer, questions from the public should be submitted by midday on Monday 14 December 2020.

Where meetings are held remotely, no question will be permitted from the public unless such notice has been given.

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 25 November 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 - 32)

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

Part B - Not for publication - Exempt Information Reports

None

Recording of this meeting

Please note that this meeting is being live streamed and a recording of the meeting will be available to view on the Council's website. This meeting will be available to view on our website for one year and will be deleted after that period. 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 C O U N C I L

Planning Committee
16 December 2020

Agenda Item 6

Ward: ALL

Key Decision: ~~Yes~~ / No

Report by the Director for Economy

Planning Applications

1

Application Number: NOTICE/0017/20

Recommendation – REFUSE

Site: St Andrews Gardens, Church Road, Worthing

Proposal: Application for Prior Approval for construction of one additional storey of 9no. new dwellings immediately above the existing detached block of flats (Resubmission of NOTICE/0012/20)

2

Application Number: AWDM/1393/20

Recommendation – APPROVE

Site: Open Space Adjacent Esplanade New Parade Worthing

Proposal: Installation of a cycling public art stone monolith 0.2m x 2.88m x 1.98m high on a concrete foundation

Application Number: NOTICE/0017/20

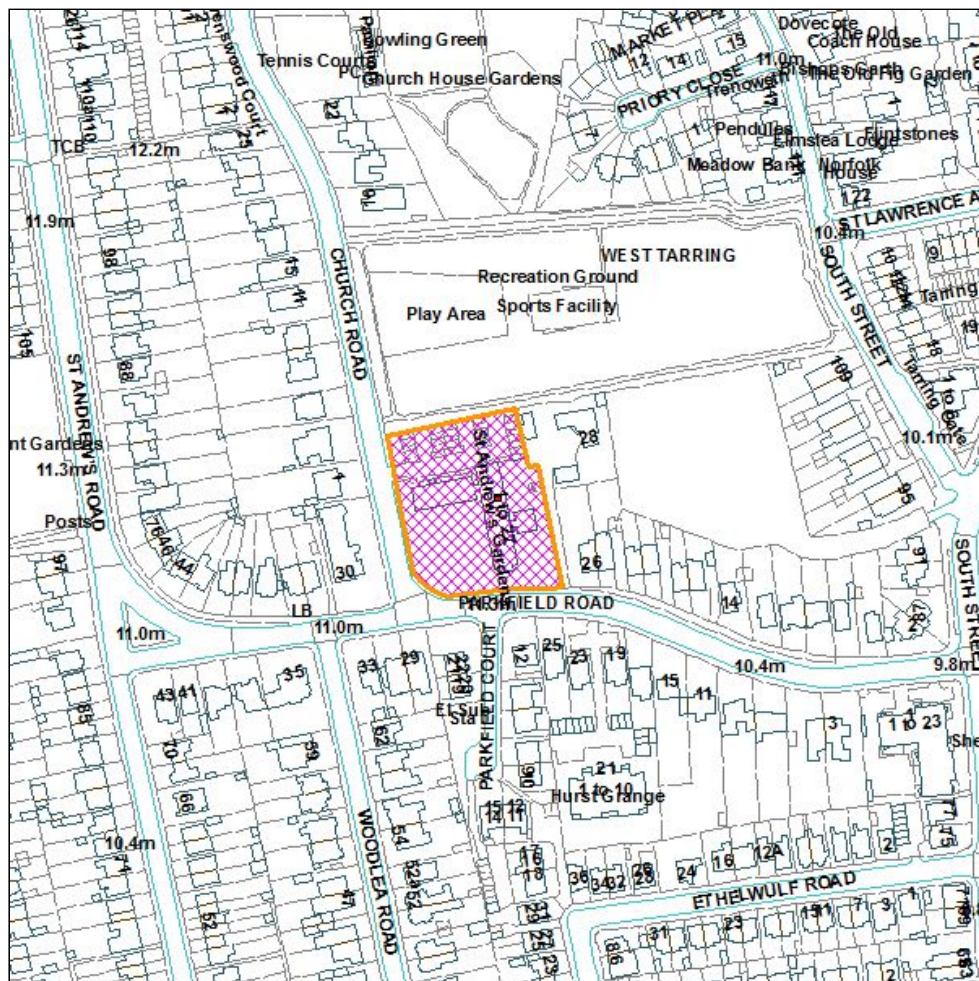
Recommendation – REFUSE

Site: St Andrews Gardens, Church Road, Worthing

Proposal: Application for Prior Approval for construction of one additional storey of 9no. new dwellings immediately above the existing detached block of flats (Resubmission of NOTICE/0012/20)

Applicant: Mr P Rayden
Case: Gary Peck
Officer:

Ward: Tarring



Not to Scale

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Proposal, Site and Surroundings

This is the second application to be made on this site following the recent change to the second schedule of the General Permitted Development Order, introduced by the Town and Country Planning (Permitted Development and Miscellaneous

Amendments) (England) (Coronavirus) Regulations 2020, extending permitted development rights.

As reported to members in consideration of the previous application, development permitted by Class A of Part 20 consists of works for the construction of up to two additional storeys on existing dwelling houses and on purpose built detached blocks of flats, together with engineering operations reasonably necessary to construct the additional storeys and new flats, replacement and new roof plant that is reasonably necessary to service the new flats, works for the safe access/egress to the new and existing flats, and any works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new flats, subject to the limitations of Part 20 and conditions as set out below in this assessment.

The previous application was refused at the September committee meeting for the following reason:

The proposed development would, by reason of its unacceptable scale, massing, form and design, represent an overdevelopment of the site, relating poorly to the scale and appearance of the recipient building, and would therefore appear as an unsympathetic and incongruous addition to the building. As such, it is concluded that the proposed development would be contrary to policy 16 of the Worthing Core Strategy and the relevant paragraphs of the NPPF.

The September committee report is appended to the end of this report.

The supporting information submitted with the application states:

The proposed window arrangement has been amended since the previous Prior Approval application. The sill heights of the windows have been lowered to reduce the amount of brickwork and reduce the visual impact of the larger fourth storey, in response to the Council's previous comments that the extension appears "*stretched with a greater expanse of brickwork between the fenestration on the third and fourth floors*". There is no longer a noticeably greater expanse of brickwork between the fenestration on the third and fourth floors.

The application site is located on the corner of Church Road and Parkfield Road and contains a three storey purpose-built block of 27 flats. The building is largely set back from the street frontage on both sides of the corner in an irregular L-shaped footprint and with blocks of garages to its north side and vehicular access onto Church Road to the west. To the east, west and south sides of the building there are communal garden areas, the largest of these being at the corner, with lawns and mature shrubs and trees. Tree Preservation Order No.8 of 2004 applies to various groups of trees to the perimeter of the site and extends to trees to neighbouring properties surrounding the site.

This is a predominantly residential area comprising mainly of traditional two storey detached and semi-detached dwellings with some variety in the individual design of houses immediately surrounding the site. At the opposite corner of Church Road, the dwelling has been extended and in use as a residential care home. To the north

of the site is West Tarring Recreation Ground. To the immediate east is an access drive leading to No. 28 Parkfield Road which is a two storey detached dwelling to the north east, facing the flats at St Andrews Gardens. Beyond that driveway to the east there are pairs of semi-detached houses on the north side of Parkfield Road with No.26 sited closest to the application site.

