



WORTHING BOROUGH
COUNCIL

4 August 2020

Worthing Planning Committee	
Date:	12 August 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 11 August 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 10 August 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 22 July 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 - 78)

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

Part B - Not for publication - Exempt Information Reports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	Louise Mathie Senior Lawyer 01903 221050 louise.mathie@adur-worthing.gov.uk

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



**WORTHING BOROUGH
COUNCIL**

**Planning Committee
12 August 2020**

Agenda Item 6

Ward: ALL

Key Decision: ~~Yes~~ / No

Report by the Director for Economy

Planning Applications

1

Application Number: AWDM/0620/20

Recommendation – Refuse

Site: Bar 42, 42 Marine Parade, Worthing

Proposal: Change of use from A4 (Drinking Establishment) to A3 restaurant with new glass screening to top of existing wall, new opening in west elevation patio wall and fixed tables and chairs to south elevation.

2

Application Number: AWDM/0537/20

Recommendation – Approve

Site: Medical Supply Company, 24A Upper High Street, Worthing

Proposal: Use of the premises for manufacture and distilling gin, plus ancillary storage and visitor tours/experiences.

3

Application Number: AWDM/0617/20

Recommendation – Approve

Site: 36 Valencia Road, Worthing

Proposal: Change of use of 6no. bedroom dwellinghouse (Use Class C3) to 9no. bedroom House of Multiple Occupation (HMO - Sui Generis) including rear bike storage to east and 1no. additional bin store to west.

4

Application Number: AWDM/0876/20

Recommendation – Approve

Site: Land West of 5 Ham Way, Worthing

Proposal: Proposed 3no.two bed flats and 3no. one bed flats within 2no.chalet style bungalows buildings and associated external works.

5

Application Number: AWDM/0747/20

Recommendation – Approve

Site: The Aquarena, Brighton Road, Worthing

Proposal: Details of Development: Application for minor material amendments to vary Condition 1 of approved AWDM/0607/19: Amendment to the design, form and appearance of the pavilion cafe building.

Application Number: AWDM/0620/20

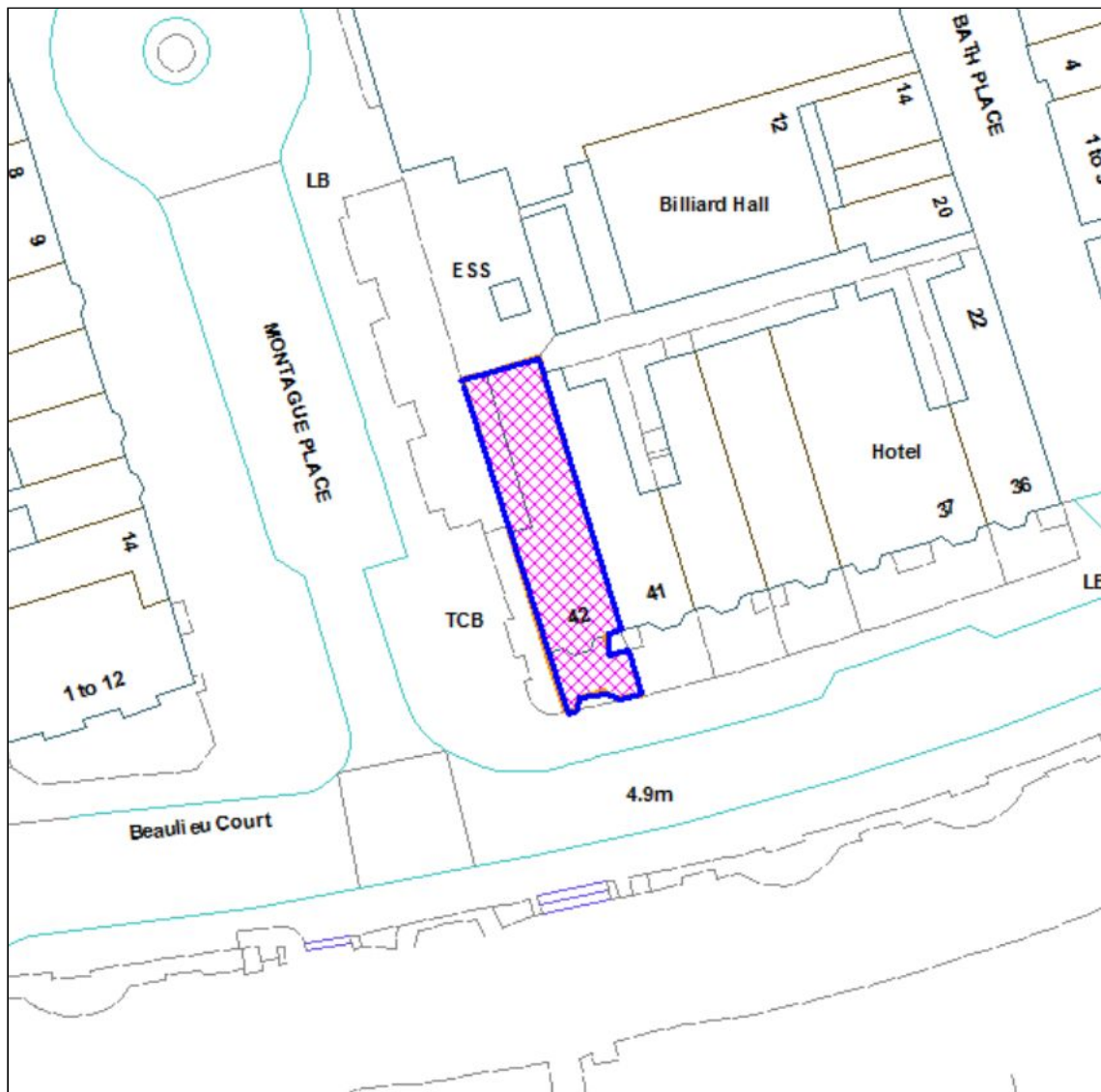
Recommendation – Refuse

Site: Bar 42, 42 Marine Parade, Worthing

Proposal: Change of use from A4 (Drinking Establishment) to A3 restaurant with new glass screening to top of existing wall, new opening in west elevation patio wall and fixed tables and chairs to south elevation.

**Applicant: Mr Le
Case: Linda Park
Officer:**

Ward: Central



Not to Scale

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Site and Surroundings

'Bar 42' is a bar (Class A4) located on the ground floor at the western end of a three-storey Victorian terrace, on the corner of Montague Place and Marine Parade, within the town centre. The bar hosts regular live music.

The property lies within the South Street Conservation Area and is identified as a Local Interest Building within the Worthing Local Plan 2003. The building has attractive detailing including arch-topped timber sash windows with ornate stone decorative details, with intricately detailed cast-iron balcony detailing at first floor level and stone balustrade detail to the roof.

The floors above are in use as 4 residential flats, with 6 flats at the adjoining terraced property to the east (which is in entirely residential use including the ground floor). The properties to the east of this within the same terrace are a Turkish restaurant followed by a bar and a dental practice at ground floor level, with residential above.

Each terraced property has a forecourt to the front, with Bar 42 having wooden benches and tables on a paved surface, surrounded by low brick / rendered walls, with timber screening above the eastern wall with the adjoining property.

When asked whether Bar 42 is a formal music venue or a bar, the manager describes the current use as follows:-

"I wouldn't say we are a formal music venue because we are a seafront bar mainly. It's actually funny you say that as it's a cause for debate in the bar every single day. We do two gigs a week definitely, Friday and Saturday. Then sometimes on Thursday and Sunday (Thursday is for college gigs so it's not every week or in holidays and Sunday just for informal stuff mainly in the summer for people to use as and when). Never on Monday, Tuesday or Wednesday. A lot of people who say we are a venue, will only be there at weekends so only see gigs but me and the staff who work every day have many days where there is not a gig. On those days we can have spoken word, Karaoke, comedy and all sort of other stuff music venues wouldn't do. We also have many regulars who don't come for the music. So it's a weird place. It's a community space much like a local pub but with local art on the walls, bands playing from all round the country and a "never say no" attitude to putting on events. I think that's why people feel so strongly about it.

I should add that it's not always live music at weekends either. We do DJ residencies also and a lot of the college stuff is DJ too. Sometimes there is vocals over recording music with the rnb or rapping. New Years Eve, Christmas Eve, Pride, Firework Night is always DJ as it's more for party vibes. It's a mix of whatever works on any given day."

It is understood that there is some dispute between the owner and tenant concerning the up-coming renewal of the current lease for the bar, but this is not a planning matter.

Proposal

It is proposed to change the use of the property from a bar (Class A4) and live music venue to a restaurant (Class A3).

External changes to the building and forecourt would include:

- a proposed new pedestrian opening in the western boundary wall (onto the pavement in Montague Place) including steps down from the patio and the existing grass verge being 'adapted to suit';
- the re-finishing of the low walls surrounding the forecourt in white-painted render and the addition of glass screening on top of these walls to a total height of 1.42 metres (the existing pillars being retained);
- New bench seating and 2 small tables to seat a total of 40 people on the forecourt;
- A new signage board on the western side elevation reading 'Food at 42' with two down lights above (the subject of a separate application – AWDM/0619/20).

The proposed restaurant layout is shown with a total of 46 covers (28 in the main part of the building at the front and 18 at the lower level area to the rear). The toilets would remain at the rear as existing; and the kitchen would be added into the back of the lower level area.

There is no information regarding the type of restaurant or proposed hours of opening, and when information was requested regarding the proposed system for the extraction of cooking odours the applicant provided a link to a re-circulation system which avoids the need for any external apparatus on the building.

Relevant Planning History

The planning history indicates that the property was a hotel in the 1940s, a coffee bar known as 'The Waldorf Buttery' in the 1950s, which then became a restaurant (including on the first floor) with an ice-cream vending machine on the forecourt through the late 1950s and 60s.

Permission was granted in 1975 to become a club/restaurant (861/75 refers). In 1984 permission was granted for a change of use of the ground floor to a wine bar (199/84 refers). In 2001 a change of use of the first floor was permitted from restaurant to manager's flat (01/00579/FULL).

It is understood that Bar 42 has occupied the premises since 2011.

In 2017 permission was granted for various alterations including replacement UPVC double-glazed sash windows (AWDM/1249/17 refers).

The premises were refurbished in 2018 following permission for 'Conversion of rear storage area on north elevation to create new WCs for bar with new window to west elevation, fire escape door to east elevation and replacement lean-to roof with two rooflights.' (AWDM/1597/17 refers).

The current application has been submitted alongside a further application for signage which is currently under consideration ('Installation of externally illuminated sign board and externally illuminated name/logo sign' – AWDM/0619/20 refers).

Consultations

The **Council's Design and Conservation Architect** makes the following comments:-

"My main objection is the break in the proposed wall and glass screen with steps to enable a second entrance to the front deck. As far as I am aware they have no rights of access over the land adjacent, and this whole area of public realm is being considered as part of a major investment into upgrading the public realm. Any access here may prejudice future public realm initiatives.

This is an opportunity to improve the external appearance of the building and enhance the CA. The boundary wall should have a base plinth, and we will need details of the glass support system. There was previously a non-illuminated sign on the west wall. The proposed sign should either be non-illuminated or a more subtle form of trough lighting employed.

I also have a concern regarding the kitchen in regard to the extract and venting that is mentioned in the application form. I am not aware of any existing flue, and the drawings do not show any details of a new flue. In such an exposed location any new flue could be harmful to the CA."

The **Designing Out Crime Officer (Sussex Police)** has made detailed comments stating that their main concern is that of noise and smells emanating from the premises impacting on the residential flats above, particularly when patrons are arriving or leaving or dining outside 7 days a week. They make the following requests:

- that a condition be included to ensure that alcohol is ancillary to food prepared on the premises and served at table by waiters/waitresses to safeguard against general A4 use;
- that opaque glass be provided on top of the walls to create a degree of privacy and reducing intimidation to residents;
- That a smaller amount of tables and chairs for outside dining be considered to prevent vertical drinking;
- That the opening hours limited to 23.00 hours to protect the amenity of residents;
- That a dedicated smoking area be provided to prevent pinch points and overspill onto the pavements;

- That doors and windows conform to a minimum standard and an intruder alarm system is fitted.

The **Senior Environmental Health Officer (Public Health)** makes the following comments:-

“As discussed there is a history of complaints from neighbours regarding noise, the conduct of customers on the outside patio and persons gathering on the pavement outside the current business. The majority of complaints have related to loud music, particularly live music, affecting adjacent residents. Investigations led us to suspect part of the problem was caused by noise transmission through a shared chimney stack, although the volume of the music being played appeared to be the major cause of complaints, particularly the lower frequencies.

Various meetings and interventions with the operator were attempted to try and resolve the matter informally, with limited success. Police Licensing were also heavily involved. The operator undertook some sound insulation works which had a limited effect.

In Spring 2018 the operator submitted an application to vary the licence to allow recorded music to 1am. The committee granted the variation, but with a condition limiting any music to a level of 70dB.

No statutory nuisance or Licensing offences have ever been substantiated. The last recorded complaint related to noise was August 2018.

With regards to the change of use I would need to see the kitchen extract details; its positioning, noise information and odour abatement details. Otherwise I cannot establish what, if any, the environmental impact will be on nearby residential property. I would need to see this before permission is given.

Given the history of noise complaints I would want to ensure that the sound insulation between the new use and the residential property above is adequate, this could be a condition of any permission.

Finally, I note that there appears to be no disabled access or disabled toilet facilities for the proposed new use.”

In response to information later submitted regarding a proposed re-circulating kitchen extraction system, the **Senior Environmental Health Officer** stated:-

“I haven't seen this type of system before.

The food legislation states that there needs to be suitable and sufficient ventilation, natural or mechanical. Mechanical airflow from a contaminated area to a clean area is to be avoided. The mechanical systems to be constructed to enable cleaning of parts.

There is a window to the kitchen so natural ventilation is provided and the system can be adequately cleaned. Therefore this may be ok subject to the proposed style of cooking.”

The **Planning Policy Manager** makes the following comments (which have been summarised):-

“This application seeks to change the building from a bar (that hosts live music events - capacity approx 100) to a restaurant. The following extracts are relevant to the consideration of this application:

National Planning Policy Framework

92. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
- c) guard against the unnecessary loss of valued facilities and services*

Worthing and Adur Economic Strategy 2018-2023

A strong and vibrant cultural offer is vital if we want to attract visitors to come to our area, but it is also part of our identity, sense of place and quality of life for our residents. There are major opportunities to build on our vibrant cultural offer to maximise its economic and social benefits.

Platforms for our Places (Going further) - Adur & Worthing Councils

Platform 1 - Prosperous Places - Attractors for prosperity through place-making (town centres, public space, public realm, public arts, cultural offer, seafront etc)

1.6 - Creative and Cultural Industries - 1.6.5 - Establish a recognised and well-known music economy that provides a platform for artists to showcase their work, provides a talent identification model and promotes social inclusion opportunities for young people, all supporting the evening and night-time economy (ENTE).

Worthing Core Strategy (2011)

Policy 11 - Protecting and Enhancing Recreation and Community Uses - Indoor and outdoor recreation facilities, sporting facilities, open spaces, cultural and community facilities contribute to the wellbeing of residents, workers and visitors. The current supply of such sites and facilities in the borough justifies a strategy that seeks to retain and enhance all existing provision. Development will not be permitted which would lead to the loss of, or prejudice the use of, land / premises used, or last used, for community purposes unless: the land / premises or their location are unsuitable for such uses adequate alternative accommodation is available locally that is as accessible and at least equivalent in terms of quality replacement facilities are proposed, or it has been demonstrated that there is no need for the existing use and that the potential to deliver an alternative community use where there is an identified need has been explored.

Draft Worthing Local Plan 2018

Development which would result in the loss of facilities will normally be resisted and will only be permitted where:

- i. an accessible replacement facility of a similar nature is provided that meets the needs of its current and intended users, as well as the local community;*
- ii. it can be demonstrated the existing premises are no longer required or viable in their existing use and the premises have been marketed for a reasonable period of time for an alternative community use.*

The extracts set out above demonstrate support at the national and local level for the protection of facilities that are valued by the community. There is also Council support for the protection and enhancement of the night time economy and the related music sector.

The representations received on this application demonstrate that a large number of people are of the view that the grass roots live music events provided by Bar 42 make an important contribution to the cultural offer of Worthing centre and provides a venue for local musicians to showcase their talents. It is argued that a change of use to a restaurant would be harmful to the night time economy due to the loss of a facility that contributes to Worthing Town Centre's vitality, character and cultural offer.

Whilst, the amenities of residents of neighbouring buildings do need to be protected there must also be an expectation that there will be a degree of noise and disturbance for those residing in town centre properties. It is accepted that this is a difficult balance to strike, particularly at a time when the Council is actively trying to support and nurture the night time economy whilst also encouraging a greater number of people to move into the town centre.

Whilst planning conditions, noise enforcement regulations and Building Control requirements can, if adhered to, help to mitigate potential negative impacts on neighbouring occupiers it is accepted that there is also a point at which these requirements can jeopardise the existing or intended use so that it becomes unviable.....a key test must be whether the existing uses (bar / music venue alongside residential properties) can be compatible in this location.

It is accepted that there are very few similar venues in the centre of Worthing that cater for music events of the scale and type hosted at Bar 42. As a consequence I am in agreement its loss would have a negative impact on the local music scene and the night-time economy.

A key consideration for this application is whether, in policy terms, the bar meets the tests to be considered to be a community facility. Core Strategy Policy 11 does not specify a use class but, instead, refers to 'community purposes'. If a case can be made that, in policy terms the bar is a valued and irreplaceable community facility then there may be more scope to consider its potential loss under the existing policy provisions."