Relevant Planning History

NOTICE/0012/20: Application for Prior Approval for construction of one additional storey of 9no. new dwellings immediately above the existing detached block of flats – refused in September 2020.

AWDM/1235/19: Proposed roof extension to provide additional 9 no. flats within the new third floor on top of the existing residential block, plus 9 no. additional parking spaces, 8 no. cycle spaces and refuse storage areas. Refused 12th November 2019 for the following reasons:

‘The proposed development would, by reason of its unacceptable scale, massing, form and design, represent an overdevelopment of the site, relating poorly to the scale and appearance of the recipient building and the surrounding character and pattern of development, and would appear as an unsympathetic and incongruous addition to the building, detrimental to the visual amenities of the site and surrounding streetscene. As such the proposed development would be contrary to policy 16 of the Worthing Core Strategy and the relevant paragraphs of the NPPF.’

Appeal Dismissed 6th April 2020.

Consultations

Southern Water: no objection

Technical Services

Thank you for the opportunity to comment upon this application. We have the following comments on flood risk and surface water drainage. Flood risk- The application is within flood zone 1, the site is shown to not be at risk from surface water flooding. We therefore have no objections to the proposals from a flood risk perspective. Surface water drainage- the application does not include changes to impermeable area, we therefore have no conditions to request. Any alterations to paving areas should be permeable and opportunities to reduce runoff should be sought where possible.

West Sussex Highways:

Our response dated 29 August 2019 to AWDM/1235/19, and most recently NOTICE/0012/20 gives details of the authority's views on that almost identical proposal. Given that our scope for commenting on prior approval decisions is limited, we have no further comments to add.

For information, the comments as previously reported to Committee:

The above proposal has been considered and the increase in 9 flats, each with a parking space is not considered to create any significant highway safety or capacity issues. As such WSCC raise no objection to the proposal subject to any conditions attached.

The access into St Andrews Gardens from Church Road, will continue to provide the main point of access. This provides 26 garaged car parking spaces, and 7 spaces within the grounds. The additional 9 flats will have a parking space created within the grounds for each flat; which has been checked against WSCC guidance on parking in new developments, and the results are attached below.

The new car parking calculator proposes 11 spaces unallocated, which includes visitor spaces or 14 spaces if allocated. WSCC has considered the nature of Church Road which predominantly has detached houses with driveways. It is considered there is likely to be enough on-street car parking to accommodate any additional parking needs from visitors to the site.

Each parking space has been designed according to standard car parking sizes of 2.4m x 4.8m. Four of the spaces are located next to the access within the private curtilage of the site. This is likely to cause a partial obstruction to the existing visibility splay however; this is not uncommon in residential streets, and given the quiet nature of the road this is acceptable.

Cycle storage should be provided for the entire development which is based on 0.5 space per flat. This equates to 18 spaces however WSCC will accept an evidenced based approach to cycle storage. Please can further details be submitted to the LPA for approval.

The site also has a refuse strategy which proposes to continue collection from Church Road and Parkfield Road. The strategy shows the additional bins can be accommodated within the site.

During the construction phase of the flats the site will need to be managed carefully with consideration of the existing residents of the flats and surrounding residents of Church Road and Parkfield Road.

WSCC would like to see a Construction Management Plan submitted to the LPA prior to commencement to ensure deliveries and construction traffic is managed safely and sensitively.

Representations

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

- Highways, Access and Parking
- Inadequate parking provision
- Traffic/parking congestion
- Loss of amenity
- Loss of garden area for parking

- Disruption/noise/disturbance/dust during construction, smells from refuse store, car emissions/fumes, no consideration for installing lifts, concern over potential fly-tipping near bin store/fire hazard
- Loss of privacy
- Loss of light
- Overdevelopment of the site
- Design does not reflect the character of the area
- Loss of trees
- Effect of structural integrity of the building
- Inadequate local infrastructure
- There is no need for the new flats
- Asbestos safety concerns
- Previous decisions should be taken account of
- Further application is an abuse of the planning process
- Application has been submitted during a lockdown when residents cannot look at notices

Relevant Planning Policies and Guidance

Worthing Core Strategy 2006-2026 (WBC 2011): Policies 7, 8, 9, 16, 17, 19

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

SPD 'Guide to Residential Development' Nov 2013

Revised National Planning Policy Framework (HCLG 2019)

National Planning Practice Guidance (CLG)

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

As with the proposal considered in September, the application is made under the Prior Approval procedure and the consideration is restricted to the limitations, restrictions and conditions set out in respect of Class A, Part 20, Schedule 2 of the General Permitted Development Order 2015 as amended which states:

Permitted development

A. Development consisting of works for the construction of up to two additional storeys of new dwelling houses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats, together with any or all —

(a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;

(b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;

(c) works for the construction of appropriate and safe access and egress to the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;

(d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

Development not permitted

A.1. Development is not permitted by Class A if—

(a) the permission to use any building as a dwellinghouse has been granted only by virtue of Class M, N, O, P, PA or Q of Part 3 of this Schedule;

(b) above ground level, the building is less than 3 storeys in height;

(c) the building was constructed after 1st July 1948, or after 5th March 2018;

(d) the additional storeys are constructed other than on the principal part of the building;

(e) the floor to ceiling height of any additional storey is—

(i) more than 3 metres in height; or

(ii) more than the floor to ceiling height of any of the existing storeys, whichever is the lesser, where such heights are measured internally;

(f) the new dwelling houses are not flats;

(g) the overall height of the roof of the extended building would be greater than 7 metres higher than the highest part of the existing roof (not including existing plant);

(h) the extended building (not including plant) would be greater than 30 metres in height;

(i) development under Class A.(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;

(j) development under Class A.(a) would consist of engineering operations other than works within the existing curtilage of the building to—

(i) strengthen existing walls;

(ii) strengthen existing foundations; or

(iii) install or replace water, drainage, electricity, gas or other services;

(k) in the case of Class A.(b) development there is no existing plant on the building;

(l) in the case of Class A.(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the new building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;

(m) development under Class A.(c) would extend beyond the curtilage of the existing building;

(n) development under Class A.(d) would—

(i) extend beyond the curtilage of the existing building;

- (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or*
- (iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building;*
- (o) the land or site on which the building is located, is or forms part of—*
 - (i) article 2(3) land;*
 - (ii) a site of special scientific interest;*
 - (iii) a listed building or land within its curtilage;*
 - (iv) a scheduled monument or land within its curtilage;*
 - (v) a safety hazard area;*
 - (vi) a military explosives storage area; or*
 - (vii) land within 3 kilometres of the perimeter of an aerodrome.*

As with the previous proposal, the application meets the permitted development criteria of class A (a) to (d) since the existing building was constructed following planning permission in 1962 as a purpose built detached 3 storey block of flats and the proposal is for an additional storey for new flats and associated works as described above. Again, as previously, the limitations or restrictions of A.1 have been met, have not been exceeded, or do not apply. Consideration of the planning merits of the application is again restricted solely to those set out in the conditions of A.2 as set out below:

(1) Where any development under Class A is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to—

- (a) transport and highways impacts of the development;*
- (b) air traffic and defence asset impacts of the development;*
- (c) contamination risks in relation to the building;*
- (d) flooding risks in relation to the building;*
- (e) the external appearance of the building;*
- (f) the provision of adequate natural light in all habitable rooms of the new dwelling houses;*
- (g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light; and*
- (h) whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012(1) issued by the Secretary of State,*

and the provisions of paragraph B (prior approval) of this Part apply in relation to that application.