The **Highway Authority** makes the following comments:-

“Summary

This proposal is for the change of use from drinking establishment (A4 use) to restaurant (A3 use). The site is located on Marine Parade, a C-classified road subject to a speed restriction of 20 mph in this location.

Content

No vehicular access is associated with this proposal. However, the applicant does propose a new pedestrian access to the west elevation. The site plan indicates that the existing grass verge will be adapted to suit. The LHA notes that this grass verge is situated within the maintained highway and as such, the construction of a pedestrian access would be subject to a licence. A licence can be obtained through the local area office and the access constructed to a specification agreed with the local area engineer.

The LHA does not anticipate that this proposal would result in a material intensification of movements that would be considered “severe”. An inspection of collision data provided to WSCC by Sussex Police from a period of the last five years reveals no recorded injury accidents attributed to road layout within the vicinity of the site. Therefore, there is no evidence to suggest the nearby road network is operating unsafely or that the proposal would exacerbate an existing safety concern.

No vehicular parking is associated with this site, which is the existing arrangement. WSCC parking standards for A3 and A4 use classes are the same (one space per 5sqm of public area and two spaces per bar for staff). As mentioned above, the site has operated without parking provision with no apparent highway safety concerns.

Whilst on-street parking is limited in the vicinity, there are comprehensive parking restrictions in place prohibiting vehicles from parking in places that would be a detrimental to highway safety. The LHA does not anticipate that highway safety would be detrimentally affected by this proposal. The LHA appreciate that the site is situated in a town centre location, within walking distance of public car parks and public transport links.

The applicant has not demonstrated cycle parking. The LHA advises the applicant to consider the inclusion of secure and covered cycle parking for staff, in accordance with WSCC standards. The inclusion of cycle parking helps promote the use of sustainable alternative modes of transport to the private car.

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.

If the LPA are minded to approve the application, the following informative should be applied:

Pedestrian Crossover – Minor Highway Works

The applicant is advised that in addition to obtaining planning permission that they must also obtain formal approval from the highway authority to carry out the site access works on the public highway. The granting of planning permission does not guarantee that a pedestrian crossover licence shall be granted.”

Representations

The Music Venue Trust has written a letter of objection on the grounds that:-

- Bar 42 is an iconic grassroots music venue and a member of our Music Venues Alliance. This is not simply a change from a bar to a restaurant, this would inevitably mean the closure of Bar 42 as a space which makes a significant contribution to the cultural offering of Worthing.
- Granting permission would remove an important community use in a location where the Council are seeking to encourage visitors and promote regeneration.
- We would like to underline the importance of the Agent of Change principle in the National Planning Policy Framework at paragraphs 6 and 123 which says LPAs should recognize that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
- Paragraph 70 states that planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.
- As such granting this change of use would act against the intent of the Agent of Change principle in the NPPF.
- Furthermore, the Core Strategy makes clear the importance of the cultural offering in Worthing supporting the economy as well as local communities.... With one of the measures of success being 'an increase in cultural and arts events and exhibitions'.
- The proposal is entirely contrary to Policy 11 which seeks to protect and enhance cultural and community facilities, as well as emerging Local Plan Policy CP9.
- Bar 42 can play an important role in promoting the Seafront Investment Plan designed to encourage visits, this is another reason this application should be refused.
- When a change of use application is submitted a noise report and other documentation must also be submitted – these have not been and it will be impossible for them to be whilst Bar 42 is following Government lockdown measures due to Covid-19.
- We object to any attempt to produce a noise report whilst the venue is adhering to Covid-19 restrictions – it is not possible to get accurate reports, therefore the reality is the application cannot proceed whilst lockdown is in place.

227 letters of representation have been received, of which 3 support the application, 1 offers suggested conditions, and 223 object to the application.

Of these objections, 142 are from people living in Worthing, 20 from Brighton, 17 from Littlehampton, 14 from Lancing, 3 from Bognor, 3 from Rustington, 3 from Shoreham, 2 from Ferring, 2 from Redhill, 2 from Haywards Heath, and 1 objection from each of Horsham, Crawley, Arundel, Poole, East Preston, Chichester, Pulborough, Burgess Hill, Felpham, Berkhamsted, Surbiton, West Chiltington, Sompting, Ryde and Southwick.

These objections raise the following points:-

- Bar 42 has irreplaceable value for our community.
- The bar supports young talented musicians and artists as well as established bands. It has a very unique vibe and the Council should support such an important music venue.
- There are plenty of restaurants in the centre of town but there is no other music venue and that's what we need here.
- The location is perfect for a live music venue on the seafront which brings this town to life. It is a vibrant, exciting, different and fun place.
- This is the only real music venue left in Worthing, so this would be a serious loss for the culture of the town.
- Bar 42 has proven to be an extremely valuable part of Worthing's music scene, promoting and incubating young local talent, and giving opportunities for local bands and musicians to begin their careers.
- The bar provides a space for the local college to put on evenings for the young people that are studying music, there are not many places that provide this and giving this experience to the young people studying is essential.
- Dedicated venues of this type are an essential part of a community, allowing creative talent to thrive.
- Bar 42 is different from pubs with "live music" (mostly covers bands playing ubiquitous pop/rock hits).
- Bar 42 promotes and encourages original material, and gives creative bands a rare platform on which to play original work.
- Taking away Bar 42 would be taking opportunities away from a lot of people.
- There is no need for yet another restaurant on the seafront, when there are a multitude of others available. It would affect the existing restaurants by bringing even more competition.
- This is the most friendly gathering space I've been to and also a music venue supporting smaller artists.
- Bar 42 gives hope to smaller musicians who have never played in front of an audience with a very supportive community to back this.
- Bar 42 is a lot of young people's first experience of live music with it being a small and friendly, welcoming venue.
- Replacing Bar 42 will take away these experiences – I strongly object.
- Bar 42 has been a beacon for local music and arts – to lose that to another restaurant squashed into a dense town of already good eateries really can't be justified.

- Please don't let a great institution shut and stop the talent that wonderfully flows through it!
- There are far too many restaurants in the local area, we shouldn't be losing a social spot for so many.
- As a promotor of Worthing local events and independent businesses over the last 10 years through Sunny Worthing Media Group – I have seen Bar 42 grow into a successful and welcoming multi-genre venue.
- It is an essential part of the town centre night economy.
- Bar 42 supports/hosts charity events and gig nights including for Oxfam (Oxjam).
- The venue links to and supports college bands from MET – the loss of this venue would massively impact on the local arts scene and the knock-on effect to the night-time economy would be magnified.
- Bar 42 is one of the best music venues in the south coast of the UK.
- Bar 42 is a great pub and has a great reputation whilst helping bands and artists begin their careers – to take it away would destroy part of the local scene that it has built.
- Bar 42 attracts people outside of Worthing to catch local and signed music acts.
- They are a pillar of the community, many charities using the venue as a place where those they help can go and be themselves, free of judgement – it's a beautiful thing to see.
- There is not sufficient space for a restaurant.
- The proposed kitchen would be too small and the design is trying to fit too much into too small a space. It would be a hazardous layout with a small kitchen right next to the toilet and there would be health and safety issues and hygiene problems.
- Bar 42 adds life and rhythm to our seafront and is one of the reasons I have decided to stay and buy a property in Worthing.
- This section of the promenade should be a bustling hotspot for the town welcoming those from all walks of life to commune and interact.
- Many touring musicians and bands have come through here over the years, including their followers, adding their money to the local economy in periods where bad weather or 'bigger towns' may have kept people away is a valuable revenue stream.
- It has seen our town grow significantly on the music scene, recognised across the UK as a serious venue. The MVT should be all over this.
- The staff are friendly and approachable.
- Or we could all just reminisce as we wander past the empty 2 star restaurant in the rain on a Tuesday evening, contemplating when the Notice of Closure will appear in the window.
- Do not let a big part of Worthing's music scene go for a restaurant that won't succeed.
- I live in Bognor Regis and regularly travel to the venue – the loss of such an iconic venue would be catastrophic to the culture of the town and to Sussex.
- This is the ONLY music venue in the town where original live music is encouraged and promoted. It's loss would be against the town's proposal to support the arts and a nail in the coffin of Worthing's nightlife.
- I know more people willing to travel and spend their hard earned money in these uncertain times in Bar 42 where they will receive revival through

entertainment and engagement than would bother with a meal in yet another small restaurant.

- As a student in festival and event management, Bar 42 is the only place that is affordable to throw events as practice. I can't imagine Worthing without it.
- 'Improv' comedy acts have also taken place here as well as other functions.
- People come from all over the south of England.
- Worthing is full of struggling restaurants at the moment so it seems foolish to add another one, it would put existing businesses under even more strain.
- It's an important bit of town right by the pier and the seafront and we need nightlife to thrive there.
- Losing this bar would be bad for nights like firework night, carnival, Pride, running or any other events that come to town as people like to observe these events from the bar.
- No wonder a lot of youth of today feel alienated by the Council and Government. If you keep letting landlords and business men do whatever they want then our town centre will continue to decline.
- There is not enough being done to support the youth, artists, musicians and even the wider public.
- This would be a direct confrontation to Worthing's 'Discover Worthing' tourism initiative.
- Significant investment has been made to accommodate noise insulation, and the current tenants have been in situ longer than most neighbouring tenants.
- Bar 42 contributes to Worthing nightlife in a way that any other business would take years to match.
- Patrons at events would be inclined to street drinking.
- As a professional music educator myself I can't emphasise enough how important small music venues like Bar 42 are to the musicians, music lovers and culture of our town.
- Worthing live music offering is in a constant uphill struggle to survive and closing one of its main venues will be a massive blow to this community.
- Bar 42 keeps young people creative and share music together, keeping them productive and creative, rather than bored and troublesome.
- People travel from as far as London, Sheffield, Bristol and even Europe to play and attend shows at Bar 42.
- I write for various national music blogs and apart from The Factory which is new but slightly out of town and Bar 42, Worthing has zero grassroots environments for new and upcoming artists – the death of Bar 42 will provide a severe lack of diversity in the town and the vibrancy of Brighton will never be achieved.
- A restaurant would require parking which does not exist, thus they will end up using the already busy seafront and close-by residential parking areas.
- Other towns and cities have made the mistake of losing their live music scene, don't make the same mistake.
- As a professional musician and ex music student studying in the area, Bar 42 was a precious place for all music lovers alike.
- It's location is too far from areas which the Council have earmarked for development, specifically areas of town designated for 'eateries'.
- Mark Knowles took on a site with a vision to revive the flailing live music scene in Worthing – it is because of his drive and enthusiasm that Bar 42 has flourished over the 9 years.

- Bar 42 has shown that there is a demand and need for this sort of venue in Worthing, catering to a crowd that is keen to see culture, avoiding the main strip's over-lagered, potentially aggressive drinkers.
- Bar 42 is promoting Worthing to the rest of the UK and Europe.
- We have many restaurants in Worthing but we only have ONE Bar 42.
- There is nothing else like this in the area.
- This would be a huge loss to musicians, bands and music students who showcase their work as part of their grading for Northbrook College.
- This venue is the best and the only reason any of us come to Worthing.
- The music and community spirit is vital in the wellbeing of people who need this music as an outlet to preserve their mental health.
- It is a critical gathering point for the massively under represented and alternative community.
- It seems to me that Worthing planners want to create a geriatric ghetto and eliminate anything that caters to the young.
- There really has been a great music scene created and a community brought together here.
- Worthing will become a less attractive place for visitors, who will go elsewhere to spend their money.
- It would be an irreparable mistake to grant this application and allow the loss of something so special to so many.
- A lot of us would never come to Worthing if it wasn't for this venue!
- In these times of lockdown, people have seen the importance of the arts. People need art. Towns need a soul.
- Closing Bar 42 would be the spiritual end of individualism in Worthing.
- People travel to see the gigs and spend money in shops, on food and on accommodation.
- I have never seen any behaviour issues, unlike pretty much every other pub and bar in town.
- I haven't seen a single fight or any misuse of drugs in all the events I've attended. The team, including security, would not stand for it.
- The plans seem a half-hearted attempt to have a reason for ejecting the current tenant.
- Bar 42 helps to provide business for neighbouring bars and restaurants.
- The bar area won't be possible in that space, the kitchen is far too small, there won't be room for storage – no-one has been in to measure up or look at the space which is why I know they are unaware the plans aren't feasible.
- The area between the pier and The Lido, which is the focus for Worthing's Seafront Regeneration project needs some lively commercial properties – The Worthing Wheel, the fireworks, carnival, Pride are all examples of events needing a public area for refreshment.
- A community has been created there like nowhere else in Worthing, for people to meet and begin collaborating, to showcase their artistic achievements and for generations to mix, where the old and young meet and celebrate together.
- Residents would be forced to go to Brighton for alternative music therefore depriving our town of life and profits.
- I work at Northbrook MET College in the music department. Bar 42 is an essential part of the local music and culture scene. Many of our young students get their first experience of playing in bands and organising gigs

there. Music culture is often overlooked in the UK, yet is one of our major employers. Small grassroots venues such as Bar 42 are the foundations of the industry as well as being important parts of the local community.

- Local music venues are vital to the music industry in the UK. This has serious implications, not least the tragedy of losing an important cultural centre for the people of West Sussex.
- Bar 42 has a unique role in the music and social community which is far more valuable than another restaurant. Worthing would be losing a true cultural cornerstone.
- It has cultivated a community of patrons unlike any other place in Worthing.
- Music plays an important role in human development and we should all be looking for more creativity, more connection and more experiences. Bar 42 is where we go for that.
- Without venues like this people won't develop a love of live music.
- The image of Worthing is changing and we need more places like Bar 42 to drive that change forward.
- The bar runs a night dedicated to youth from some of the most deprived places and diverse cultural backgrounds, this would take away one of their only opportunities to realise their potential.
- If this application is granted what happens to our local talent?
- I am in my first year of music business and know how important this is for our local culture.
- Please stop trying to make our town centre a food court.
- The owner of the bar works tirelessly to promote music in Worthing and should be supported 100%.
- Converting the bar to a restaurant will raise noise pollution as the overall noise will be expanded throughout the day as opposed to just the evening.
- The bar supports some special needs people in the area who do not feel welcome in other drinking establishments.
- The owner offers an invaluable platform for emerging talent and with more support this asset to the town could grow and grow.
- Many live bands in Worthing play the same old covers which has led to stagnation with the local music scene – Bar 42 is a breath of fresh air and Worthing Council should do everything it can to ensure that it flourishes and provides an ongoing platform to showcase young musicians of the future.
- Bar 42 adheres to all the rules re noise and local residents.
- People travel from all over the county to visit Bar 42.
- I am based in Crawley and this happened a few years ago after the last surviving music venue for original artists was abruptly closed and changed to a restaurant that wasn't needed, leaving a gap amongst the once thriving community that has not recovered since.
- I work for local Youth Music Charity – AudioActive. Bar 42 has been fundamental to the work we do with youngsters in Worthing. It's closure would have a detrimental effect on many young people's lives.
- The loss of Bar 42 would have a huge impact on Worthing's music scene and would negatively affect the town's cultural landscape, in a way that could never be replaced by another restaurant.
- We are in our early 50s, music is our love at such times as these music is a saviour.
- All venues will struggle after this pandemic but this place is unique...

- The Government are finally listening to the music venue campaigns who are striving to keep the music culture of this country alive, a culture that is recognised on a global level. We must do what we can on a local level to save these important music venues.

The occupier of Flat 5 Oyster Court (41 Marine Parade) makes the following comments neither objecting or supporting:-

- I would prefer a change of use to residential. However, I approve this application if the following are applied as conditions:
- The current premises licence stipulation that all recorded music provided after 23.00 hours is to be controlled by a noise limiting device, set and maintained at no greater than 70 decibels;
- There should be restrictions on use of the outdoor areas, e.g. no drinking in the open area to the front late at night;
- There should be self-closing doors to the terrace to reduce noise;
- The scheme for extraction of cooking odours should be approved, installed before commencement and maintained thereafter;
- There should be appropriate siting and design of ducting and other external equipment to prevent odour/noise annoyance to residents and to ensure no visual harm to the streetscape of the Conservation Area.

3 letters have been received which support the proposal for the reason that:-

- A 'long suffering neighbour of Bar 42' (no address given) states that after almost a decade of noise and stress from Bar 42, please allow the owner to turn it into a quality restaurant on the seafront, although housing would have been preferable!
- The occupier of Flat 3, Oyster Court, 41 Marine Parade supports the application (no comments given).
- The occupier of 51 St Lawrence Avenue states that this bar has had noise problems because of the live music. There are luxury air bnb properties in the same property, which are attractive to visitors to Worthing, both business and casual. Noise nuisance deters prospective tenants. A restaurant would be far more appropriate to attract visitors to Worthing seafront.

The Applicant has made the following statement in response to the concerns raised by Officers in the light of the number of objections received and Policy 11 of the Worthing Core Strategy:-

"Thank you for giving me the opportunity to respond to your concerns regarding this application.

I am not sure if you are aware of this but the lease for Bar 42 runs out on the 21st of April 2021, I would expect that those individuals who have objected are also unaware of this. I as the landlord want to redevelop the space into an attractive restaurant that will create a number of new jobs for locals and add real value to tourists visiting our town. Additionally I believe that this will enhance the area, and provide better living conditions for the tenants of the building.

I have also been advised that there is an option under PD that we are allowed to change this from class A4 to A4 with extended food provision which is another option I am considering should my application be refused. I would like to make you aware of a number of other concerns I have that I feel need to be considered as part of this process. There have been several complaints over the years by tenants living above the bar and local residents in respect of the excessively loud music that is being played. There have been numerous reports of unsociable behaviour by the patrons of the bar and also a complete disregard to ceasing the playing of loud music as permitted by the license cut off point has been evident. Over the years and more recently it has been documented and reported to the police on several occasions that drug paraphernalia and use has been seen in the footpath to the flats above the bar. I have had many concerns raised by the tenants to this effect who also have young children residing there. I am sure you will agree that this is not good for the area.

In response to Policy 11 we would argue that although the site is within a central location, it is surrounded by a number of residential properties. Our understanding is that there has been a history of regular complaints to the Council's Environmental Health Officer from these residents against Bar 42 on the basis of excessive noise emanating from bands playing music at the bar and disturbance associated with the comings and goings of patrons of the bar. We are of the opinion that the use of the premises for a bar specialising in holding very regular night time events that focus on bands playing loud music is inappropriate in this location. By replacing this use with a restaurant we will improve the living conditions of neighbouring residents by removing the noise and disturbance associated with a music venue/bar use. Beyond the basic purpose of restaurants to provide food and drink restaurants have, historically, fulfilled a human need for connection and shaped social relations. Therefore, a restaurant will still serve a community function by providing a quality eating establishment in an accessible town centre location. The restaurant will still provide an economic benefit, and as stated will employ local persons.

In order to further enhance and support other local businesses, the restaurant will use locally sourced produce, and provide space for local groups to meet (such as community groups, businesses, or more informal get together). Local musicians will be invited to play on certain nights to provide background/mood music, and local artists will be invited to display their work on the walls of the restaurant.

The same people who choose to drink and watch bands at Bar 42 will hopefully want to visit the premises to enjoy a meal with friends and family. In short, the community will still have access to the premises, albeit the activities undertaken within the building will be more refined and discrete than is currently the case. This will have environmental and social benefits to the local area with the living conditions of nearby residents enhanced, as well as providing a new food offering to Worthing town centre. This will enhance its growing reputation as a place for quality and diverse night time entertainment. Such a use would surely also add to the cultural diversity available to Worthing residents and visitors alike, and as such we contend that the proposals will retain a community use and as a consequence will accord with Policy 11.

In your email of 8th June you reference the 200 letters of objection that have been received to the application. It is of course regrettable that people feel strongly enough to object to the application. However, this needs to be balanced the consideration for the amount of residents whose living conditions are regularly disturbed by the existing use. This is wholly unacceptable, and our proposals provide a solution by removing this existing unneighbourly and inappropriately located use, and replacing it with a more sensitive and discrete use, which will provide a day time and night time use for residents and visitors to the town to enjoy, without the risk of environmental disturbance.

In response to your concerns over the extractor and the visual impact and noise I can assure you that this has been addressed by effective soundproofing which will eliminate the noise from the restaurant to the flats. This will be overseen by Building Control as part of the reconstruction of the site should the plan be permitted.

The extraction system being used will be a re-circulating system so no flue or visual impact will be on the exterior. I am fully aware that this is in a conservation area and respect that this is the best solution.”

The Manager of Bar 42 has responded to the points raised in the applicant’s statement, as follows:-

“The Landlords Act 1954 gives the tenant the right to renew a commercial lease. Exceptions include breach of current lease, non-payment of rent or if the landlord wishes to redevelop the property. We are not objecting to make things difficult for him, we are objecting on planning grounds of culture and community in order to legally get the lease renewal we are entitled to. We currently employ 5 self-employed sound/lighting professionals, one bar manager and some casual staff. We have a team of independent promoters and employ a local firm for security. Granting the application would cost many of those people their livelihood as there would be nowhere in Worthing requiring their skills.

The complaints have been made by himself and two of the neighbours. One of those neighbours have previously worked for him in his Airbnb above the bar. The complaints they are making are unfounded but are exactly the same as the complaints from the neighbours. The landlord doesn’t live here and wouldn’t be able to repeat those claims without having talked to the neighbours first. Noise complaints started in earnest around the end of 2014. The landlord bought the building in September 2014. There is a clear correlation between the purchase of the building and the noise complaints. As a bar we did nothing different between 2011 and 2014 and after 2014 but we received noise complaints. We were confused why this happened at first until we noticed our neighbours going in upstairs with linen for beds and buckets for cleaning. Then it made sense as they’d clearly been working together to remove us. We think because it would increase the value of their property next door and certainly, at least one of them were hoping to move away from Worthing.

The building does not have residents. It’s been an Airbnb since July 2018 on completion of the refurbishment. They claimed in a licensing hearing in April 2018 that the bar would disturb residents and we had sanctions placed on the bar as a

result. I stated at the time it was due to be Airbnb but that was ignored. The accompanying paperwork proves it's been Airbnb since July 2018. Maybe this is something you can clarify with him as saying we have residents with children about the bar is a blatant lie and it would be interesting if he insists on the lie or if he changes his story meaning this statement is a lie.

There has been nothing reported to me by the landlord, police or council about drug paraphernalia, whatever that is. The footpath to the flats is separate to the bar so maybe this was his customers not ours. We have CCTV covering the area so any report could be checked easily.

Live music is timed to finish here between 10.30-10.45pm. Very occasionally we finish closer to the strict 11pm curfew but never go over. Again, they will not have evidence of this because it's never happened. We are in full control of the sound and just turn it off if any bands threaten the curfew. We have clear signage on the stage to warn the musicians this might happen if they flout the rules.

The EH teams were here a lot but could not substantiate any of the claims as they have said in their statement. They wanted to test in the flats but the residents were evasive and that was because they can't hear the music and would be found out. It went on and on for 4 years before finally petering out. We stand by our claims that they cannot hear the music next door and we've had no complaints from upstairs as per FOI request I sent to you. However, we're happy to demonstrate as we have access to a flat next door.

There are five units on the ground floor of the terrace and 4 are commercial, including another bar with a later license than us. This is the case for properties all round town. Commercial downstairs, residential upstairs. This is not a residential terrace and nor does the council want it to be.

A restaurant does not serve the community or have any cultural effect on the town. It's a restaurant, it serves food.

As yet we are unaware what type of restaurant they intend to put here so it's doubtful they will be able to guarantee using local produce. Maybe this is something you can ask them, what type of restaurant will it be? If this goes to court they will need to disclose this, their menus, plans, staff roster etc.

If they like the idea of musicians playing and artists having art on the walls then surely they'd like Bar 42. I can guarantee musicians would rather play in a music venue in front of music fans than in a restaurant and we've had artwork on the walls for three years since we joined Worthing Art Trail. They've never commented on this even when we were moving it all out before the refurbishment which they built.

As I've said before there is no cultural or community offering from a restaurant. I can't name any place in town that covers either of these. Another restaurant certainly wouldn't add to it, it might actually detract from what's here already.

With only one valid noise complaint in 9 years from above the bar and no noise complaints since 2018 from anyone these claims are unfounded and should be

ignored. I don't see how any of these claims can be considered due to a lack of evidence. It's just concocted stories from them and the neighbours since they bought the building in 2014.

They do not understand how to set up and run a restaurant. This extractor is very cheap and not good enough for a commercial kitchen. This would simply recirculate smoke from cooking and set off the fire alarm regularly.

It is our opinion they do not intend to set up a restaurant here. We believe they are using this application to avoid a lease renewal for us to vacate the building. At that point they will simply sell the bar. We would be able to go to court for compensation with this outcome but that would be expensive and they are hoping we would just walk away and not spend 20k on a court case to get justice. We are aware of other legal proceedings against them in a similar vein. We have numerous examples of their unwillingness to run a satisfactory building including non-action for a broken fire alarm in 2017, non-action for masonry falling off the building before the refurbishment, non-action with leaking ceilings and non-action when dealing with the prohibition notices. We can provide more evidence if you require but Building Control would be a good place to start too. I can't remember his surname now but it was a chap called Bruce who issued those notices.

If you need anything further let me know."

The Manager of Bar 42 has also sent the Council a copy of his response from the Council to a Freedom of Information request regarding the history of noise complaints, which confirms that on 4th October 2018 there had only been one past complaint about loud music in July 2011, where the Council's EH Officer attended to witness and confirm loud music was clearly audible in the flat above. He states that the sound insulation was carried out in September 2011 following this complaint. A later complaint in February 2012 was withdrawn. He attached a letter from the person who occupied the flat and made the complaint that was withdrawn, stating that the problems of noise on the seafront turned out to be from other sources, not from Bar 42.

He has also stated that since the refurbishment in 2018 the flats above have been rented out on Airbnb (attaching copies of adverts as evidence), and that therefore there are no permanent residents living in 42 Marine Parade, contrary to the landlords claims in his response.

When asked about the links with Northbrook College, the Manager of Bar 42 has provided further information as follows:-

"Every January/February the students are asked by college to organise and promote their own events as part of their course. Most of those students use the bar for their events. Previously they were stuck in the canteen or a class room at the college. Now they have a proper venue with a sound/lighting tech, stage, lights etc to perform in. It gives them a far bigger insight into music and the requirements and as a result many are actually nervous to perform in front of their friends and family.

In a previous email I said that we do most Thursdays for college gigs throughout the year but on these occasions we can do Wednesdays too to fit them all in. I think I'm right in saying the deadline for those gigs is the end of February so the students are heavily reliant on the bar to provide the facility. Although some can be busy, others might not be and we can lose money on those events as, because of the age of the students, the bar takings are very low but staff levels are high due to the need for security to stop underage drinking and keep an eye on things. However, we're happy to help as we see a big benefit culturally in the short term which can return a financial benefit in the long term.

The "slow build approach" is only now starting to work after we've been doing this for 6/7 years. In amongst the 200 or so objections there are parents of students stating the importance of the bar to their sons/daughters musical education. Other lecturers at the college contact me throughout the year to put on a yearly showcase for their students too. They use the bar for smaller events or Pavilion for larger ones. We have Northbrook College's logo on our signage above the door (see attached photo) as a result of our association and there is a definite mutual benefit from our association. I know a lot of students and former students who would be very unhappy to lose bar 42.

Moreover, all three of our current sound techs are former Northbrook students, as is our Lighting Engineer. Bar staff down the years have also been current or former students from the music/creative courses. We have many photographers coming in from the current courses to take photos of gigs and to perfect their skills as well as earn money from their work. One of them, Matty Greenfield, who we employed to create and edit a video for us while he was still a student, had one of his photos commissioned by WBC for the "Time For Worthing" campaign. The band is The Bitter Pills, the guitarist is Nico Scerri and the photo was taken at 42 so the council themselves, in promoting local culture have used a photo from the bar. See attached photos.

The video Matty did is linked below and explains rather nicely the importance of grassroots venues and how people feel about the bar. Black Peaks, who are featured in the video have actually played Wembley Arena and multiple huge festivals on big stages such as Glastonbury, Reading and many abroad. They are Brighton-based and their mates play in a much smaller band at the bar and persuaded them to play, which was actually ridiculous and very humbling for us and they were fantastic. I was a bag of nerves all night and worried something might break and we'd look like idiots but the night went perfectly. This was a Monday night in January, it was freezing, the streets were dead but 42 was buzzing.

We also host All Stars which is a local music school run by David McConnell. He owns his own record label now too. The age limit is 18 but there is no lower limit. If kids want to play and are capable they can play. We've had 10 year old drummers and 12 year old guitarists playing on those afternoons. Parents, grandparents, brothers and sisters come and watch and it's all organised by David. We don't make any money on those events at all and I work them myself but David gets people from schools around the area to engage in music that wouldn't necessarily happen. Other venues have refused him access because they lose money but we will

continue to support him as we see the benefit for something other than financial reasons.

One of the bands played 2 years ago when they were 16 and have since played a Thursday night headline slot when 18 and the bar was busy and the takings were good. So we see the progression and are willing to put in the effort no matter how young they are to nurture talent while keeping an eye on the bar's financial situation too. One of his former students is in a band called Noisy who are signed to Island Records now and could be huge. I'm certain if we're allowed to continue we're creating a conveyor belt which could benefit Worthing massively in future. Another signed band and my favourites, Gloop are also on the ascent, hopefully to stardom. They are certainly good enough but need a bit of luck now. They are from Littlehampton and have played at 42 for 6 years now.

It's not just music either and this next one is very exciting. A chap called Chris Reynolds, who is mid 60's now, has been a comic writer all his life. It started as a hobby and progressed. He finally got a book deal 30 years later to put all his work together. We did the book launch at the bar as this is stuff I love doing. It was a fun night with music and book signings. The book itself is hardback and a work of art. His style is very distinctive in an old American style and on release went crazy globally. They sold out the first batch so made some more. It was translated into French, Spanish and Mandarin for other markets. He was invited all over the world to speak at Comicons including Toronto which is the biggest in the world and has been a guest on 100s of podcasts around the world. In the last month he's sold the book rights to a TV production company who are going to turn it into a BBC/Netflix TV series.

The most exciting part is the bar and my fake band (I invented a fake band called Non-Existent and sold over 100 t-shirts) will be in the second book. His comic art is all over the bar including our own Bar 42 t-shirt design (sold over 150) and also on a fake door we have which he designed 2 years ago featuring "The Cinema Detectives" who are characters the TV show will be based on. We've already had contact from fans in Europe and China regarding the bar. He's just finished a comic dedicated to the bar and Non-Existent too.

I know a lot of this doesn't exactly fall within the planning policy of the council but it's a bit more information about what the bar actually does and what a loss it would be to the town. I have no idea if the bar, town or whatever will get a mention in the TV series but it would be such a shame if it was planned to be in the second series and the bar wasn't here anymore.

One thing we can do, if people are worried about the noise is demonstrate. I know it sounds odd but the EH teams have never been in the front flats next door when a gig was going on which is why they state the noise complaints are unsubstantiated. It was never tested properly. I've attached an acoustic report we commissioned back in 2014 stating that measurements in the flats at the front of 41 Marine Parade was not possible due to traffic noise so the noise in those flats was minimal according to the report but never confirmed by the council.

Also, there have never been any complaints from residents above the bar since we had soundproofing back in 2011. My assistant manager now lives next door and we can demonstrate with recording music at a very high level that you can't hear it next door unless the doors to the toilets are open (which obviously happens if people go to toilet during a performance) and this is due to the landlord's builder (his brother) not soundproofing the roof in the new block. This is something we requested at the time of the planning application and should have been stipulated at the time due to the nature of our business but it was ignored. The landlord made noise complaints subsequently but these were ignored once the EH team we informed that his family had completed the building work and ignored this clear request. It's also worth considering there were very few complaints from April 2011 when we started live music to September 2014 when the landlord bought the building, from the same neighbours at which point they started complaining in earnest. One of those neighbours failed to sell their own property during this period and cited the bar as the reason.

We also have a lot of documentation to prove what I've just said above. We have a number of examples of the landlord lying to the council and also there is the fact they ignored the plans for the refurbishment inside our toilet block and redesigned it after permission was given.

Let me know if you need any further information. As I said before, it would be a lot easier to show people around and explain this stuff with them looking at what I'm explaining. We can't show them a gig, unfortunately due to restrictions and that's likely to be the case until January but we can show people the bar."

The Programme Leader on the BA Music Degrees at Northbrook MET has written in raising the following points:-

- The advent of Bar 42 has been a pivotal factor in Northbrook MET's Music Department's visibility and reach, in the same way that King Tut's in Glasgow, The Forum in Tunbridge Wells, Eric's in Liverpool and similar small, grass-roots, dedicated live music venues have facilitated the development of talent for a multi-million pound industry for the UK and it's comprising towns, so Bar 42 has become a nationally recognized badge for Worthing culture and talent.
- As Programme Leader, Bar 42 is a critical resource for my courses. None of the other venues have the same ideal capacity of under 100 or the facilities, or the sound proofing required for these events to occur without disruption in a town centre that Bar 42 has.
- The small capacity is crucial for a young band to create a buzz in a room that doesn't feel empty with 40 to 50 people.
- We have previously used some pubs, but sadly the culture is potentially violent and overly reliant on alcohol sales.
- In years of our promoted events at Bar 42, we have not had one single instance of violence or threat, compared to events in local pubs.
- Thanks to the owner's ongoing development of the venue, I as an educator feel confident that there is no safer or more appropriate venue for my music performance, business or production students either here or in Brighton.

- Many Worthing born bands have gone on from Bar 42 to international recognition, which shows how one small, highly soundproofed venue, which doesn't allow live music later than 10pm has transformed potential for Worthing based talent.
- If Bar 42 becomes yet another restaurant, I will sadly have to take our student events to Brighton.

Relevant Planning Policies and Guidance

Worthing Core Strategy 2006-2026 (WBC 2011): Policies 3, 5, 11, 16
 Worthing Local Plan (WBC 2003) (saved policies): RES7, H18, TR9
 Supplementary Planning Document 'Sustainable Economy' (WBC 2012)
 National Planning Policy Framework (2019)
 National Planning Practice Guidance

Relevant Legislation

The Committee should consider the planning application in accordance with:

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

Planning Assessment

Principle

The application falls to be considered under Core Strategy Policy 11 (Protecting and Enhancing Recreation and Community Uses), which stresses the contribution that community facilities make to the wellbeing of residents, workers and visitors and therefore states that:-

Development will not be permitted which would lead to the loss of, or prejudice the use of, land / premises used, or last used, for community purposes unless:

- The land / premises or their location are unsuitable for such uses
- Adequate alternative accommodation is available locally that is as accessible and at least equivalent in terms of quality
- Replacement facilities are proposed, or
- It has been demonstrated that there is no need for the existing use and that the potential to deliver an alternative community use where there is an identified need has been explored.