Paragraph B includes the requirement for the LPA to have regard to the National Planning Policy Framework so far is relevant to the subject matter of the prior approval, as if the application were a planning application.

Members will recall from consideration of the previous application that the only substantive ground for resisting the proposed development following the changes to permitted development rights is that contained within part e), the external appearance of the building. The reasons set out in the previous report for why the proposal could not be resisted on other grounds remain.

The previous proposal is shown below:



The previous report commented that *By adding a floor onto the existing roof the building appears 'stretched' with a greater expanse of brickwork between the fenestration on the third and fourth floors.*

The revised proposal is shown below:



The supporting information states:

The proposed window arrangement has been amended since the previous Prior Approval application. The sill heights of the windows have been lowered to reduce the amount of brickwork and reduce the visual impact of the larger fourth storey, in response to the Council's previous comments... There is no longer a noticeably greater expanse of brickwork between the fenestration on the third and fourth floors... The fourth storey is taller (externally) than the existing storeys to allow for the construction of necessary services and structural alterations which are explicitly allowed by Part 20 Class A... The current proposal has minimised the visual impact of the taller top storey in relation to the remainder of the building by lowering the sill

heights on the proposed windows. The windows continue to reflect the overall form of the existing windows, and the proposed extension appears as part of the original building, and not an extension. Therefore, the impact on the external appearance of the building is entirely acceptable, and the proposal is fully acceptable with regard to this condition of development.

Your Officers note the comments made by the applicant's agent above and it remains the case that, as stated in the previous report, under the new prior approval regime for this type of development it is no longer clear whether the concerns previously raised at the appeal stage of the 2019 application are within the scope of external appearance. It is still the case that these particular requirements have only very recently been introduced and they have not yet been tested at appeal. Members may be aware that a recent legal challenge to overturn the new permitted development rules failed in the High Court.

Nonetheless, your officers concluded in September that as the site occupies a prominent corner position in the streetscene and its appearance can already be considered to be quite clearly anomalous in the area, a proposed additional storey would only exacerbate such an effect and it was recommended that the first prior approval application be refused. Having reached such a conclusion, it is not considered that the amendments sought under this proposal overcome such concerns.

The supporting information further goes onto state: *The fourth storey is taller (externally) than the existing storeys to allow for the construction of necessary services and structural alterations which are explicitly allowed by Part 20 Class A. A taller top storey will be a feature of this type of permitted development proposal due to the practicalities of providing the required structure and services.* The acknowledgement that the top storey will be necessarily taller demonstrates that the previously expressed concerns have not been overcome, and while a taller top storey may indeed be a feature of this type of development, it does not necessarily mean it will meet the requirements in respect of part e) of the legislation in respect of the external appearance of the building, especially in this case where it is felt there would be clear and demonstrable harm caused by the erection of an additional storey to the structure.

As such, therefore, it remains the case that as appearance is a relevant criteria in the determination of the prior approval, it would be justified to resist the proposal.

Recommendation

REFUSE Prior Approval for the reason(s):-

The proposed development would, by reason of its unacceptable scale, massing, form and design, represent an overdevelopment of the site, relating poorly to the scale and appearance of the recipient building, and would therefore appear as an unsympathetic and incongruous addition to the building. As such, it is concluded that the proposed development would be contrary to policy 16 of the Worthing Core Strategy and the relevant paragraphs of the NPPF.

16th December 2020

APPENDIX – PREVIOUS COMMITTEE REPORT NOTICE/0012/20

Application Number: NOTICE/0012/20

Recommendation – Refuse
Prior Approval

Site: St Andrews Gardens, Church Road, Worthing

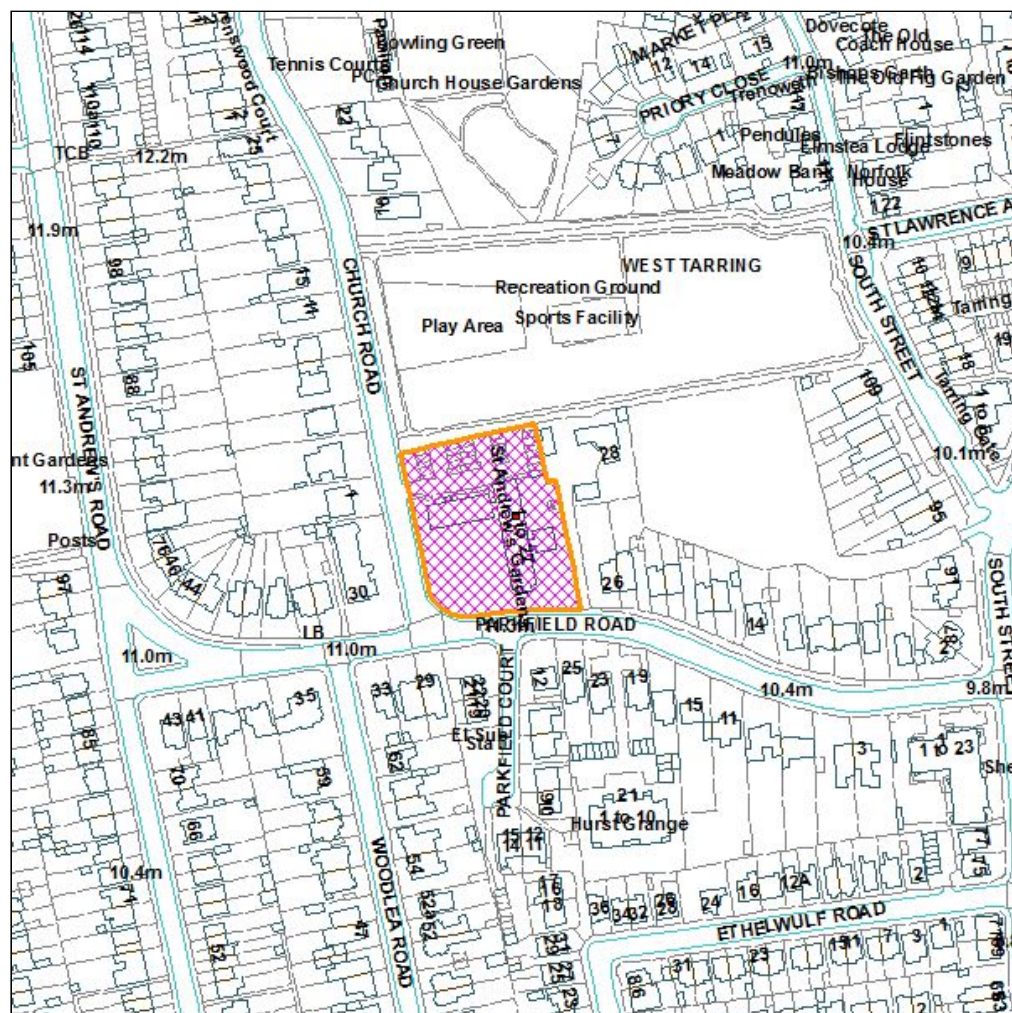
Proposal: Application for Prior Approval for construction of one additional storey of 9no. new dwellings immediately above the existing detached block of flats.