Core Strategy Policy 3 is also relevant which encourages sustainable economic growth through supporting the development of tourism and creative industries with particular emphasis on the town centre and seafront locations; and Policy 5

encourages the role of the arts, creative industries and sustainable tourism sector in creating a modern and exciting environment that will attract more visitors to the town.

National Planning Policy Framework paragraph 92 states that planning decisions should guard against the unnecessary loss of valued facilities and services.

A key consideration for this application is whether, in policy terms, the bar meets the tests to be considered to be a valued community facility. Core Strategy Policy 11 does not specify a use class but, instead, refers to 'community purposes'. The large number of representations received, not only from residents of Worthing but from all over Sussex and some further afield, demonstrate the strength of feeling from the venue's patrons that this is a highly valued community facility. The comments stress the importance of Bar 42 to the live music scene in Worthing, in particular for young musicians starting out their careers and for music students from the local area. The representations also show that the venue has become an important community and cultural hub, catering for different age groups and sections of society who do not necessarily feel comfortable visiting the more main-stream pubs and bars in the town.

Further representations which support this view include the Music Venue Trust, who describes Bar 42 as 'an iconic grassroots music venue' which makes a significant contribution to the cultural offering in the town and that granting a change of use would remove an important community use in a location where the Council are seeking to encourage visitors and promote regeneration.

The Programme Leader for the BA Music degrees at Northbrook MET has also written in to stress how critical Bar 42 is as a resource to these courses, stating that this is due to its relatively small capacity which allows a band to create a buzz at grass roots level, its effective soundproofing and its feeling of safety for students in comparison with other local pubs where safeguarding issues arise due to alcohol-related violence and abuse.

The number of representations and the strength of feeling and support for Bar 42 make a clear case that this should be considered to be a highly valued community facility under Core Strategy Policy 11. The Planning Policy Manager points out that there is support at the national and local level for the protection of facilities that are valued by the community, along with Council support for the protection of the night time economy and the related music sector. He states that the loss of Bar 42 would have a negative impact on the local music scene and the night-time economy.

In response, the applicant argues that a restaurant will serve a community function and add to the cultural diversity available to Worthing residents and visitors and as such, the proposals will retain a community use and as a consequence will accord with Policy 11. However, the applicant has confirmed that they are the 'end user' and no information has been provided about the type of restaurant being proposed. Given the large number of restaurants in Worthing and the lack of evidence that this proposed restaurant would offer anything different to the community such that it could be considered to be a valuable community use; it is concluded that the proposal still falls to be considered under requirements of Policy 11.

The correspondence between the freehold owner and leaseholder about the current lease and whether it will be extended or renewed are not relevant to the consideration of the planning application. It is relevant that the premises could change how it operates in the future i.e. it could stop the live music nights with any change in operator. However, the application has to be considered in the light of its current use and the representations of the current leasehold are therefore important material considerations in this regard.

It is also worth pointing out that as of 1 Sept 2020 the changes to the Town and Country Planning Use Classes Order will mean that pubs, bars and drinking establishments currently within Class A4 will become 'sui generis', that is, not falling within any particular use class. A live music venue (currently Class D2) will also become sui generis. This means that in the future planning permission will be required for any change of use from a bar or drinking establishment or live music venue to any other use.

The next key consideration is whether the requirements of Policy 11 are met – either that the premises or its location is unsuitable for the current use; that adequate alternative accommodation is available locally; that replacement facilities are proposed, or that it has been demonstrated that there is no need for the existing use.

The applicant's statement does not attempt to suggest alternative accommodation locally for Bar 42 to relocate to nor does it propose replacement facilities, or suggest that there is no need for the existing use. However, it does argue that the premises and its location adjoining residential uses is unsuitable for the existing use, due to the amount of residents whose living conditions are regularly disturbed by the existing use.

Planning permission has recently been granted for the change of use of nearby 37-39 Marine Parade from a bar (Class A4) to an art gallery with ancillary café area (AWDM/0764/20). However, the existing bar 'Escape' was not considered to have any 'community' role, as evidenced by the lack of representation received to its loss.

Residential Amenity

The applicant argues that there is a history of regular complaints on the basis of excessive noise emanating from bands and disturbance associated with the comings and goings of patrons of the bar, which it is argued is wholly unacceptable, and that the proposal provides a solution by removing this existing unneighbourly and inappropriately located use, and replacing it with a more sensitive and discreet use.

The Council's Environmental Health team has confirmed that there is a history of complaints from neighbours regarding noise, the conduct of customers on the outside patio and persons gathering on the pavement outside the current business, the majority relating to the volume of live music being played. It is stated that the operator undertook sound insulation works which had a limited effect; but that no statutory nuisance or Licensing offences have ever been substantiated, and that the

last recorded complaint was in August 2018. Furthermore, the license was varied in 2018 to allow recorded music until 1am, but with a condition limiting the level to 70 decibels after 11pm.

The location of Bar 42 is in the hub of the town centre close to the pier and lido and there is another bar and also a restaurant within the same terrace to the east of the site. Whilst the amenities of residents of neighbouring buildings need to be protected there must also be an expectation that there will be a degree of noise and disturbance for those residing in town centre properties, particularly in this central, seafront position.

Of the 10 flats that are physically attached to the premises and have been sent consultation letters (4 flats above and 6 flats in the adjacent part of the terrace), only 1 resident (or possibly 2 – no address given) has written in to support the application, with only 1 of these letters citing noise disturbance as a problem. Overall, only 3 letters of support have been received compared with the 223 objections.

Furthermore, the response from Sussex Police does not highlight any problems with the existing use, and it is relevant that the last recorded complaint according to Environmental Health was in August 2018 which is approximately a year and a half before the venue had to stop operating fully due to the Covid19 lockdown. Environmental Health confirms that no statutory nuisance or Licensing offences have ever been substantiated; and there remain controls under noise enforcement regulations that can help to mitigate negative impacts on neighbouring occupiers.

Overall, the small number of complaints in the 9 years that the venue has been operating, the lack of them being substantiated, and the time that has elapsed since the last recorded complaint, all suggest, particularly given the regular nature of live music events that have been held there, that the premises is compatible in this key town centre location with appropriate controls, as per the existing premises license. As such, the application fails this key test of Policy 11.

The proposed restaurant would not be likely to host live bands and therefore in this regard may be a 'quieter' use in terms of noise; however, a restaurant use would still be likely to raise issues of noise disturbance from patrons using the outdoor seating area on the frontage. Disturbance could also arise from cooking fumes and smells although this could be addressed through a requirement for details of the extraction and ventilation of cooking odours to be submitted and approved. The precise details of an extraction system would depend on the nature of the food cooked on the premises, but would also need to avoid any unacceptable impact on the character and appearance of this Local Interest Building and the surrounding Conservation Area.

Local Interest Building and Conservation Area

Further key considerations are the effects on the visual amenities of the area with particular regard to the effects on the existing Local Interest Building and the South Street Conservation Area.

The external changes proposed comprise a proposed new pedestrian opening in the western boundary wall (onto the pavement in Montague Place) including steps down from the patio and the existing grass verge being 'adapted to suit'; the re-finishing of the low walls surrounding the forecourt in white-painted render and the addition of glass screening on top of these walls to a total height of 1.42 metres (the existing pillars being retained); new bench seating and 2 small tables to seat a total of 40 people on the forecourt; and a new signage board on the western side elevation reading 'Food at 42' with two down lights above (subject of separate application – AWDM/0619/20).

The proposed alterations to the forecourt walls would result in a cleaner, more modern appearance in keeping with the terrace of Local Interest Buildings, and the details of the glazing support system could be dealt with by condition to ensure that it is sympathetic to the historic character of the building.

The proposed new pedestrian opening in the west side wall would not be significantly visually harmful due to its modest scale, and the concerns raised by the Design and Conservation Architect regarding rights of access and prejudicing future public realm initiatives cannot be regarded as a reason for refusing permission given that there is no relevant planning policy guidance or consultee comments to substantiate this concern.

The proposed signage is the subject of a separate application for advertisement consent; and is considered to be acceptable subject to an alternative, more subtle form of trough lighting which is currently being negotiated in relation to this separate application. The proposed bench seating and tables would be of a similar appearance and visual impact to the existing external seating and would be expected to be moveable and therefore not normally subject to planning control.

As such, the main proposed external alterations are considered to be acceptable in principle and not harmful to the character and appearance of the existing building and Conservation Area, subject to suitable conditions to agree the details of the glazed screen on top of the forecourt walls.

However, notwithstanding the comments of the applicant regarding the proposed cooking extraction system being an entirely internal 're-circulation' system which avoids the need for external apparatus, and the comments of the Senior Environmental Health Officer that this may be acceptable, there remains concern that for some types of cooking there is likely to be a need for an external ventilation and extraction system, which could raise problems relating to both the impact on adjoining residential occupiers from noise and smells, but also relating to its siting and potential for a detrimental impact on the character of this Local Interest Building and the Conservation Area.

Highway safety and accessibility

The Highway Authority points out that the parking standards for Class A3 and A4 uses are the same, and therefore does not anticipate that this proposal would result in a material intensification of movements. It is pointed out that the current use has

been operating without any parking provision with no apparent highway safety concerns.

The site is located within the heart of the town centre in a sustainable location where customers of the proposed restaurant would have easy access to alternative modes of transport as per the existing use, and therefore the lack of parking would not constitute a reason for refusal.

The Highway Authority suggests that the proposal should incorporate cycle parking; however, there is insufficient space to provide this within the site and the fact that there is public cycle parking available in Montague Place adjacent would mean that any customers arriving by bike could use these facilities and therefore a condition to secure cycle parking within the site would not be necessary.

Conclusion

Whilst a restaurant use if considered in isolation would be not be unacceptable in this town centre and seafront location (subject to suitable controls and the agreement of further details relating to extraction and external alterations); the loss of the existing use falls to be considered and in this respect the large number of representations demonstrate the strength of feeling and support for Bar 42 as a bar hosting live music, from local residents and also from those from further afield within Sussex.

As a result, the application fails the tests of Core Strategy Policy 11 in that it would lead to the loss of a highly valued community facility which is provided by the current use and it has not been demonstrated that the premises are unsuitable for such a use. The application is also contrary to the aims of Policies 3 and 5 of the Core Strategy and paragraph 92 of the National Planning Policy Framework.

Recommendation

REFUSE for the reason(s):-

The proposal would result in the loss of a highly valued community use which would have a detrimental impact on Worthing's local music scene and night-time economy, and it has not been demonstrated that the premises are unsuitable for such a use. The proposal is therefore contrary to Worthing Core Strategy Policies 3, 5 and 11 and paragraph 92 of the National Planning Policy Framework.

12th August 2020

Application Number: AWDM/0537/20

Recommendation – APPROVE

Site: Medical Supply Company 24A Upper High Street Worthing
West Sussex

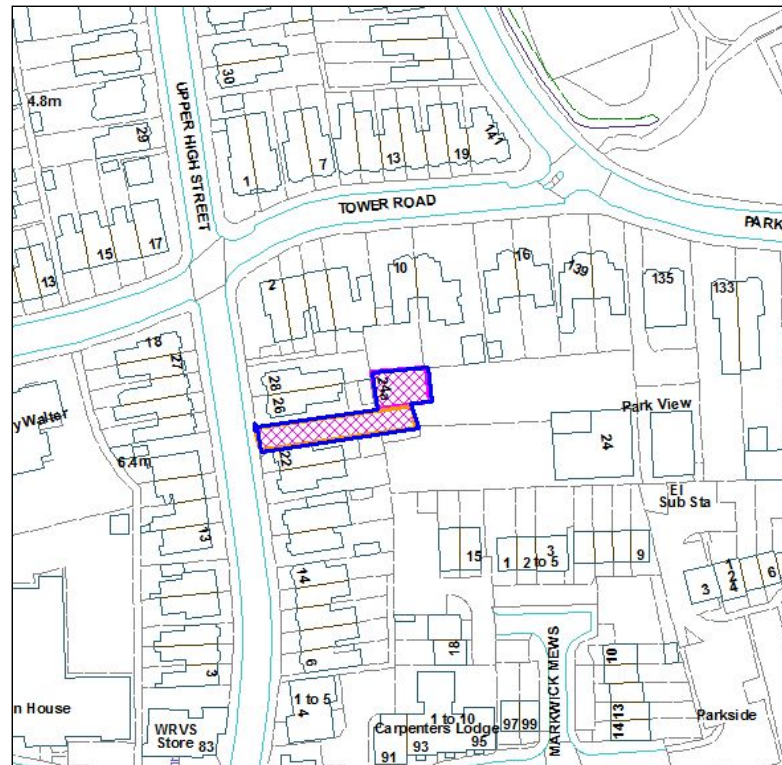
Proposal: Use of the premises for manufacture and distilling gin, plus
ancillary storage and visitor tours/experiences.

Applicant: Thomas Martin-Wells

Ward: Central

Case Officer: Jo Morin

Officer:

**Not to Scale**

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Site and Surroundings

The application relates to a part single part 2-storey building (160sqm GIA) occupying a backland position to the rear (east) of 26 Upper High Street, to the north of the town centre. The building is accessed from a private drive between Nos. 22 and 26 Upper High Street. The drive also serves an enclosed area of hard-surfaced land known as 'Chandlers Yard' adjoining the site to the south and east. The fenced part of the yard directly to the south of the application building is used for overflow car parking in connection with the offices at Wicker House in nearby High Street. There is further open parking to the east of the application building, and a modern warehouse building located in the far south-east corner of the yard (No.24). The application building is adjoined to the north by the rear garden

of 10 Tower Road and to the west by the garden/parking areas of 26 and 28 Upper High Street (both in flats).

There are no formal planning records relating to the former use of the application building. Information forming part of application submission states that it has been used up until recently as a small pharmaceutical laboratory, packaging warehouse, archive stores and office.

Proposal

Permission is sought to use the building as a small-scale independent gin distillery business (compounding and rectifying spirit). This would involve the primary manufacture/distilling process plus ancillary storage, offices and in-house tastings, tours, sales, events to support the business. The expanding business is seeking to relocate from existing premises in Shoreham to develop the brand 'Slake Spirits', expand the product range and contract customer base.

The Applicant has stated in support of the application:-

"Slake Spirits is a small-batch artisan distillery producing spirits of character that reflect how and where they are made. Our ethos is to work with nature to create unique value by prioritising quality and provenance above quantity. We're a small business that is sustainably minded and wants to grow in a way that integrates with the environment, local community and regional economy. Supporting the wider awareness of our local culture & heritage and how this relates to the exceptional quality of Sussex produce and thus the desirability of Sussex as a place to do business with and visit, both nationally and internationally. As partners of the Brighton & Lewes Downs Biosphere Reserve and the biocultural heritage tourism project run by Brighton and Hove CC and Visit Brighton we share these values and see many of the same opportunities and challenges that the Living Coast faces are also relevant to Worthing. Similarly our approach to the experiences we want to provide to support our business model is to offer value and quality rather than quantity and we're confident we can do this at the proposed location in a way that respects and integrates with local amenity whilst showcasing our local biocultural heritage and bringing an exciting, new aspect to the area."

Consultations

West Sussex County Council: The Local Highway Authority has commented as follows:-

"Upper High Street is an unclassified public highway subject to 30mph speed restriction and one-way traffic only (southbound). There is a street lit footway present on both sides of the carriageway with a cycle lane also on the western side. Considering the location of the site and proximity to amenities and public transport (Worthing Station being a 10 minute walk) the site is considered accessible. Some bicycle storage for staff/ visitors should be provided although details of this could be secured through condition."

The site appears to benefit from a vehicle access to Upper High Street via a

dropped kerb. The Location Plan highlights this route from the highway to the site. It is unclear as to whether any car parking is to be provided for the use (staff and visitors). WSCC Parking Guidance advises for a B1 business use that 1 space is provided per 30sqm and thus a demand for 5 x spaces could result. The LHA are mindful of the accessible location of the site in sustainable transport terms and restrictions to parking in the vicinity. Nevertheless, the applicant should clarify whether the existing hard-standing areas will be included for parking and if so how these will be formalised. It is acknowledged that a small number of staff will be employed, will parking for visitors be provided also? Further information is also sought on the proposed visitor tours/experiences. How many anticipated vehicular trips/ frequency expected from the tour aspect of the business?"

Following the receipt of further information from the Applicant the local Highway Authority has raised no objection, commenting as follows:-

"Additional information has been supplied by the applicant as summarised below:-

- Deliveries will take place by vehicles reversing to access way so they can exit in a forward gear. There appears to be sufficient space to allow for this manoeuvre and with Upper High Street being one-way no concern is raised.*
- Currently no on-site parking is proposed for the use. Due to the parking restrictions nearby on street the Local Highway Authority does not anticipate that any overspill parking could occur in locations that would be deemed detrimental to highway safety.*
- Staff and visitors are encouraged to arrive by cycle/public transport and the nearby locale is considered suitable for sustainable transport.*
- Groups of up to 10, likely as a 1-3 hour tour/experience in the afternoon/early evening. Considering the points above where there is currently no on-site parking, visitors are expected to park nearby/arrive on foot. Considering the scale of business no capacity concerns are raised.*

The Local Highway Authority does not consider that the 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."

A condition to secure the provision of cycle parking is proposed as below:-

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

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

Adur & Worthing Councils:

The ***Environmental Health Officer*** has raised no adverse comments and recommends that hours of use are restricted to those stipulated on the submitted application form, that is, between 08.00 and 18.00hrs on Monday to Friday,

between 10.00 and 18.00hrs on Saturdays and between 10.00 and 16.00hrs on Sundays and Bank Holidays.

The Applicant has since confirmed it is anticipated the planned ancillary visitor tours, experiences and events would carry on later into the early evening with on-site consumption of alcohol on the premises between 10.00 and 20.00hrs.