Applicant: Mr P Rayden

Ward: Tarring

Case

Officer: Rebekah Hincke



Not to Scale

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This application has been brought to Committee at the request of Councillor Martin McCabe.

Site and Surroundings

The application site is located on the corner of Church Road and Parkfield Road and contains a three storey purpose-built block of 27 flats. The building is largely set back from the street frontage on both sides of the corner in an irregular L-shaped footprint and with blocks of garages to its north side and vehicular access onto Church Road to the west. To the east, west and south sides of the building there are communal garden areas, the largest of these being at the corner, with lawns and mature shrubs and trees. Tree Preservation Order No.8 of 2004 applies to various groups of trees to the perimeter of the site and extends to trees to neighbouring properties surrounding the site.

This is a predominantly residential area comprising mainly of traditional two storey detached and semi-detached dwellings with some variety in the individual design of houses immediately surrounding the site. At the opposite corner of Church Road, the dwelling has been extended and in use as a residential care home. To the north of the site is West Tarring Recreation Ground. To the immediate east is an access drive leading to No. 28 Parkfield Road which is a two storey detached dwelling to the north east, facing the flats at St Andrews Gardens. Beyond that driveway to the east there are pairs of semi-detached houses on the north side of Parkfield Road with No.26 sited closest to the application site.

Proposal

This application is made following the recent change to the second schedule of the General Permitted Development Order, introduced by the Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020, extending permitted development rights.

Development permitted by Class A of Part 20 consists of works for the construction of up to two additional storeys on existing dwellinghouses and on purpose built detached blocks of flats, together with engineering operations reasonably necessary to construct the additional storeys and new flats, replacement and new roof plant that is reasonably necessary to service the new flats, works for the safe access/egress to the new and existing flats, and any works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new flats, subject to the limitations of Part 20 and conditions as set out below in this assessment.

This application seeks prior approval for the construction of one additional storey to the building to provide nine flats in a new fourth floor. The application includes provision for an additional bin store towards the south-east corner of the site, and a new permeable hardstanding providing access to five new car parking spaces, with landscaping, to the east of the building as well as a cycle store.

The additional storey would have a flat roof and the extended building would measure up to 12.1 metres in height from ground level, representing an increase in height of 4.2 metres approximately over the existing 7.9 metre high building as detailed on the elevation drawings. The extension would largely cover the existing

footprint of the building with the exception of the stairway at the southern end of the building which would remain as existing. Some of the proposed flats would be set back behind a corridor access on its north and east sides which would be partially open-air, enclosed by glazed balustrades across a series of openings.

Relevant Planning History

AWDM/1235/19 - Proposed roof extension to provide additional 9 no. flats within new third floor on top of the existing residential block, plus 9 no. additional parking spaces, 8 no. cycle spaces and refuse storage areas. Refused 12th November 2019 for the following reasons:

'The proposed development would, by reason of its unacceptable scale, massing, form and design, represent an overdevelopment of the site, relating poorly to the scale and appearance of the recipient building and the surrounding character and pattern of development, and would appear as an unsympathetic and incongruous addition to the building, detrimental to the visual amenities of the site and surrounding streetscene. As such the proposed development would be contrary to policy 16 of the Worthing Core Strategy and the relevant paragraphs of the NPPF.'

Appeal Dismissed 6th April 2020.

Outline for redevelopment of site by way of 27 flats comprising of 27 flats comprising 3 blocks of 6 flats 3 storeys in height 1 block of 9 flats 3 storeys in height with 24 garages showing access road parking facilities etc. Approved 7th February 1961

220/62 Erection of 27 flats, 3 storeys in height together with 27 garages and access roads thereto etc. Approved 3rd April 1962

220/A/62 Revised for erection of 27 flats 3 storeys in height, 27 garages with access way parking area etc. Approved 12th May 1964

Consultations

The **Highway Authority** has commented that their previous response on application AWDM/1235/19 gives details and views on the almost identical proposal and as the scope for commenting on the prior approval is limited they have no further comments to add but recommend conditions requiring a construction management plan to be submitted, and cycle parking to be provided in accordance with details to be approved.

The Highway Authority's previous response on AWDM/1235/19 is copied below:

The above proposal has been considered and the increase in 9 flats, each with a parking space is not considered to create any significant highway safety or capacity issues. As such WSCC raise no objection to the proposal subject to any conditions attached.

The access into St Andrews Gardens from Church Road, will continue to provide the main point of access. This provides 26 garaged car parking spaces, and 7

spaces within the grounds. The additional 9 flats will have a parking space created within the grounds for each flat; which has been checked against WSCC guidance on parking in new developments, and the results are attached below.

The new car parking calculator proposes 11 spaces unallocated, which includes visitor spaces or 14 spaces if allocated. WSCC has considered the nature of Church Road which predominantly has detached houses with driveways. It is considered there is likely to be enough on-street car parking to accommodate any additional parking needs from visitors to the site

Each parking space has been designed according to standard car parking sizes of 2.4m x 4.8m. Four of the spaces are located next to the access within the private curtilage of the site. This is likely to cause a partial obstruction to the existing visibility splay however; this is not uncommon in residential streets, and given the quiet nature of the road this is acceptable.

Cycle storage should be provided for the entire development which is based on 0.5 space per flat. This equates to 18 spaces however WSCC will accept an evidenced based approach to cycle storage. Please can further details be submitted to the LPA for approval.

The site also has a refuse strategy which proposes to continue collection from Church Road and Parkfield Road. The strategy shows the additional bins can be accommodated within the site.

During the construction phase of the flats the site will need to be managed carefully with consideration of the existing residents of the flats and surrounding residents of Church Road and Parkfield Road.

WSCC would like to see a Construction Management Plan submitted to the LPA prior to commencement to ensure deliveries and construction traffic is managed safely and sensitively.

Southern Water has advised the approximate position of a public foul sewer in the vicinity of the site and requires its exact position to be determined by the applicant and advises of limitations and clearances required. Southern Water has requested a sewer investigation, and recommends a condition for details of foul sewerage and surface water disposal to be agreed and requires a formal application for connection to the public foul and surface water sewer by the applicant or developer.

Adur & Worthing Councils:

The **Environmental Health** officer has confirmed no comments for this application.

The **Engineer** comments that the application site is within flood zone 1, the site is not shown as being at risk from surface water flooding. No objection raised from a flood risk perspective.