The Environmental Health Officer has raised no objection to these additional hours.

Representations

Representations have been received from the occupiers of 13, 18, 20, 21 Upper High Street, 10 Tower Road raising the following concerns (which have been summarized):-

- It is noted there are no parking spaces for this proposal and Upper High Street has little enough on-street parking for residents as it is. It also suffers from workers leaving their cars during the working day. The increased traffic and demand for parking should this be permitted will be to the detriment of the amenity of local residents;
- The building is very close to residential properties and concerned about potential overlooking, noise/odour from any mechanical ventilation outflow, noise from distilling processes (is it a 24hr operation?), odour from the distilling process, noise from large delivery vehicles etc.
- There is little detail about the 'visitor experiences', what does this entail? How many visitors would there be and where would they park?
- Concerned about quantities of flammable substances in proximity to residential properties and associated fire risk; are the applicants experienced in ensuring such materials are correctly stored and handled.
- This is a residential area, the Council should be looking to reduce/limit industrial activity not increase it. There is plenty of available space in the designated industrial estates for this type of use, where flammable liquids can be stored and used safely, where smells and noise won't pollute the enjoyment of residential properties and where heavy goods vehicles can access properly maintained roads in a safe and considerate manner;
- The premises will surely need to be licensed, there are already pubs in close walking distance - we don't need another.
- What measures will be put in place to protect the privacy of residents whose gardens/houses will be overlooked by visitors to the proposed 'visitor experiences/tours/tasting sessions'.
- Concerned about possible anti-social behavior associated with 'visitor experiences' and resulting noise, litter, possibly ending up in Homefield Park which has just been cleaned up by the Council and volunteers.
- I understand there have been only a few objections and this is probably due to landlords not being informed of the application by their tenants and the age/infirmity/lack of energy of homeowners. The wording of the letter sent out 'for the attention of the owner' implies that an occupier (tenant) has no say in the matter. Numerous properties in this area are rented but it would seem the many council tax payers who make up these households do not have a voice.

- The proposed industrial use would be anomalous in this area which over previous decades has become residential. The adjoining site was originally the yards and derelict premises of the local and county councils but has been redeveloped for housing, and the former scrap yard redeveloped for flats. Part of the remaining yard area is overflow parking for Wicker House (a planning condition that still stands). A former planning application to redevelop this site as flats for elderly people was refused due to inadequate access for emergency services; the same objection by the emergency services must apply to this proposal which involves storing hazardous substances.
- The manufacture/bottling processes and in-store tasting session, tours, visitor experiences and food and drink events over 7 days a week would generate activity more suited to a commercial area rather than a residential area of family homes;
- Aside from the expected commercial vehicles/lorries, tours and experiences would involve extra vehicles, cars and coaches but there is no parking space provided; access to and from the site other than by domestic vehicles is restricted and often in the past has blocked traffic in Upper High Street.
- It is stated that the premises were used by Parexel as a laboratory. I have a direct view of the premises from my house and have not seen any such activity; photographs in the recent sales particulars show only storage and no sign of any laboratory. I do not want to live next door to a noisy, smelly disturbance manufacturing 7 days a week and nothing more than a pub but without the constraints put on a licensed premises.

Relevant Planning Policies and Guidance

Worthing Core Strategy 2006-2026 (WBC 2011): Policy 3, 4
 Worthing Local Plan (WBC 2003) (saved policies): RES7, H18
 Supplementary Planning Document 'Sustainable Economy' (WBC 2012)
 Revised National Planning Policy Framework (HCLG 2019)
 National Planning Practice Guidance (HCLG)
 Revised County Parking Standards (WSCC Dec 2019)

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 Core Strategy, including the saved policies of the Worthing Local Plan, comprises the Development Plan although 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.

Principle

The Core Strategy seeks to protect existing employment sites and premises to ensure that an adequate supply of employment space is retained. Policy 3 seeks to deliver sustainable economic growth by amongst other things identifying sufficient sites in sustainable locations to provide for a range of employment space to meet the needs of current and future businesses. Policy 4 seeks to safeguard existing employment uses unless it can be demonstrated that the site or premises is genuinely redundant and is unlikely to be re-used for industrial/commercial purposes within the Plan period.

There are no formal planning records relating to the previous use of the building and at least one neighbour has questioned its former use as a 'small pharmaceutical laboratory with ancillary stores and offices' as stated as part of the application submission. For the purpose of business rates Council records describe it as 'store and premises'. There is little doubt that it has been used until relatively recently for employment purposes whether as described by the Applicant, or in a more low-key capacity. The proposed use of the premises for distillation and production of spirits would be consistent with Policy 4 so long as the proposed in-store tasting, visitor tours, events and experiences are ancillary to the main gin production use. The Applicant has provided further clarification as follows:-

"Our business is primarily manufacturing spirits as an operating distillery & private trade facility warehouse; thus, any visits from the public must be arranged by appointment only.

Due to the ancillary and controlled nature of public visitation to the business this has always been a self-regulating and self-limiting exercise and we cannot see that changing any time soon. If it did in the future, we would clearly have begun to outgrow or change the use of the site and would have to look for a new home or an additional site, but I believe there is plenty of scope to grow the business sustainably within the limitations of the proposed premises without adversely affecting the local amenity.

Much like our production process, the focus for our experiences will be about providing quality and value, not volume, in line with our shared biocultural heritage tourism project values inherited from the Living Coast. However, it is important, particularly in these times with challenges from the [Covid-19] virus exacerbating issues in retail and our high streets, to allow enough flexibility for a business to make a success of new ventures. Offering high quality experiences that support the retail experience is a proven model for future growth and resilience."

On this basis it is considered there is no policy objection to the proposed use, the key considerations are the effects on the amenities of nearby residential occupiers and highway safety considerations.

Residential amenity

The building is made up of 2 components comprising a single-storey, flat-roofed element on the west side and an older, 2-storey, pitched-roof, brick-built element attached to the east of it. The single-storey element adjoins the rear boundaries of the residential dwellings fronting Upper High Street (primarily No.26, but also a small part of No.28). There is a detached brick-built garage building and open parking bay within the curtilage of No.26 between the west side wall of the application premises and rear 'outriggers' of Nos. 26 and 28, both of which include first-floor windows. First-floor, west-facing windows in the 2-storey component of the application premises overlook the rear of No.26 and 28 at a distance of approximately 14-15 metres. The building entrance is on its south side, consisting of an 'up and over' garage door and separate pedestrian door. There is a first-floor, fixed and obscurely-glazed window in the south side gable. The north side wall of the building forms the boundary with the rear garden of 10 Tower Road and there are no openings on this side.

A number of nearby residents have expressed concerns about the potential for disturbing noise and unpleasant smells, fumes and odours associated with the production process as well as fears over the storage of flammable materials. Other stated concerns relate to the proposed ancillary elements of the business, in particular, noise, activity and comings and goings and anti-social behaviour associated with the planned visitor tours, experiences, tasting sessions and events. The processing is described as 'rectifying and compounding of spirit to provide spirit drink including steeping natural botanicals in ethanol and water prior to distillation to produce a flavoured distillate which is blended with water and rested to produce a spirit drink. The use also involves the bottling, labelling, packaging, storing and distribution of the product circa 4,000 litres per annum.

The Applicant has sought to allay these concerns by providing the following further explanatory information in relation to both:

- i) the production process,
- ii) visitor experiences, tours, tasting sessions:-

i) *Distillery use*

Production is on a 'small batch' basis and is not a 24hr process.

There are no noxious smells or odours released during the distillation process. We do not need any formal extraction for the control of odours. Key points here are the small-scale of production and that we do not ferment or brew (which can cause odours) instead we rectify/distil and the design of the equipment uses a total condenser that actually traps almost all the aromas created to flavour the distillate produced. We certainly do not want them escaping!

There is an exhaust fan on the south side wall [of the building] that is sufficient for general ventilation needs currently – although it may need to be replaced. Our long-term plan as part of our sustainability policy would be to remove the electric radiators and install an air source heat pump, which would be an excellent way of sustainably heating and cooling the premises. Ideally this would tie into a water recirculating system that will recover heat to minimise our energy consumption and use of coolant water. If we were to install a device like this, we would of course be considerate of local amenity. However, this requires significant investment and is more likely to be part of a future project if the move goes ahead.

We risk assess all storage and handling of flammable materials on site. The main mitigation measures are to prevent any ethanol vapour release or build up during operations or storage. Good ventilation is key as well as avoiding ignition sources, including static electricity for which we will have earth grounding cables and correct PPE. We will ensure proportionate measures are in place to manage any risk.

ii) *Ancillary visitor tours and experiences, tasting sessions, events etc.*

Much like our production process, the focus for our experiences will be about providing quality and value, not volume, in line with our shared biocultural heritage tourism project values inherited from the Living Coast. However, it is important, particularly in these times with challenges from the virus exacerbating issues in retail and our high streets, to allow enough flexibility for a business to make a success of new ventures. Offering high quality experiences that support the retail experience is a proven model for future growth and resilience.

Our events will be privately booked or arranged. They will be a mixture of paying guests that want to have a tour, tasting, cocktail masterclass etc. or product/ brand training for business-to-business clients and industry figures. Visits to the distillery are unlikely to be a daily occurrence. However, in our opinion it would be very possible to conduct several visits per day without any appreciable impact on local amenity with a sustainable transport policy in place and clear instructions to visitors on entry and exit from the premises. In our opinion most of the potential issues around experiences involving on-site consumption of alcohol can be successfully controlled and managed outside of imposing planning restrictions with the usual requirements of a responsible designated premises' supervisor and imposing sensible licensing conditions. However, I do understand the need for planning and licensing to work hand in hand in matters like these to ensure local amenity is preserved.

Specifically, how I would envision managing visitor activities would be to restrict visitors to the ground-floor of the premises (first floor is an office and we're not looking to change that use), controlling visitor numbers; I would expect groups of up to 10 would be easily manageable, larger groups may require further measures and controls, but some flexibility to determine this would be appreciated. Hours of operation can also be controlled for different types of visitors and activities. We would need to apply for a 24 hour off-license to facilitate our website activities, but would restrict any on-site consumption to sociable business hours e.g. 10am till

8pm (in reality tours are likely to be 1-3 hours in the afternoon or early evening depending on the production schedule and the nature of the experience).

All retail will be by appointment during business hours. However, the premises license for off-sales will need to be 24 hours to cover the sale and supply of alcohol via our website.

Key here is the small-scale nature of the proposed distillery business with the ground-floor of premises, where the gin production and processes would take place, being only 110sqm in floor area. The EHO has not raised any objection to the production element of the distillery business which can be considered to constitute a light industrial use currently falling within Use Class B1c (soon to be Class E of the revised Town and Uses Classes Order), being one where industrial processes can take place within a residential area without damaging the amenity of that area.

No external plant, flues or ducts are proposed in connection with production processes, with the Applicant confirming that the existing extract fan on the south side of the building will meet needs in the short-term. The siting of any additional or replacement external fixed plant can be controlled by imposing a planning condition. The gin production processes would take place between 10.00 and 18.00hrs on Monday to Saturday and between 10.00 and 16.00hrs on Sundays and Bank Holidays. This can also be secured as a condition of planning permission.

Deliveries to the premises will be made using the private access drive, which is also used to service the warehouse building in the south-east corner of the yard and to access the adjacent overspill car park (linked by a planning condition to the occupation of Wicker House). Given the small-scale nature of the business deliveries are not expected to be frequent, or involve large vehicles. However bearing in mind the residential properties adjoining the access drive both have windows facing onto it, it would be appropriate to control the timing of deliveries as a condition of planning permission.

Concerns about the proposed visitor tours, experiences and tasting sessions essentially relate to the risk of noise and disturbance from visitor activity and 'comings and goings', and the potential for 'rowdy' behaviour associated with consumption of alcohol on the premises potentially carrying on into the late evening.

The Applicant has made it very clear the importance of these ancillary visitor events and experiences to the overall business model and to establish the product/brand in the market. Whilst, the supporting information gives an indication of what these ancillary visitor events and experience may entail, as a 'fledgling' business the exact details in terms of the number and frequency of such events, sessions and experiences are unknown. The Applicant has explained that the anticipated small-scale, ancillary nature of these events, tours and experiences, for the most part consisting of groups of up to 10 individuals with private on-line bookings only, would be self-regulatory and self-limiting with any potential concerns relating to consumption of alcohol on the premises controlled through the alcohol licensing regime. The Applicant is concerned to ensure that flexibility is maintained to allow the business to develop and evolve in what is currently a very challenging marketplace, without being unduly constrained by restrictive and unnecessary

planning controls that could potentially curtail the scope of this important, albeit ancillary, part of the business.

It is worth pointing out, however, that whilst the planning and licensing systems involve the consideration of related matters they operate under entirely different statutory regimes. Whereas planning takes into account broader considerations of 'amenity', decisions and conditions imposed under the Licensing Act 2003 can only be made on the basis of the four licensing objectives set out in the Act ((a) the prevention of crime and disorder, (b) public safety, (c) the prevention of public nuisance, and (d) the protection of children from harm).

Section 38(6) Planning and Compulsory Purchase Act 2004 requires decisions on planning applications to be made in accordance with the development plan unless material considerations indicate otherwise. Paragraph 127(f) of the NPPF states that planning decisions should ensure that development creates places that are safe, which promote health and well-being and with a high standard of amenity for existing and future users and where crime and disorder and the fear of crime does not undermine the quality of life, or community cohesion. Paragraph 180 of the NPPF requires decisions ensure that new development is appropriate for its location taking into account the likely effects, including cumulative effects, of pollution [including noise pollution] on health and living conditions and should seek to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid giving rise to significant adverse impacts on health and the quality of life. Saved Local Plan policy H18 is also relevant in this context and seeks to resist development involving changes of use and intensification which would result in unacceptable reduction in amenity for local residents. Saved Local Plan policy RES7 states that development which generates or has the potential to generate pollution, will only be permitted where by virtue of its location and/or appropriate mitigation measures, its impact on the environment and the amenities of local residents does not cause unacceptable harm.

It is therefore considered reasonable and justifiable in this instance to exercise some control in the form of planning conditions to secure the planning objective of safeguarding residential amenity. To this end planning conditions to control the potentially disturbing elements of the proposed ancillary visitor tours, experiences, tasting sessions and events are recommended as follows:-

- To limit the size of any visiting groups (whether for the purpose of touring the distillery, a tasting session OR any other experience or event) to not more than 10 individuals, with not more than 1 visiting group on the premises at any one time.
- All visitor bookings to the premises (whether for the purpose of touring the distillery, a tasting session OR any other event), to be made in advance.
- Access for all visitors limited to the ground-floor of the premises only (to avoid the potential for overlooking from the upper floor windows)
- Hours of any visitor tours, experiences, event or tasting session limited to between the hours of 10.00 and 20.00hrs on any day.

In his supporting statement the Applicant has indicated that visitor tours, tasting sessions, events and experiences may not happen on every day, but that it would

be feasible for more than one such activity (usually lasting 1-3hrs) to take place per day. In discussions with Officers the Applicant has expressed concern that planning controls imposed in relation to this ancillary aspect of the business may not offer the flexibility that is fundamental to the business model, potentially hampering the growth and development of the business:-

“It’s difficult to predict how a new aspect to our business, like experiences, will go, especially in these uncertain times, but in order to justify the cost of expanding to new premises we are going to need to diversify and grow our revenue streams. Promoting local food and drink is a celebration of our culture & heritage and done well is definitely an attraction to the right kind of visitors we want into the local economy. With this in mind we need to consider seasonality and the ‘real world’ in which we are likely to be able to operate any events around our production schedule i.e. daily events are just not going to be viable.”

It is noted that the EHO has not explicitly sought to restrict the number of visitor experiences to 1 per day and, on balance, it is considered that the potentially most disturbing aspects of this part of the business is associated with the intensity of activity and comings and goings, and would be adequately mitigated by limiting all visitor experiences (whether a tour, tasting session or some other event) to 1 visiting group (of up to 10 individuals) on the premises at a time.

Accessibility and parking

The Applicant has confirmed that there is currently no parking provision available with the business premises although the potential exists to secure parking within the adjoining yard at some point in the future. There will be 2.5 (full-time equivalent) people employed on the premises.

There is limited capacity for on-street parking on surrounding streets located within the controlled parking zone of the town centre (and for which there is currently a waiting list for permits). However, the site is within a highly accessible location within easy walking distance of the town centre public car parks, bus routes and Worthing rail station. As all visitor experiences and events will need to be pre-booked there will be an opportunity to direct visitors to public car parks and advise on public transport alternatives. There is no external curtilage available to the premises at present to provide dedicated cycle parking, but provision could either be made inside the building or by fixing wall-mounted racks to the south wall of the building.

Following the further information supplied by the Applicant concerning the arrangements for deliveries and the scale and nature of the planned visitor experiences and events the local Highway Authority has raised no objection. Thus, notwithstanding the concerns raised by local residents concerning the absence of on-site parking, with a planning condition in place to limit the number of visiting groups on the premises at any one time, it is considered there would be no justifiable reason to resist the proposals on highway safety grounds.