In relation to surface water drainage, the Engineer comments that small alterations to the impermeable area are proposed as part of this application, with a new parking area proposed. This parking area must be of a fully permeable construction, i.e.

permeable surface and sub-base (no type 1). Due to the small changes in impermeable area there are no conditions to request. Any proposed alterations to surface water drainage must be designed and constructed in accordance with building regulations, any opportunities to reduce runoff should be considered.

Representations

Eleven representations have been received from owners and residents within the flats, four representations have been received from neighbouring occupiers in Parkfield Road Road Church Road, and three from residents in the wider area (Goring, Findon, West Chiltington) to date, objecting to the proposals on the following grounds:

- Highways, Access and Parking – Inadequate parking provision, traffic/parking congestion, safety concerns over parking/access and for pedestrians/wheelchairs/pushchairs, safety for park users/school children, obstruction for emergency vehicles.
- Loss of amenity – loss of garden area for parking, disruption/noise/disturbance/dust during construction, smells from refuse store, car emissions/fumes, no consideration for installing lifts, concern over potential fly-tipping near bin store/fire hazard.
- Privacy light and noise – height will affect light, overshadowing, overlooking, loss of privacy/noise to residents near parking area.
- Design/Overdevelopment – not in keeping, no buildings higher than 3 storeys, excessive scale, dominates, existing building is already out of keeping and any extension would worsen the environment, will be visible above tree line/hedges.
- Trees and landscaping – loss of trees and landscaping, damage to tree roots from oil/petrol spillages, loss of light/moisture to protected trees.
- Concerns over structural integrity of building that might be affected.
- Local infrastructure can't support more residents.
- No need for more flats, they won't be affordable housing.
- Application doesn't detail how heating exhaust system will be dealt with.
- Asbestos safety concerns.
- Should take account of previous refusal upheld at appeal, doesn't address the previous concerns.

An email has been received from Sir Peter Bottomley MP asking the following to be taken into consideration:

'It would be perverse for this application to be approved when it is essentially the same as the previous unacceptable one. It is clear that it is wrong for the neighbourhood and it is wrong for the present residents and their neighbours. There is no aspect of government policy that requires it to be approved – please reject it.'

Relevant Planning Policies and Guidance

Worthing Core Strategy 2006-2026 (WBC 2011): Policies 7, 8, 9, 16, 17, 19
Worthing Local Plan (WBC 2003) (saved policies): RES7, H18, TR9
SPD 'Guide to Residential Development' Nov 2013

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

The application is made under the Prior Approval procedure and the consideration is restricted to the limitations, restrictions and conditions set out in respect of Class A, Part 20, Schedule 2 of the General Permitted Development Order 2015 as amended which states:

Permitted development

A. Development consisting of works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats, together with any or all —

(a) engineering operations reasonably necessary to construct the additional storeys and new dwellinghouses;

(b) works for the replacement of existing plant or installation of additional plant on the roof of the extended building reasonably necessary to service the new dwellinghouses;

(c) works for the construction of appropriate and safe access and egress to the new and existing dwellinghouses, including means of escape from fire, via additional external doors or external staircases;

(d) works for the construction of storage, waste or other ancillary facilities reasonably necessary to support the new dwellinghouses.

Development not permitted

A.1. Development is not permitted by Class A if—

(a) the permission to use any building as a dwellinghouse has been granted only by virtue of Class M, N, O, P, PA or Q of Part 3 of this Schedule;

(b) above ground level, the building is less than 3 storeys in height;

(c) the building was constructed after 1st July 1948, or after 5th March 2018;

- (d) the additional storeys are constructed other than on the principal part of the building;*
- (e) the floor to ceiling height of any additional storey is—*
 - (i) more than 3 metres in height; or*
 - (ii) more than the floor to ceiling height of any of the existing storeys, whichever is the lesser, where such heights are measured internally;*
- (f) the new dwellinghouses are not flats;*
- (g) the overall height of the roof of the extended building would be greater than 7 metres higher than the highest part of the existing roof (not including existing plant);*
- (h) the extended building (not including plant) would be greater than 30 metres in height;*
- (i) development under Class A.(a) would include the provision of visible support structures on or attached to the exterior of the building upon completion of the development;*
- (j) development under Class A.(a) would consist of engineering operations other than works within the existing curtilage of the building to—*
 - (i) strengthen existing walls;*
 - (ii) strengthen existing foundations; or*
 - (iii) install or replace water, drainage, electricity, gas or other services;*
- (k) in the case of Class A.(b) development there is no existing plant on the building;*
- (l) in the case of Class A.(b) development the height of any replaced or additional plant as measured from the lowest surface of the new roof on the principal part of the new building would exceed the height of any existing plant as measured from the lowest surface of the existing roof on the principal part of the existing building;*
- (m) development under Class A.(c) would extend beyond the curtilage of the existing building;*
- (n) development under Class A.(d) would—*
 - (i) extend beyond the curtilage of the existing building;*
 - (ii) be situated on land forward of a wall forming the principal elevation of the existing building; or*
 - (iii) be situated on land forward of a wall fronting a highway and forming a side elevation of the existing building;*
- (o) the land or site on which the building is located, is or forms part of—*
 - (i) article 2(3) land;*
 - (ii) a site of special scientific interest;*
 - (iii) a listed building or land within its curtilage;*
 - (iv) a scheduled monument or land within its curtilage;*
 - (v) a safety hazard area;*
 - (vi) a military explosives storage area; or*
 - (vii) land within 3 kilometres of the perimeter of an aerodrome.*

The application meets the permitted development criteria of class A (a) to (d) since the existing building was constructed following planning permission in 1962 as a purpose built detached 3 storey block of flats and the proposal is for an additional storey for new flats and associated works as described above.

In this case the limitations or restrictions of A.1 have been met, have not been exceeded, or do not apply. The additional storey would be constructed on the principle part of the building, and the supporting statement has confirmed that floor to ceiling heights would be 2.4 metres internally as existing, the overall height of the roof would not be more than 7 metres higher than the existing roof and less than 30

metres in total. No visible support structures are proposed on or attached to the exterior of the building, engineering operations, roof plant, access/egress storage, waste and other ancillary facilities would be within the defined limitations. The site is not on article 2(3) or SSSI land, a listed building, scheduled monument or within their curtilage, and is not a safety hazard area, military explosives storage area, or land within 3 kilometres of the perimeter of an aerodrome.

Consideration of the planning merits of the application is restricted solely to those set out in the conditions of A.2 as set out below:

(1) Where any development under Class A is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to—

(a) transport and highways impacts of the development;

(b) air traffic and defence asset impacts of the development;

(c) contamination risks in relation to the building;

(d) flooding risks in relation to the building;

(e) the external appearance of the building;

(f) the provision of adequate natural light in all habitable rooms of the new dwelling houses;

(g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light; and

(h) whether because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012(1) issued by the Secretary of State,

and the provisions of paragraph B (prior approval) of this Part apply in relation to that application.

Paragraph B includes the requirement for the LPA to have regard to the NPPF so far is relevant to the subject matter of the prior approval, as if the application were a planning application.