Recommendation

APPROVE Subject to Conditions:-

1. Approved plans
2. Standard time limit
3. No working, trade or business for the manufacture and production of spirit drinks including the arrival, reception or dispatch of deliveries, shall take place on the premises except between the hours of 08.00 and 18.00 on Monday to Saturday and between the hours of 10.00 and 16.00 on Sundays, Bank and Public Holidays.
4. The use of the premises for visitor tours, experiences, tasting sessions or other related events and activities including retail trade shall at all times be ancillary to the primary use of the premises for the manufacture and production of spirit drinks.
5. Notwithstanding, the provisions of the GPDO the premises shall only be used for the manufacture and distilling of gin, together with its bottling, labelling, packaging, storing and distribution and visitor tours/experiences within Class B1c of the Town and Country Planning Use Classes Order.
6. At no time shall the first-floor of the building be used for visitor tours, experiences, tasting sessions or other related activities and events.
7. No visitor tours, tasting sessions, experiences, events or other related activities shall take place on the premises except between the hours of 10.00 and 20.00 on any day.
8. All visitor tours, tasting sessions, experiences, events and other related activities taking place on the premises shall be pre-booked by visitors/customers in advance. At no time shall walk-in trade or custom take place on the premises without a pre-booked appointment/session.
9. Visiting groups to the premises for the purpose of visitor tours, tasting sessions, experiences, events and other related activities shall not exceed 10 persons and at no time shall there be more than one visiting group on the premises at any one time.
10. No external plant, flues, ducts, vents or pipes shall be fixed or fitted to any wall or roof of the building.
11. No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

12th August 2020

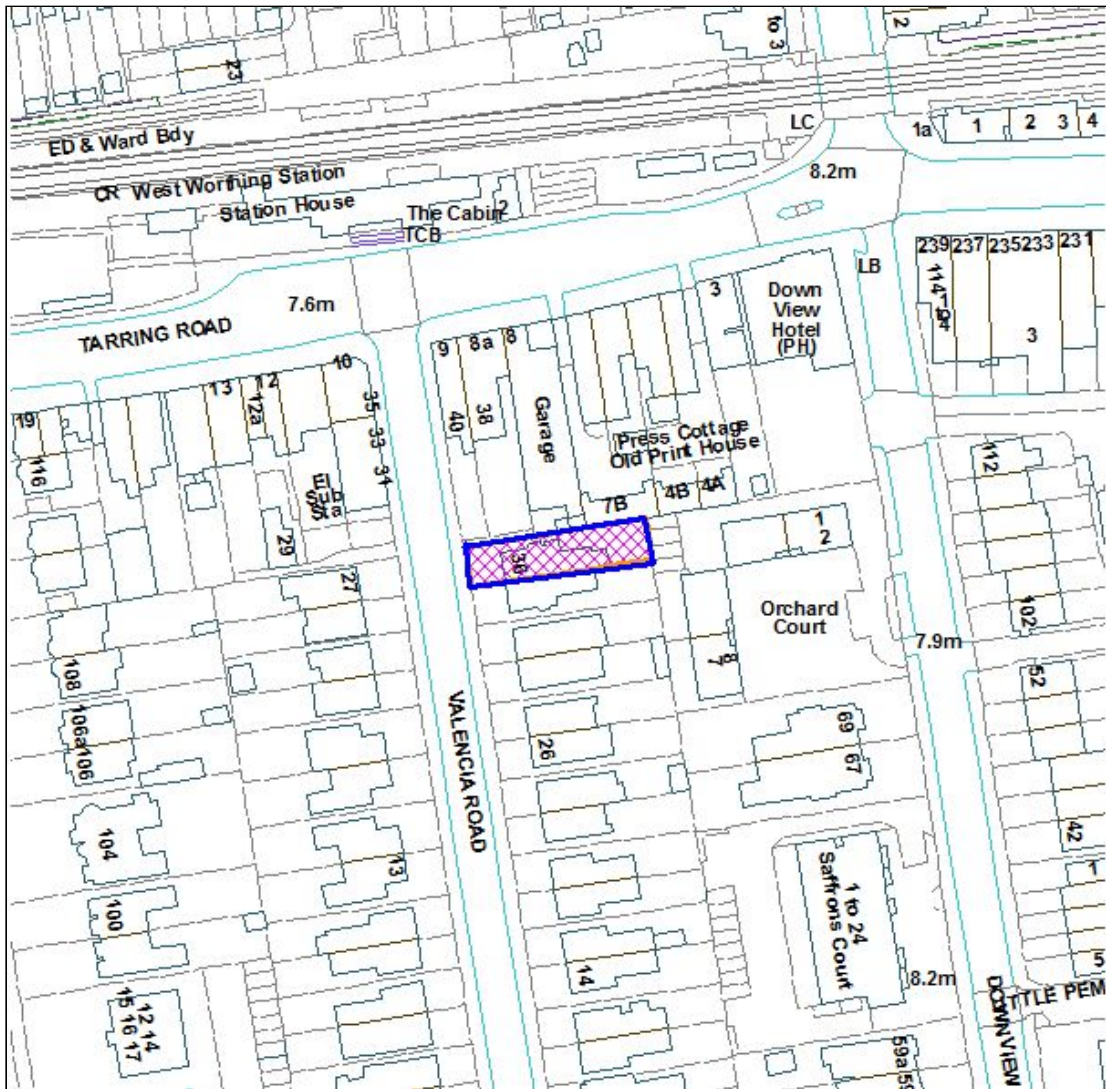
Application Number: AWDM/0617/20

Recommendation – APPROVE

Site: 36 Valencia Road Worthing West Sussex BN11 4QD

Proposal: Change of use of 6no. bedroom dwellinghouse (Use Class C3) to 9no. bedroom House of Multiple Occupation (HMO - Sui Generis) including rear bike storage to east and 1no. additional bin store to west.

Applicant: Mr Karl Edwards And Mr Ian Boyd
Ward: Heene
Case Officer: Jackie Fox



Not to Scale

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Site and Surroundings

The site is located on the eastern side of Valencia Road close to West Worthing train station. The property comprises a two-storey semi-detached Edwardian property. It is set back from the road with a paved front garden which can accommodate two cars.

The property has been recently extended with a single storey side extension and a roof extension. The rear (eastern) boundary is formed from the back of a garage block and the side (northern) elevation formed by the rear walls of 7B and 7C Tarring Road. A 1.8m panel fence separates no. 36 with the attached neighbour no. 34. Whilst some of the works could be permitted development as a dwellinghouse, your Officers have questioned the current construction of a building in the rear garden. It is understood that this is to be used as an office for the applicant.

The property is at the north end of the road with plots from Tarring Road backing onto the northern boundary of the application site. A number of the properties on Tarring Road are maisonettes with mixed uses on the ground floor and no. 8 that backs directly onto the site is a garage and M.O.T testing centre.

To the south side the attached semi is in two flats.

Proposal

Permission is sought for change of use of the existing dwelling house to a nine bedroom House in Multiple Occupation (HMO).

The application proposes three en-suite bedrooms on the ground floor plus a dog leg shaped lounge kitchen area which leads out to the rear garden. At first floor there are four further bedrooms and a bathroom and on the second floor within the roof space are two further bedrooms and a bathroom.

The application includes a management plan that indicates that there will be daily/weekly checks on the property ensuring everything is in order and a constant presence shown. Cameras would be fitted to the front and rear of the property. Noise insulation would be provided on ceilings, walls and flooring, and the sharing of contact details to act immediately to any questions and issues that may arise by future tenants.

The applicants have indicated that the building is proposed to be let to Worthing Borough Council to nominate suitable residents in housing need should the application be successful.

Relevant Planning History:

AWDM/1657/19- Single-storey rear/side extension - Approved

AWDM/1586/19- Application for Certificate of Lawfulness for proposed hip to gable roof extension with side window to north elevation, rear (east) facing dormer and 3no. front facing rooflights - Permitted

Consultations:

WSCC Highways

The site is located and accessed via Valencia Road which is an unclassified road subject to 30mph speed limit.

There are no proposed alterations to the existing access arrangements. Data supplied to WSCC by Sussex Police over a period of the past five years reveals no recorded injury accidents within the vicinity of the site. Therefore, there is no evidence to suggest that the existing access is operating unsafely, or that the proposal would exacerbate an existing safety concern.

A nil car parking provision is proposed for the additional 3 bedrooms. The existing parking area has the ability to accommodate up to 2 vehicles considering the minimum dimensions of 2.4 x 4.8m per single parking bay as outlined in Manual for Streets (MfS) guidance. There are no proposed alterations to the existing parking area. Under the WSCC Parking guidance (Updated August 2019), there is no longer a standard for HMO. Within the previous WSCC Car Parking Standards the anticipated demand for HMO is half space per room, in this case 1-2 parking spaces.

The Local Highway Authority (LHA) will only consider the impact of overspill parking from a safety perspective. Matters of amenity would be a matter for the consideration of the Local Planning Authority. While it is likely that some overspill parking may occur it is not considered that this would be detrimental to highway safety and key locations in the public highway are subject to enforceable parking restrictions.

The site is situated in a sustainable area in close proximity to local shops and amenities. The nearest train station is West Worthing which is approximately 1min walk. The proposed layout plan demonstrates cycle storage providing space for 8 bicycles. These details are acceptable and can be secured via planning condition.

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.

Sussex Police

States that the applicant should be directed to its website at www.securedbydesign.com where SBD Homes 2019 document can be found. The Secured by Design scheme is a Police initiative to guide and encourage those engaged within the specification, design and build of new homes, and those undertaking major or minor property refurbishment, to adopt crime prevention measures. The advice given in this guide has been proven to reduce the opportunity for crime and the fear of crime, creating safer, more secure and sustainable environments. A number of recommendations are proposed.

Southern Water

Requires a formal connection to the public sewer.

Adur and Worthing Councils

Environmental Health

Recommends conditions in relation to working hours and contaminates if ground works are proposed.

Private Sector Housing Team

There are no objections from the private sector housing team. It comments that the property is a House in Multiple Occupation (HMO) and will be subject to Mandatory Licensing of HMOs, as well as the additional management regulations that apply to HMOs.

The property is capable of accommodating the proposed number of occupants, subject to an adequate number of cooking facilities being provided i.e. a minimum of 8 x hob rings, 2 x ovens.

Head of Housing

The proposal would provide much needed 'affordable' housing for those unable to get onto the property ladder. The recent Strategic Housing Market Assessment (SHMA) illustrates the significant housing need in Worthing and the contribution that houses in multiple occupation provide, albeit the study also indicates the shortage of all housing tenure, including family housing to meet future housing needs. The Council may lease the building should planning permission be granted but this is a separate matter and should not have a bearing on the determination of the application which, of course, should be considered on its individual planning merits.

Representations:

10 letters of objection have been received:

6 Valencia Road

- Increased traffic

- Additional noise and disturbance

13 Valencia Road

- Potential for criminal activity
- Inadequate parking
- Inadequate bin storage

14 Valencia Road

- Out of character
- Over development
- Detrimental impact on the street and social integration, community spirit
- Eyesore of large number of bins
- Set a precedent for similar conversions
- Impact on local infrastructure such as drainage and water supply
- Detrimental Increased parking

16 Valencia Road

- Overdevelopment of the area
- Inadequate parking
- Potential dangerous building
- Increased anti-social behaviour and crime
- Increased noise and disturbance

23 Valencia Road

- Overdevelopment
- Inadequate parking
- Lack of facilities for storing refuse
- Problem tenants

26 Valencia

- Overdevelopment
- Family housing should be retained
- Inadequate parking on site and not large enough for 3 cars
- Waste disposal a problem
- Lack of amenity for future residents
- Additional noise
- Additional waste
- The property is not currently 6 bedrooms

32 Valencia Road

- Out of character
- Contrary to policy loss of family housing
- Overdevelopment
- Inadequate parking
- Inadequate bin storage

32 Valencia Road

- Out of character
- Additional noise and disturbance
- Waste concerns

- Additional traffic
- Inadequate parking on a street which has high levels of non resident parking due to the proximity top the station
- Safety of tenants and neighbours
- Fire safety measures be put in place for all units
- Number of occupants should be controlled and not stated on the application
- How will parking be controlled
- Dangerous Precedent
- Duty of care for existing residents

34 Valencia Road (top floor flat)

- Out of keeping
- Contrary to policy 8 and 9 to retain for family occupation
- Inadequate accommodation for potentially 18 residents
- Inadequate external space
- Inadequate bin storage

34 (ground Floor)

- Fire risk
- Inadequate parking
- Bin storage not adequate

Relevant Planning Policies

Saved Local Plan policies (WBC 2003): H16, H18, TR9, RES7

Worthing Core Strategy (WBC 2011): Policies 6, 7, 8, 9, 16

National Planning Policy Framework (CLG 2019)

Planning Practice Guidance (CLG)

The Core Strategy, including the saved policies of the Worthing Local Plan, comprises the Development Plan. However 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; 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 main issues are:

- Policy Considerations
- Impacts on the local area
- The effects of the development on the residential amenities of existing and future occupiers;
- Highway safety and parking considerations.

Policy Considerations

The existing property is shown as a six bedroom dwelling although it has been recently extended and prior to this appears to have been a five bedroom property over the two floors, it is therefore a substantial property even before its extension. The property has largely been converted into a nine bedroom property and the applicants could convert the property to a six bedroom house in multiply occupation (HMO) under permitted development.

The main consideration is the weight and policy implications of the loss of a family house against housing need and the impact on the local area.

Government planning policy is set out in the National Planning Policy Framework (NPPF). At the centre of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 sets out the overarching objectives of economic, social and environmental. It indicates that a social objective is to support strong, vibrant and healthy communities, by ensuring that sufficient number and range of homes can be provided to meet the needs of the present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities health, social and cultural wellbeing.

The Worthing Core Strategy does not include any specific policies relating to HMOs the following policies are of relevance: Policy 8 -Getting the right mix of homes -this policy seeks to ensure that a wide choice of high quality homes are delivered to meet the needs of the community, policy 9- Existing Housing Stock a key objective being to retain, where possible, existing family housing and Policy 16 - Built Environment and Design - this policy seeks to ensure that new development is of high quality. These, and other policies in the Core Strategy, are also supported by the Guide to Residential Development Supplementary Planning Document (2013). However, it should again be noted that this SPD does not specifically address any issues relating to HMOs.

In October 2016 Planning Policy produced a report on the subject of HMO's which concluded that there was no need, at this time, to create a specific HMO policy. No

over concentration of HMO's was identified in the Borough as a whole, in any particular ward nor in and around Worthing Town Centre.

The policy report did identify that there is greater pressure for more HMO accommodation and that the planning system has an important role to play in meeting this growing need whilst protecting and enhancing the local area. Houses in Multiple Occupation (HMOs) are recognised as a valuable source of low cost accommodation for a number of sections of society including students, temporary workers, those on low incomes and/or benefit and young professionals. They play a particularly key role in the context of housing affordability, where open market housing is increasingly unaffordable and, following changes to the housing benefit system, this form of accommodation is often the only option available for specific parts of the housing market.

Policy 9 of the Core Strategy seeks to ensure the retention of the existing housing stock unless:

- the proposal results in a net increase in the family housing stock
- the housing and its environment is of an unacceptable standard, which cannot be improved
- the loss would facilitate the delivery of a needed community use.

In terms of existing stock it goes on to state at Para 4.16 :

'The existing housing stock is an important part of the overall housing provision of the town, which contributes to meeting local needs. It is recognised that the conversion of existing housing can provide an important source of new housing, however a key objective for Worthing is to retain, where possible, existing family housing.'

Finally, it clarifies that each application will be considered on merit and that if it is determined that the property subject of an application provides suitable family housing then policy 9 would apply and the loss of the property would only be allowed if the criteria set out in that policy are met.

It appears clear from the information submitted with the application, that the proposal would not result in a net increase in family housing but rather would result in a net loss. There is no evidence that the housing and environment is not of an acceptable standard and finally the proposal is not for a needed community use.

The main objective of the Core Strategy policy approach was to redress the imbalance in the housing mix that has dominated new development at that time, namely smaller flats. The SHMA provides the evidence base for the policy approach set out in the Core Strategy. Worthing's housing offer was focused towards smaller properties. The shift to the construction of 1-2 bed properties over the last 5 years (prior to Core Strategy adoption) had been significant. Flats accounted for almost one-third of Worthing's total housing stock. The majority of the flats are purpose built blocks but a significant proportion of flats are in converted buildings (often resulting from the sub division of larger Victorian and Edwardian properties).

The SHMA found that between 2006-2011, just 9% of homes built in the borough had 3 or more bedrooms compared to an estimated need/demand closer to 40% provision of larger properties such as this. Therefore, the policy approach is one that seeks to increase the number of family homes through new development and to protect the existing stock. Whilst the policy acknowledges that there is still a valid role for flats to play and particularly in higher density, town centre developments they should not form the principal type of future housing stock in the Borough.

In addition, the spatial approach for development set out in the core strategy is one that reinforces the role of the town centre to provide higher density developments with new development outside the town centre provide for family housing. At para 8.11 of the Core Strategy it states that flats should not form the principle type of future housing stock in the borough.

Since the adoption of the Core Strategy (CS) there has been the emergence of the NPPF. The CS was assessed against the NPPF to ensure general compliance and was found that the policies were in general compliance. However, since that time changes to the way in which the housing needs of an area are assessed has changed significantly (together with some other changes) and as a consequence the Core Strategy is currently being reviewed.

The Draft Worthing Local Plan was published for consultation between 31st October and 12th December 2018. The plan is currently under further review with a number of studies and consultation being undertaken to take it to the next stage As part of the review a further Housing Needs Study was undertaken. The updated local housing evidence suggests that the demand for different types of homes over the plan period will be similar to the existing profile of stock with a slight shift in demand towards smaller homes in the future given that household size is expected to fall slightly reflecting the ageing population. The emerging policy recognises that there needs to be flexibility to respond to the characteristics of the available sites.

The supporting text to the emerging policy indicates that sites in and around the town centre and sites close to transport hubs are more suited to delivering one and two bed dwellings. Outside of these locations new development opportunities will be more suited to meeting the needs for larger family housing. This approach continues the approach taken in the CS.

The emerging plan furthermore indicates that shared accommodation, including Houses in Multiple Occupation (HMOs), play an important role in providing housing for people on low incomes, those on benefit payments and young professionals. They are often the only choice of housing for people who would otherwise be homeless.

It goes onto say that where planning permission is required for a new HMO, the acceptability of a proposal to convert a building will be assessed by balancing the contribution that such a conversion will make to meeting housing demand against the potential harm to the character and amenity of an area and the suitability of the property concerned. This consideration will also take into account the concentration of HMOs in close proximity to the proposal site to ensure that additional provision of

this form of housing would not result in an imbalance of housing in the local community.

Although the property is currently suitable for family occupation, its size and the way it has been refurbished means that the property is now more suited to HMO accommodation and is unlikely to be converted back, furthermore as indicated earlier it could be converted to six bedrooms as permitted development. It is acknowledged that its conversion to nine bedrooms would not be encouraged in terms of the intensity of the development of the site however as set out further in the report whether this could be a reason for refusal would be part of the balance and weight of policy implications of the loss of a family house against housing need and the impact on the local area.

Valencia Road is primarily a residential road of family housing and flats close to local shops and West Worthing Station. It is situated at the end of the road close to commercial activity on Tarring Road. The use as a HMO would contribute to an accepted housing need and the applicants have offered to lease the property to the Council for those in housing need.

The effects of development on residential amenity

Future Residents

The property is currently converted into a nine bedroom property; the previous property had been a five/six bedroom house. The rooms would be a range of sizes some with en-suite accommodation. The application does not indicate an occupancy although for single occupancy this would result in 9 occupants. The occupants would share a lounge and kitchen area on the ground floor.

The Council's minimum floor space standards set out in the 'Space Standards' SPD do not apply to HMOs but the development would comply with licensing requirements for HMO rooms to be at least 6.51m² and no objections have been raised from the PSH team regarding the layout and overall arrangement of the rooms. The property also has a rear garden and potential for 2 car parking spaces and a cycle store.

It is considered that the accommodation provides a good standard of accommodation with adequate shared facilities for 9 occupants. A condition would be appropriate to ensure that there would be no greater occupancy than 9 residents in view of the increased intensity of the property in a primarily family street.

Existing residents

The property is situated in a street of houses and flats with the rear wall of a commercial property to the north and flats to the south.

Concerns have been raised from local residents that the proposal would cause additional noise and disturbance, antisocial behaviour, inadequate/unsightly bin store, additional traffic and parking problems and would be an overdevelopment of the site

The internal and external works to the property have largely been carried through existing permissions. Subject to a condition the proposed 9 occupants would not be out of character with the size of the property that has been created although would be greater than an average family on this road, although it has to be taken into account that this potentially could be a greater number if the property were converted under permitted development (subject to a HMO licence).

It is not anticipated that the increased number of occupants would result in unacceptable noise disturbance or activity to a degree that would be detrimental to residential amenity. Sound insulation to mitigate is provided within the property and any noise disturbance would typically be dealt with under Building Regulations.

There is no compelling evidence linking directly between HMOs and antisocial behaviour. Problems with HMOs often relate to the quality of the management and are a matter more appropriately dealt with under the licensing regime.

The proposed bin storage on the front of the property is shown adjacent to an access to the rear of properties on Tarring Road. It would not therefore directly impact on the amenity of the residents providing adequate bin stores are provided and this can be dealt with by condition

Highway safety and parking

WSCC have raised no objections. The existing parking area has the ability to accommodate up to 2 vehicles considering the minimum dimensions of 2.4 x 4.8m per single parking bay as outlined in Manual for Streets (MfS) guidance. Under the WSCC Parking guidance (Updated August 2019), there is no longer a standard for HMO. Within the previous WSCC Car Parking Standards the anticipated demand for HMO is half space per room, in this case 1-2 parking spaces.

While it is likely that some overspill parking may occur it is not considered that this would be detrimental to highway safety and key locations in the public highway are subject to enforceable parking restrictions.

The site is situated in a sustainable area in close proximity to local shops and amenities. The nearest train station is West Worthing which is approximately 1min walk. The proposed layout plan demonstrates cycle storage providing space for 8 bicycles. These details are acceptable and can be secured via planning condition.

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.

Recommendation

The proposal would result in the loss of a family housing, however, it would provide much needed accommodation, the accommodation provided is well suited to the size and location of the dwelling without a detrimental impact on character of the area, future or existing residents. It is within a sustainable location without a

detrimental impact on the highway. It is therefore recommended that the application be **APPROVED** subject to Conditions:-

1. Approved plans
2. Standard time limit
3. Occupants limited to 9
3. Agree and implement management plan for controlling tenancies
4. Details cycle storage
5. Details of refuse and recycling
6. Hours of operation

12th August 2020

Application Number: AWD/0876/20

Recommendation – APPROVE

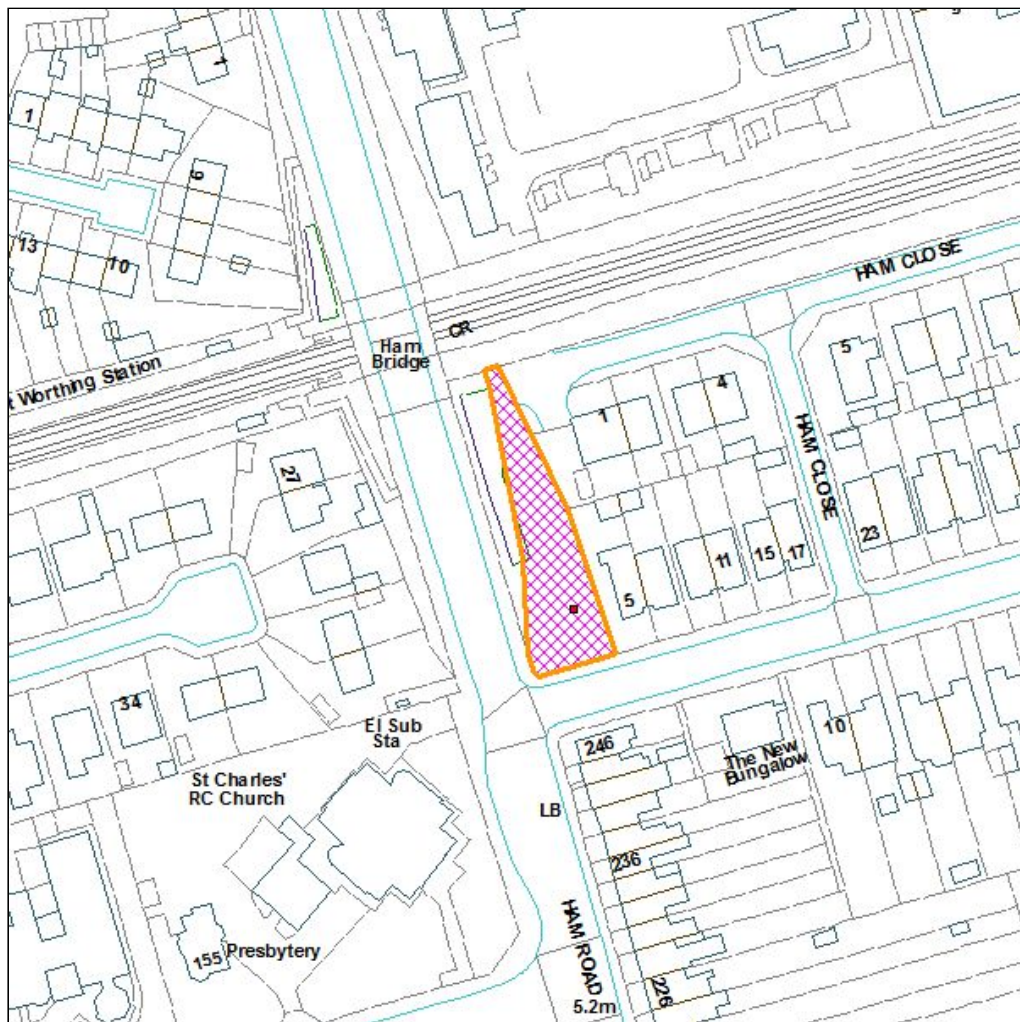
Site: Land West Of 5 Ham Way, Worthing

Proposal: Proposed 3no.two bed flats and 3no. one bed flats within 2no.chalet style bungalows buildings and associated external works

Applicant: Mark Nicholls, Birchside Management Ltd

Ward: Selden

Case Officer: Gary Peck



Not to Scale

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Proposal

This application seeks full permission for the erection of 6 flats, comprising of 3 x 2 bed flats and 3 x 1 bed flats.

The proposed development comprises two separate buildings which are both chalet bungalow type structures. The southernmost building comprises 2 x 2 bedroom flats on the ground floor with 2 x 1 bed flats on the first floor within the roof space. The footprint of the building is given as 153.3 m².

The second building is located to the northern part of the site and comprises of 1 x 2 bed flat on the ground floor and 1 x 1 bed flat on the first floor within the roof space. The footprint of this building is given as 82.9 m².

All of the flats have been designed to meet the National Minimum Space Standard) with the 2 bed flats being designed as 2 bed, 3 person flats. The Gross Internal Floor areas are as follows vary between 50 and 64 square metres.

The application also includes two separate bin cycle stores to serve the two buildings with pedestrian access to Ham Close to the north and Ham Way to the south.

It is stated that the 3 ground floor two bed flats have access to private amenity space to their respective rear aspects, with flat 6 having a private amenity space to the north of the site. A shared communal amenity space is provided between the two buildings and is either accessed from the private amenity spaces or via a gate on the eastern boundary fencing, which is served by the driveway to no 5 which is in the ownership of the applicant.

The supporting information goes on to state:

The new buildings have been positioned on site to follow the existing parallel rows of bungalows/ chalet bungalows, and have worked to continue the existing front (southern) building line of the southern row of properties and the rear (southern) building line of the northern row of properties.

The southern building is accessed off Ham Way, with 3 principal entrance doors facing the southern boundary providing access to the ground floor flats and first floor flats. The northern building is orientated northwards, with the principal entrance doors located on the northern elevation with access to Ham Close.

The internal layout to all of the flats have been designed in a similar fashion with central hallway providing access to the bedrooms and open plan kitchen, living areas. The bathroom provision to the flats comprises either a communal bathroom or en-suites of the bedrooms.

The buildings have been designed as chalet bungalow style to reflect the character of the surrounding residential development. The proposed footprints of the buildings are also similar to surrounding development. Feature landscaping beds would be provided to both entrances.

In respect of the appearance of the development, the external walls are to be finished with through coloured render, off set with natural slate on the roof which is complimented by the standing seam zinc cladding to the dormers. The southern elevation facing Ham Way incorporates a *'feature glulam timber truss to the porch, which is echoed in the recessed window openings to the dormer which are lined with timber to provide a contrast to the zinc cladding'*.

The application site is in Zone 2 so does not attract a Community Infrastructure Levy payment.

Site and Surroundings

The application site consists of a narrow unused piece of land bordered by Dominion Road to the west as it rises to go over the railway line, the railway line itself to the north, properties in Ham Close and Ham Way to the east and Ham Way itself to the south its junction with Dominion Road immediately to the south west. The application site was previously used for the display of billboards and tapers slightly as Network Rail own some of the land immediately to the west. The surrounding development is mainly residential apart from a Church to the south west and East Worthing railway station to the north-west. The nature of residential development to the east is generally of bungalows, some with dormer extensions in their roofs.

Relevant Planning History

Planning permission was refused in April 2020 for *Proposed 7no. two bedroom apartments within one block set over two storeys with cycle store and landscaping (AWDM/1956/19)* for the following reason:

The proposed development by virtue of its form, scale and siting would not reflect the surrounding pattern of development to the detriment of the visual character of the area and would fail to protect the residential amenities of neighbouring properties. In addition the density of development would result in a significant parking shortfall which would lead to an increase in on street parking to the detriment of the amenities of existing residents. The proposal therefore fails to comply with policy 16 of the Worthing Core Strategy, saved policy H18 of the Worthing Local Plan and guidance contained within the National Planning Policy Framework.

Consultations

Environmental Health

There are no EH objections to this application in principle.

I would ask that a condition be applied to any permission requiring Mechanical Ventilation with Heat Recovery and summer bypass for all of the units. Given the proximity to the road, windows need to remain closed and trickle ventilators are not going to be sufficient for providing thermal comfort during hot summer months.

The window specification in the Acoustic report, Table 9.2, without trickle ventilation, can then be chosen for the apartments. I would recommend you condition this window specification.

I would also recommend a Construction Management Plan condition.

Southern Water

No objection

Technical Services

Initial comment:

Thank you for the opportunity to comment upon this application. I have the following comments on flood risk and surface water drainage.

Flood risk- The application is within flood zone 1, and is not shown as being at risk from surface water flooding. I therefore have no objections to the application on flood risk grounds.

Surface water drainage - the submitted surface water drainage layout indicates that attenuation before discharge to surface water sewer is proposed. Infiltration must be fully investigated, with winter groundwater monitoring and winter infiltration testing completed on site. It is understood that some infiltration testing and groundwater monitoring has been completed at this site. The surface water drainage strategy document shows reliance upon pipes under buildings. Please can the design be reassessed to provide a means of getting surface water around the buildings without going under them. We would like to place a **holding objection** on this application at this time.

Further comment following the receipt of amended plan:

A revised drainage drawing has been submitted showing pipes located outside of proposed building footprints, this is more suitable and we **remove our holding objection**. It should be noted that to achieve this, the red line site boundary has changed.

West Sussex County Highways

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

Summary

This proposal is for construction of 3 x 2 bedroom and 3 x 1 bedroom flats. The site is located on the corner plot between Ham Road (B-class road) and Ham Way (unclassified road) both subject to 30mph speed limit. The LHA requests additional information pertaining to the proposal as set out below.

Proposed access

Vehicular access to the site will be utilised through new access arrangements onto Ham Way.

Further details related to the access width have not been demonstrated.

Any access works must be constructed under a licence obtained by WSCC Highways to a specification agreed with them. The applicant is requested to demonstrate the access width on a revised plan. It should be noted that the current WSCC Highways guidance states that any single access width in built up area should not be greater than 6.4m.

Visibility splays for the proposed access have not been demonstrated. Local mapping indicates that visibility to the east is sufficient for the posted speed limit. Visibility to the west appears restricted due to the presence of the junction. However, it is anticipated that vehicles would be travelling below the posted speed limit as they approach the junction.

An inspection of data supplied to WSCC by Sussex Police over a period of the past five years reveals one recorded injury accident within the vicinity of the site. However, from an inspection of accident data it is clear that this was not due to any defect with the road layout.

The Local Highway Authority (LHA) appreciates that the proposal may generate an intensification of movements; however given that the road serves several other dwellings it is considered unlikely that any adverse impacts will result from this proposal.

Parking arrangements

There is one onsite parking space proposed for this development. The WSCC Car Parking Demand Calculator (PDC) would expect 7 parking spaces to be provided. The overspill of 6 parking spaces is not anticipated to result in highways safety issues given the presence of the junction protection and other enforceable parking restrictions preventing vehicles to park at places that are detrimental to the highway's safety in this location.

However, the LPA may wish to assess the potential implications on on-street parking from an amenity perspective. This matter can be mitigated by requesting a parking survey should the LPA consider this necessary.

EV Parking

In the interests of sustainability and as result of the Government's 'Road to Zero' strategy for at least 50% of new car sales to be ultra-low emission by 2030, electric vehicle (EV) charging points should be provided for new homes. Based upon current EV sales rates within West Sussex, active charging points should be provided for a minimum of 20% of all proposed parking spaces. Ducting should be provided to the remaining 80% of parking spaces to provide 'passive' provision for these spaces to be upgraded in future. The proposed parking space should be

provided with EV charging facility in accordance with the above WSCC guidance and details of this are expected to be demonstrated on a revised plan.

Please raise the above matters related to the access width and EV parking facility and re-consult.

The applicant has submitted additional information and further comments from the Highways Department will be reported verbally at the meeting.'

Representations

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

- Limited parking in the area
- There should be 1 space per unit
- The application ignores the parking problems in the area
- Dangerous access
- Residents cannot park nearby and have to cross the busy Ham Road to reach their houses
- The development would be out of keeping with the character of the area
- Loss of privacy
- The development is too close to the boundary with 1 Ham Close

Relevant Planning Policies and Guidance

Worthing Core Strategy (WBC 2011):

Policy 7 Meeting Housing Need, Policy 8 Getting the Right Mix of Homes, Policy 15 Flood Risk and Sustainable Water Management, Policy 16 Built Environment and Design, Policy 17 Sustainable Construction, Policy 18 Sustainable Energy and Policy 19 Sustainable Travel

National Planning Policy Framework (CLG 2019)

Planning Practice Guidance (CLG 2014)

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

Relevant Legislation

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

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

Planning Assessment

The main issues in the determination of the application are the principle of the development, its effect upon the character and appearance of the area and highways related matters.

The application site is situated within the built-up area and sits almost adjacent to a railway station as well as on a bus route. The East Worthing Industrial Estate, school and local shops are also close by and therefore in planning terms the application site is in a sustainable location. It is also a site of little visual merit, until recently mainly used as a large billboard site which detracted from the visual character of the area. It is, therefore, precisely the type of site which the government seeks to encourage the development of in the current National Planning Policy Framework and recent ministerial statements in light of the COVID pandemic suggests that this approach will be strengthened even further in planning policy terms in the current months. As a matter of principle, therefore, development on this site is considered to be acceptable.

Nonetheless, there is still a requirement for all development to respect the character of its surroundings and the amenities of neighbouring properties. Earlier this year, an application was submitted for 7 apartments in a single, contemporary styled block. It was considered that the proposal made little effort to respect the character of the area and the context of surrounding development.