The Revised National Planning Policy Framework advises, in paragraph 124, that, 'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'

The revised NPPF emphasises securing high quality design that (amongst other things) is sympathetic to local character and history, maintains a strong sense of place using the arrangement of streets, building types and materials to create attractive, welcoming and distinctive places to live with a high standard of amenity

for existing and future users (paragraph 127) and that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (paragraph 130).

Notwithstanding the above, this is a really difficult case and highlights the impact of increased deregulation by the Government. The recent change to permitted development rights, in particular, the upward extensions of dwellings and blocks of flats has the potential to profoundly change the character and appearance of the town. Normally a previous appeal decision is a very strong material planning consideration; however, the change to permitted development rights fundamentally alters how the Council can now deal with this proposal to add a floor to the building. As the principle of an additional floor is now established by permitted development rights the prior approval can solely be judged on the above criteria and these are considered below:

(a) Transport and highways Impacts

Nine parking spaces are indicated to serve the proposed flats, although three of these are existing spaces including two unallocated spaces. The application also omits at least three parking spaces that exist to the north of the building. The Highway Authority has raised no objection to the proposals. In relation to the previously refused application the Highway Authority clarified that that the number of additional trips generated by 9 flats would equate to 3 trips in the network peak hours which was not considered severe. The Highway Authority considered that the trips generated by 9 additional flats and any additional vehicles using on-street parking in the local vicinity would not create an unacceptable impact on highway safety, nor a severe residual cumulative impact on the road network.

Cycle storage is indicated within a communal store with parking for eight bicycles proposed. The Highway Authority had previously indicated that provision should be made for the entire development, equating to 18 spaces unless evidence demonstrates otherwise, which could be secured by condition.

(b) Air traffic and defence asset Impacts

None relevant

(c) Contamination

The application has been accompanied by an Asbestos Report confirming the presence of asbestos. The Environmental Health Officer has confirmed no adverse comments in relation to the application and has clarified that asbestos material has been identified in the building not in the ground and therefore contaminated land guidance would not apply. The site is not identified as being potentially contaminated. The safe removal and handling of any asbestos material during the development is covered under Health and Safety legislation and the duty will fall on the developer to deal with this matter.

(d) Flooding

The building is in Flood Zone 1, where there is a low probability of flooding. No flood risk has been identified in relation to this property. Permeable construction is indicated for the proposed hardstanding and drainage would need to comply with Building Regulations requirements.

(e) External appearance of the building

This is the only substantive ground for resisting the proposed development following the changes to permitted development rights.

The supporting information submitted by the agent states:

The external appearance of the proposed extension has been designed to continue the 1960s language of the existing building. There will be no additional built area on the ground floor as the new build only uses the existing built footprint except for the new bin storages located near both access points.

Replicating the existing block's materiality, the proposal is typical of the surrounding 1960s buildings. The proposed extension combines red brick with recessed sections of timber shingles and white render, maintaining the existing appearance below. The proposed proportionality and positioning of openings matches the existing building to achieve a coherent and seamless extension where the new is indistinguishable from the old.

The new extension will be discreet and the proposed flat roof replicates the existing blocks, maintaining its minimal impact on the surrounding site thanks to existing vegetation to the South, West and East.

As indicated by the Agent the applicant has therefore sought to improve the design of the development compared to the previous planning application by relating more to the design of the existing building incorporating brick, recessed timber shingles and white render. Whilst this ensures that the additional floor relates more to the design of the existing building, your Officers remain concerned about the overall design approach.

Scheme dismissed at Appeal



Current Prior Approval design



By adding a floor onto the existing roof the building appears 'stretched' with a greater expanse of brickwork between the fenestration on the third and fourth floors. It is also difficult to separate considerations of external appearance with concerns about the overall appearance of the original 1960's apartment block. The existing building by virtue of its scale, bulk and massing is already a discordant feature in the streetscene and increasing its height as recognised by the Inspector would, 'create an alien and overly oppressive development.'

It must be emphasised to the committee in their consideration of this application that under the new prior approval regime for this type of development it is no longer clear whether these considerations would fall within the scope of external appearance. Since these particular requirements have only very recently been introduced, this will only be known once such matters have been tested at appeal and potentially through the Courts.

Nonetheless, the site occupies a prominent corner position in the streetscene and its appearance can already be considered to be somewhat anomalous which will only be exacerbated by the proposal, even taking into account its revised design. As such, therefore, it is considered on balance that as appearance is a relevant criteria in the determination of the prior approval, it would be justified to resist the proposal.

For reference, the Inspector made the following comments in dismissing the previous appeal:

The proposal would add an additional storey to the block of flats and the creation of a four storey building in this location would create an alien and overly oppressive development. It would be visible in the wider views of the street scene, especially when looking towards the site across the West Tarring Road Recreation Ground. Travelling along Church Road the structure would loom into view and appear as a dominant and aggressive development, entirely out of context with the surrounding residential development. Despite a significant level of planting along some of the boundaries the development would still be visible between planting from Parkfield Avenue, and the change in materials and considerable scale of the building would draw attention to it as a discordant and jarring development.

Whilst I accept that the residential dwellings vary in scale and form, they sit comfortably within their respective plots and have a consistent relationship in terms of siting and overall levels of roof height. The 2-3 storey former Priory Rest Home is not seen in the context of the immediate street scene and in any event would still

remain at a lower height than the appeal scheme. The appeal scheme would appear as a discordant addition to the street scene and despite design elements being used creatively to provide some setbacks and open air elements the additional development would cover the majority of the existing roof space and significantly increase the overall scale of the building.

As such I find that the proposal would be significantly harmful to the character of the area. It would result in an ill-conceived addition to the existing building that would fail to sit comfortably within the street scene. As such it would conflict with Policy 16 of the Worthing Core Strategy which requires new development to demonstrate good quality architectural and landscape design and to use materials that take account of local physical and historical characteristics of the area. I accept that the National Planning Framework encourages efficient use of land, however this should not be done in a manner that would be harmful to the existing character of the area.

It must be re-emphasised that the new prior approval regime no longer means that all of the Inspector's comments can be taken into account. Such was the depth of the objection outlined in the previous appeal decision, though, and while there have been some design changes, that even if some of the comments are no longer relevant, it is still felt that the Inspector gave a clear indication that design changes alone would not overcome the objections raised. It follows, therefore, that the proposal does not meet the requirements of the National Planning Policy Framework.

No detailed landscape proposals have been provided, including no proposals to fell trees or other landscaping proposals, therefore tree protection and protection of existing vegetation and new planting would need to be approved by condition should prior approval be granted.

Provision of adequate natural light in all habitable rooms of the new dwellinghouses

Adequate natural light for habitable rooms in the proposed flats has been demonstrated in the submitted drawings.

Impact on the amenity of the existing building and neighbouring premises

Having regard to the intensification of the use of the building from the resultant increase in flats, in the context of the existing 27 flats it is considered that the level of activity associated with 9 new flats is not likely to give rise to any significant loss of amenity.

The proposal introduces parking, and therefore vehicular movements, to the east of the building, a more intensive use of the space where at present it is used as a side communal garden for existing occupiers and includes some bin storage. Although there are other garden areas that occupiers can enjoy, it is acknowledged that there would be some loss of amenity suffered by occupiers of those flats where they currently enjoying a direct outlook over this green space, and its more intensive use for parking would result in increases noise and activity associated with vehicular and pedestrian movements, although this relationship is accepted on the north side of the building where parking exists close to residential windows. Neighbouring

occupiers to the east of the proposed parking would be less directly affected by this, with the presence of an intervening driveway to the side of No. 26 and 26a.

Whilst the existing garden areas surrounding the flats may suffer some loss of light as a result of the additional storey and would be overlooked by additional flats, in the context of the effects of the existing building and flats this in itself is not considered to be a significant impact.

Despite the additional height proposed, neighbouring dwellings located on the opposite side of Parkfield Road and Church Road would be sufficiently separated to avoid any significant impact arising from the additional height and potential for overlooking given that this is the street frontage to the south and west sides.

The main impact to consider in terms of neighbouring occupiers is the effect on No.26/26a and No.28 which are dwellings to the immediate east of the site. Existing trees and vegetation provide an effective screen to parts of the eastern boundary, although this varies in height and density and is not all evergreen and so views towards the neighbouring properties are still possible from the side communal garden area as well as from the existing flats. Where gaps in vegetation exist, particularly at the northern end of the eastern boundary, some intervisibility between existing flats and the neighbouring dwellings already exists. It is acknowledged that additional flats would heighten this effect but having regard to the position of new windows to habitable rooms, and where the east elevation has been designed with a communal access along its east side, the design and layout attempts to minimise the effect of overlooking from the proposed flats. Separation distances are considered sufficient to avoid any significant impact in terms of loss of light or outlook.

Whilst it is acknowledged that the construction phases of a development are likely to be particularly disruptive to existing residents as noted in the representations, Condition A.2. (3) requires the developer to provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed development hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated.

Impact on a protected view identified in the Directions Relating to Protected Vistas dated 15 March 2012(1) issued by the Secretary of State

None relevant

Conclusion

If this were a repeat planning application, the decision would be straightforward and the Inspector's decision would be a clear material consideration in resisting any subsequent, similar proposal. However, the recent change in government policy, effectively resulting in the principle of developments such as this being now acceptable in principle, must be taken into account which the Committee must be mindful of in making a decision. However, the new legislation still allows the Council to take into account the appearance of the proposal when making a decision and given the clear concerns in this respect, which were supported by an Inspector at

appeal, your officers feel it is justifiable to resist the proposal on appearance grounds.

Recommendation

Subject to no new or compelling issues being raised in representations following the expiry of the consultation period:

REFUSE Prior Approval for the reason(s):-

The proposed development would, by reason of its unacceptable scale, massing, form and design, represent an overdevelopment of the site, relating poorly to the scale and appearance of the recipient building, and would therefore appear as an unsympathetic and incongruous addition to the building. As such, it is concluded that the proposed development would be contrary to policy 16 of the Worthing Core Strategy and the relevant paragraphs of the NPPF.

23rd September 2020

Application Number: AWDM/1393/20

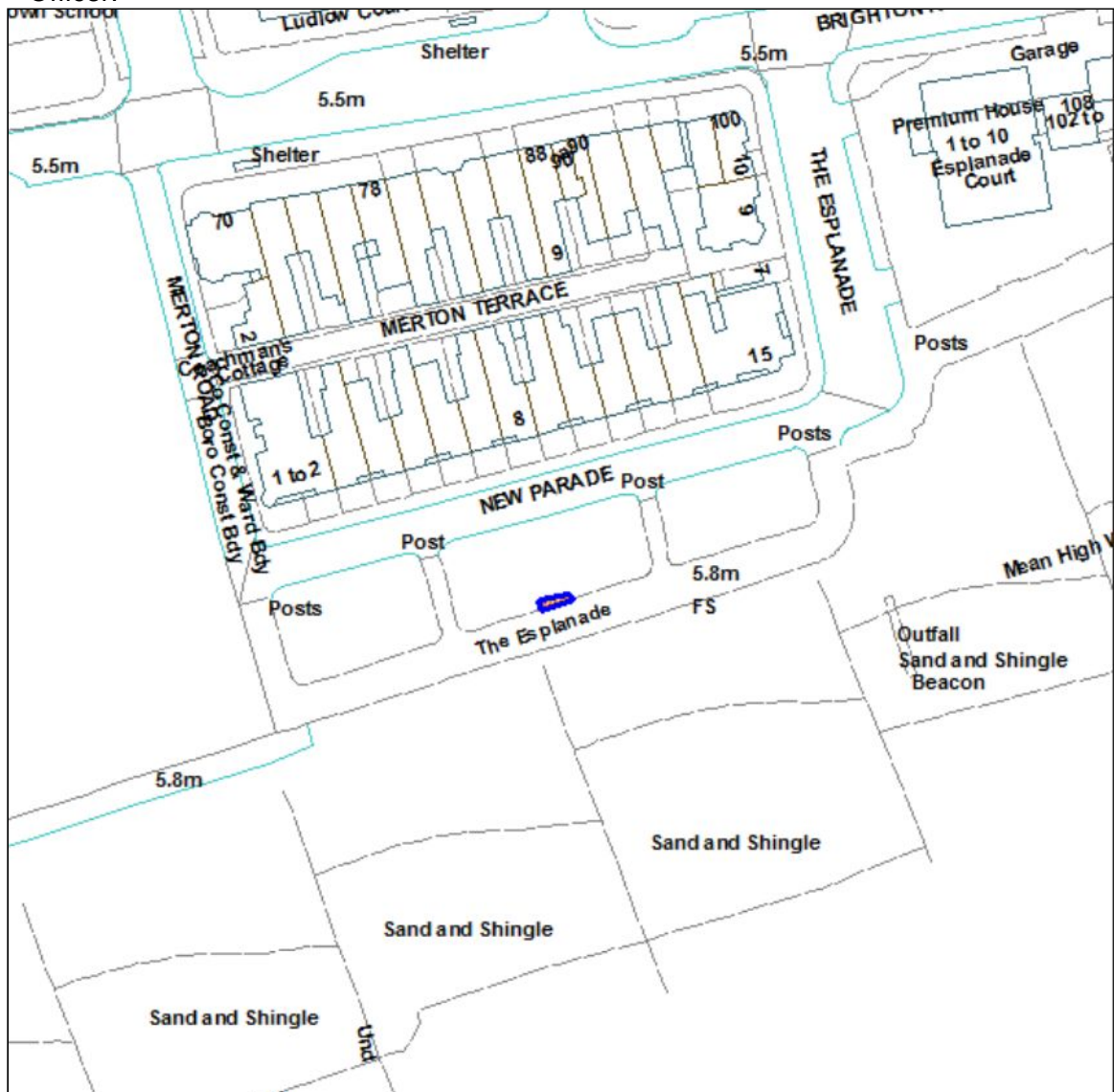
Recommendation – APPROVE

Site: Open Space Adjacent Esplanade New Parade Worthing

Proposal: Installation of a cycling public art stone monolith 0.2m x 2.88m x 1.98m high on a concrete foundation

Applicant: Mr Ben Milligan
Case: James Appleton
Officer:

Ward: Selden



Not to Scale

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Proposal, Site and Surroundings

This application proposes a public art installation on the south side of an area of open space at New Parade adjacent to the seafront promenade and cyclepath. To the west of the site is the new Bayside development which is nearing completion.

The public art installation proposed is a large Caithness flagstone measuring a maximum height of 1.98 metres high by 2.88 metres long with a depth of 0.2 metres. The stone would incorporate a carving of a cyclist and an inscription celebrating cycling. The stone would have a natural riven finish and the inscription would be curved into the stone. The north elevation of the stone monolith would be left blank. As indicated by the computer generated image below the stone would be set back slightly from the promenade.



A brief flood risk assessment, proportionate to the scale of development has been submitted and concludes that,

'The proposed development is considered water compatible and therefore appropriate within this flood zone designation. The development will not increase flood risk elsewhere.'

Funding for the public art installation has been provided from a Memorial Fund raised by the family of Mr. Donald Lock, a keen local cyclist and Member of the Excelsior Cycling Club who was tragically killed in 2015. It was originally intended for the stone to be installed at Broadwater Green as the cycling club often met there, however, its Village Green status meant that this would have required the Secretary of State's agreement. Subsequent discussions with the Parks team identified this site given its proximity to the town centre and the seafront cyclepath which forms part of the National Cycle Network - Route 2.

Relevant Planning History

There is no relevant planning history to the site but as Members are aware the Bayside development immediately to the west incorporates a public café adjacent to the New Parade area of open space (AWDM/1633/16).

Consultations

The **Highway Authority** comments that,

“This application is for the erection of a public art stone monolith on a concrete foundation. The proposed site is located within private land adjacent to The Esplanade which is an E-classified pedestrian route. The proposed stone monolith will not be situated within, nor obstruct, publicly maintained highway. The full existing footway width of The Esplanade will be retained.

The proposal will not obstruct vehicular visibility for vehicles travelling along New Parade to the north of the proposed site.

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.”

Representations

9 letters of objection have been received on the grounds that,

- i. The proposed public art is badly sited and will obstruct the view to the sea for half of the residents of New Parade.
- ii. It should be sited at either the west or east side of the open space, sideways on, so that it does not have such an impact on the view.
- iii. Alternatively, the public art should be located on the concourse of the new Roffey development, Bayside, or to the green area where the outdoor gym and fishing boats are, possibly replacing the unattractive wooden pirate ship on this area of open space.
- iv. The proposed monolith is not in keeping with the Victorian style and context of this well recognised Victorian terrace. There are many places in Worthing that could benefit from being visually improved by artwork but New Parade is not one of them.
- v. The colourful parade of houses and associated garden area with established cordyline trees and planted fishing boat already provide a strong focal point and plenty of visual impact from every single angle. The proposed monolith will simply create visual clutter.
- vi. If New Parade needs improving, a revamp of the boat and flower bed planting is all that is needed.
- vii. The monolith is too large and imposing for the proposed position which is directly in front of the boat garden and therefore blocking its view.
- viii. The area is much loved by local children and visitors to Worthing who can regularly be seen taking photographs.

- ix. There must be better locations than New Parade for siting this imposing piece of art.
- x. The sea wall and seafront pathway in the New Parade area are often targeted with graffiti by children and conspiracy theorists, positioning a huge upright flat stone would, without doubt, attract more graffiti.
- xi. The proposed position is adjacent to a bin that is regularly filled to capacity and overflowing. People are likely to start stuffing their rubbish behind the monolith.
- xii. The upright design of the monolith means our many local seagulls are certainly going to enjoy sitting on it making a mess of it judging by the state of lampposts.
- xiii. The design is poor and the cyclist not well drawn from an artistic design point of view.
- xiv. The context of a piece of cycling art on the seafront is not understood as no cyclists will slow down long enough to see it. It is questioned where the design comes from and it is a shame that local artists, some of whom live in New Parade, were not consulted or invited to submit designs if the Council thinks that artwork is necessary.
- xv. The pavement on this part of the promenade is narrow but widely used by dog walkers, pedestrians and joggers. It is next to a very busy cycle lane so the monument will create danger when people stop to look at the stonework.
- xvi. It is a good idea to encourage people to cycle but building an obstructive statue in a quiet area is not the right way to do it. Perhaps a more populated area, such as the Pier or West Worthing, where the promenade is wider might be a better place.

Relevant Planning Policies and Guidance

Worthing Core Strategy 2006-2026 (WBC 2011): Policy 1
 Worthing Local Plan (WBC 2003) (saved policies): RES7
 Draft Local Plan 2020 Policy DM6
 National Planning Policy Framework (2019)
 Public Art Strategy 2009

Planning Assessment

The main issue in this case is the impact of the development on the visual amenities of adjoining residential properties and the character and appearance of the seafront. The built environment policies of the Core Strategy emphasise the importance of good design and that high standards of urban, architectural and landscape design can help improve the public realm and maintain and enhance the special character and historic context of the area. This approach to good design is echoed in the NPPF.

The Council's adopted Public Art Strategy (2009) stresses the benefits of public art as a key component in environmental and cultural regeneration. The first priority area identified in the Strategy is the north-south route from the station to the seafront. The Public Art Strategy is currently being reviewed but draft policy DM6 states that the Council will support the delivery of public art that helps to enhance the public realm and that public art should be incorporated as part of any major development proposal.

As indicated previously the family of Don Lock have been involved in trying to find an appropriate location for a public art installation celebrating cycling for some time. A number of locations in Broadwater were considered including the Village Green, given the close links with the Excelsior Cycling Club (Don was an active Member of the club for 50 years), however, an appropriate location was not found.

The proposed location was considered appropriate as it would be immediately adjacent to the National Cycle Network and would be sited behind a landscaped area providing some screening to residents in New Parade. Whilst, the stone monolith has a maximum height of 1.98 metres it is an angled piece of stone reducing down to 1.2 metres in height. It is not considered that the public art installation would be overbearing to residents of New Parade given that it is located over 30 metres away. Whilst, it may in some respects block some views of the beach Members will be aware that there is no right to a view in planning terms and given the above comments it is not considered that the installation would adversely affect the visual amenities of residents living in New Parade.

In terms of the design of the installation, given its exposed seafront location needs to be of robust design and low maintenance. The Caithness flagstone has been cut from one piece of stone and is extremely hard wearing. It would be set within a concrete foundation and other than occasional washing would need little maintenance. As it is a dark stone the chiseled lettering would appear lighter and not require painting. It is considered that the artwork would enhance the appearance of the seafront. From a planning perspective there are no objections to the proposal.

The objectors to the application have suggested other locations for the installation. These have been considered with the family but there is concern that relocating the installation further away from the town centre would reduce its prominence. With the proposed Café at Bayside it is considered that the level of footfall will increase in this location and the family consider that the new Café could become a popular meeting place for local cyclists.

Recommendation

Planning Committee is recommended to approve the application subject to the following conditions:-

1. Standard 3 year time limit
2. Submission of long term management plan.

16th December 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.