The pattern of development close to the application site is most strongly defined by the low-rise chalet bungalows to the east. As is common with bungalows of the design found in Ham Way, a number have dormer additions in their roof space, either to the side or rear, including number 5 Ham Way which is immediately adjacent to the southern part of the site. There are a lesser number of roof additions to the differently styled bungalows in Ham Close to the north but dormer additions could be accommodated in their roof slopes without detriment to the character of the area.

It is therefore considered appropriate, therefore, that the proposed apartments are house in chalet style buildings of a similar scale to the surrounding residential buildings. The submitted street scenes show that the ridge height of the southern building will be equivalent to those in Ham Way and the ridge height of the northern building would only slightly exceed that of the properties in Ham Close.

Furthermore, when compared to the previous scheme, there is now a gap left between the two buildings, which is the equivalent of the gap between the rear of properties in Ham Close and Ham Way. The central gap will act as a communal area and will be alongside the rear gardens of the neighbouring residential properties. It is felt that this type of development is far preferable to the previous proposal of a continuous block which took little reference to its surroundings.

In light of the siting of the proposed dwellings, it is felt that there is not a demonstrable impact upon neighbouring properties that could justify a refusal of the application. In effect, the proposed buildings will sit alongside existing residential buildings in a form typical of most streets. It is noted that the occupier of 1 Ham Close, which is immediately to the east of the northern part of the site, has raised concern about the northern building being directly adjacent to the site boundary. Although this is the case, it is noted that 1 Ham Close has a larger side area (in excess of 7 metres) than other properties in the vicinity (5 Ham Way has less than 3 metres for example) which, along with land owned by Network Rail, is responsible for the site tapering at its northern end. Given the distance to the residential property, therefore, it is not considered there can be a reasonable objection to the northern building extending to the site boundary.

In conclusion, therefore, it is considered that the principle of development and its impact upon the character and appearance of the area and the amenities of neighbouring properties is acceptable.

However, there were a number of representations received in respect of the application, and while some raised concern regarding the issues considered above, the vast majority raised concern regarding parking issues. The proposal only provides 1 parking space to serve the 6 units. It is evident that there is parking pressure in the area, and as many of the nearby properties have crossovers onto the road, there is a limit to the capacity of the on-road parking spaces available most particularly in Ham Way, which is a controlled parking area.

As with the previous application, the County Council as Highways Authority has not objected to the application on parking grounds, even though they estimate a development of this type would generate a demand for 7 parking spaces. Members will be aware, though, that the thrust of central government policy is very much in favour of development of sites such as this in highly sustainable locations (close to a railway station, bus routes and other local services and amenities). It is considered therefore that it is unlikely that a refusal could be justified on parking grounds given the continued and acknowledged need to provide new housing in the town. The National Planning Policy Framework (NPPF) is clear that the proposals such as this should be approved 'without delay' unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits'.

The provision of 6 new units which would improve the appearance of a long-neglected piece of land is itself a significant visual improvement and therefore it is not considered that the impact of additional cars seeking to park on the roads nearby could be described as an impact that would demonstrably outweigh the benefit. Paragraph 109 of the NPPF states '*Development should only be prevented*

or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'. The Highways Authority has not objected to the application on the grounds of highway safety and for the reasons set out above, it is not considered that the residual impact of the proposal could be considered as severe. Accordingly, it is not considered there are any grounds to resist the proposal on highways grounds.

The application is lacking in terms of information about the methods of construction, insulation and future heating provision for the flats to ensure a sustainable development. Whilst, the Sustainability Checklist considered at Planning Committee recently has not been adopted, as yet, the applicant has been requested to provide further information. The provision of an EV charging point, high standards of thermal insulation and a Combined Heat and Power (CHP) rather than individual boilers would all help to ensure a sustainable development to meet the challenges of future (and current) climate change.

Subject to the receipt of additional information addressing the above matters, it is considered that the application proposes an acceptable form of development, which complies with national planning policy and will provide new housing in a sustainably located site. Accordingly, it is recommended that permission is granted.

Recommendation

To GRANT permission

Subject to Conditions: -

01 Approved Plans

02 Full Permission

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

- the anticipated number, frequency and types of vehicles used during construction
- HGV construction traffic routings shall be designed to minimise journey distance through the AQMA's.
- the method of access and routing of vehicles during construction
- the parking of vehicles by site operatives and visitors
- the loading and unloading of plant, materials and waste
- the storage of plant and materials used in construction of the development
- the erection and maintenance of security hoarding
- a commitment to no burning on site

- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders)
- details of public engagement both prior to and during construction works. Methods to control dust from the site

Reason: As this matter is fundamental in order to consider the potential impacts on the amenity of nearby occupiers during construction.

- 04 Details of Mechanical Ventilation with Heat Recovery and summer bypass for all of the units.
- 05 Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter infiltration testing to BRE DG365, or similar approved, will be required to support the design of any Infiltration drainage. No building / No part of the extended building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.
- 06 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.
- 07 Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.
- 08 Approval of Materials
- 09 No work for the implementation of the development hereby permitted (including demolition works) shall be undertaken on the site except between the hours of 08.00 and 18.00 on Monday to Friday and between 09.00 and 13.00hrs on Saturdays. No work shall take place on Sundays or on Bank or Public Holidays.

Reason: To safeguard the amenities of the occupiers of neighbouring properties having regard to saved policy RES7 of the Worthing Local Plan.

- 10 Hard and Soft Landscaping
- 11 No windows...eastern elevation...
- 12 Obscured Glazing opening on eastern side

Together with any further conditions suggested by consultees

Informative:

Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The percolation tests must be carried out in accordance with BRE DG365, CIRIA R156 or a similar approved method and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway, and the base of the structure. It must also have provision to ensure that there is capacity in the system to contain below ground level the 1 in 100 year event plus 40% on stored volumes, as an allowance for climate change. Adequate freeboard must be provided between the base of the soakaway structure and the highest recorded annual groundwater level identified in that location. Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. The applicant is advised to discuss the extent of groundwater monitoring with the Council's Engineers. Further detail regarding our requirements are available on the following webpage <https://www.adur-worthing.gov.uk/planning/applications/submit-fees-forms>. A surface water drainage checklist is available on this webpage. This clearly sets out our requirements for avoiding pre-commencement conditions, or to discharge conditions.

12th August 2020

Application Number: AWDM/0747/20

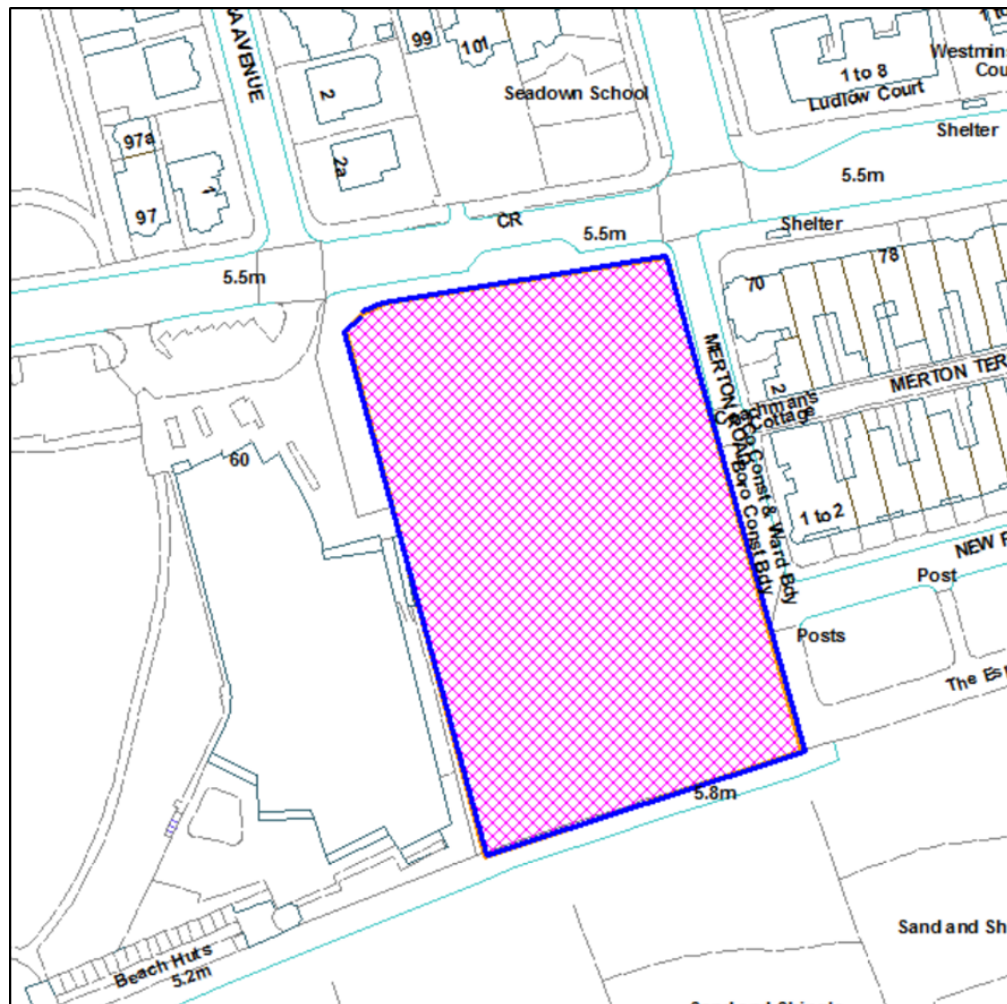
Recommendation – APPROVE

Site: The Aquarena, Brighton Road, Worthing

Proposal: Details of Development: Application for minor material amendments to vary Condition 1 of approved AWDM/0607/19: Amendment to the design, form and appearance of the pavilion cafe building.

Applicant: Roffey Homes Ltd
Case Officer: James Appleton

Ward: Central



Not to Scale

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Site and Surroundings

The site is located between Brighton Road and the Seafront. To the west is Splashpoint Leisure Centre, whilst to the east is Merton Road. The former

Aquarena has been demolished on the site and the residential led re-development is at an advanced stage with the main tower constructed to its full 15 storey height. The applicant has named the development Bayside Apartments.

Proposal

The application proposes a revised design for the pavilion café approved as part of the redevelopment of the former Aquarena.

No work has started on the pavilion café which is proposed to be located in the south-east corner of the south adjacent to the promenade and coastal cycle route. As approved the café was to incorporate a metal pitched roof frame set at an angle to the café itself. The metal roof was proposed to be yellow in colour and form the focal point for a new public square.

The application proposes the replacement of the pitch roof with a metal flat roof of a similar yellow colour as well as changes to the exterior of the café to improve security to the building.

Applicants Supporting Statements

“Introduction

The applicant has reviewed the plans for the seafront pavilion with an investor, who has subsequently entered into an Agreement to Lease, and the design team to ensure that the scheme, once built, provides the optimum development for Worthing's seafront. As part of this review, the applicant has identified a number of changes to the Pavilion building.

Design Development and Consultation

It is important to note that the key principles and design philosophy that underpin the consented scheme still remain: that is, the pavilion building's intent in becoming a part of the eclectic collection of structures lining the seafront, drawing its form, shape, and order from these existing or historic structures, as well as creating the required functional internal and external spaces of a modern restaurant-café.

"In its composition and architecture this building seeks to make itself part of the family of smaller scale structures, cafes, beach huts (and even the pier itself) which enliven the seafront. The pavilion forms part of the setting of the promenade and seafront, as well as a focal point of the proposed new public square.

It is proposed as a simple glazed structure with robust frame of light columns and timber cross beams supporting a lightweight metal roof, overhanging to create shaded areas for seating. The roof is rotated to sit precisely on a north-south axis, facing back towards the town beach and opening up visual routes into and across the site.

The pastel-yellow roof further enlivens the promenade and makes a relationship with the colourful terrace of New Parade."

(Design and Access Statement, 2016 Original Application)

Summary of Changes

Detailed design and coordination with an Investor, Consultants, Contractors and Fabricators has led to a series of structural and thermal improvements. Proposed visual and functional changes are to the form, shape and support of the roof, and the introduction of a timber screen-surround to the pavilion's external facade.

Thermal Envelope

Design development with the Structural Engineer has enabled the original scheme's projecting timber beams to stop short of the internal glazing line, providing improved thermal performance due to the elimination of a series of significant cold bridges through the structure, and improved longevity of the building with a clear air and waterproofing line no longer broken by the projecting beams.

Similarly, the glazing line has been brought outboard of the concrete columns, which no longer support the cantilevered beam, thermally enclosing all primary and secondary structural elements.

Timber Screen

Data has been gathered through consultation with potential future operators of the building, and past issues of security and vandalism of the neighbouring Splashpoint Swimming Pool have been noted.

A timber screen now surrounds the pavilion, providing both security to the otherwise fully glazed principal elevations, and equally giving the cafe a positive visual presence even when closed. The previous design had made allowance for a basic security roller shutters which would look visually very poor when closed, and could attract graffiti.

Roof Form, Shape and Support

Practical changes made to the roof improve both the buildability and day to day maintenance of the scheme, and therefore the overall quality of the final building.

It has proven very difficult to procure the large overhanging steel pitch roof structure. In addition, detailed evaluation and risk assessment of the maintenance of the pitched roof, particularly in guarding against seagull nesting and damage, led to a recommendation for unsightly seagull netting between the pitches. It was therefore considered that a simpler form was most likely to produce a building/finish of higher quality.

The pitched form is therefore replaced with an extensively planted green roof, over which a 'plate' of perforated yellow metal 'floats', and which is delicately supported on 8no. slender, yellow, cruciform columns. The material, colour and orientation of the roof remain as the original scheme. Maintenance of the projecting metalwork can occur from suitable portable access equipment located outside of the roof structure. The green roof is more forgiving to seagull's detritus whilst the greater exposure of the flat roof will naturally prevent seagull nesting.

As the original scheme drew upon local beach huts for its form, the revised scheme makes a contemporary interpretation of those seafront shelters scattered along

Worthing's seafront. These have existed in various guises from Edwardian, Victorian, and the 1920's - commonly however consisting of a flamboyant or elaborate roof set upon a slender metal frame, and visually independent of the seating or other use beneath.



2019 Design



2016 Design



Summary

This Design Note, in addition to the submitted drawings, outlines the nature of the proposed minor changes to the consented scheme and demonstrate how they will lead to an overall improvement to the final development.

The amended design will provide a building that is both more robust and resilient to the harsh coastal environment, as well as being safer and more secure as a commercial premises. The choice of natural timber for the screens will ground the building in its seafront setting and, more importantly, give the cafe a positive visual presence at all times of the day - open or closed.

The slender, elegant yellow canopy will afford a focal point to the public square and shading to the café; the planted roof will soften the building's presence, and contribute to the wider biodiversity of the space, the adjacent New Parade Gardens, and the wider promenade.”

In addition to the above supporting statement, the agent has provided a further statement with construction drawings highlighting the difficulties of delivering the original design concept. An extract from this supporting statement is set out below,

‘Allies & Morrison wished for a slender detail on the structural support but this was not possible due to the huge loading put onto the timber beams, particularly at the ends, meaning that the sections would be very thick and inelegant to support the large weight as well as the uplift wind load that could be put on the overhanging roof.

The other consequence was that the timber beams would have needed thick steel plates within them and these beams project outside of the envelope. This meant that they were creating cold bridges with a consequence on the thermal performance of the building.

Roffey Homes, along with the investor who has purchased the long lease on the café, subject to the design being made buildable along with their requirements for security, therefore asked Allies & Morrison to re-evaluate the design to still be a striking form and detail, but one that is also as striking when locked up at night as it is during the day.

The simplification of roof detailing has allowed the design team to remove any cold bridges which along with the green roof has allowed the whole café to perform better as a structure.

Roffey Homes and the main contractor have already sought structural steel design advice on the new proposal and the detailing matches the requirements of the architect and so if the design amendment were approved then the instruction can be issued to finalise detailed design and instruct the main contractor accordingly.’

Relevant Planning History

AWDM/1633/16 - Demolition of the former Worthing Aquarena and car park. Erection of 141 residential apartments, commercial unit, café and 172 residents parking spaces and 51 public spaces with associated landscaping and access arrangements. APPROVED

AWDM/0607/19 - Details of Development: Application for minor material amendments to vary to Condition 1 of approved AWDM/1633/16 including revision to floor layouts, elevations, material treatments, window and door openings, plant arrangements, smoke ventilation equipment and removal of solar PV's at roof level. APPROVED

Consultations

The Worthing Society objects to the application on the grounds that,

“This is an application for minor material amendments to vary Condition 1 of the approval for AWDM/0607/19. We appreciate that these amendments have been triggered after discussions with the ‘investor’ who will ultimately be running the café.

The rationale for the changes to the design sounds reasonable: improved security, better thermal properties and a roof less likely to cause issues with nesting birds.

The idea to base the design around the historic seafront architecture and shelters sounds good. Unfortunately, the result appears to be a rather plain and uninspiring building that lacks the presence of the original design. The pitched roof at least gave it a certain boldness.

Although the café will ultimately enhance the area these revised drawings are rather bland. In our opinion it represents a lesser design than the original and could be a missed opportunity for this distinctive seaside location. The café building should form part of the whole Aquarena experience and be attractive to potential customers. We consider it looks purely functional.

There are several architectural themes running through the seafront from the Victorian, Regency and more recent Art Deco styles which could be reflected in this beachside café.

In conclusion, we respectfully suggest that consideration should be given to a further re-design of the café to ensure a closer association with the seaside location.

Representations

Two letters of support have been received raising the following comments:

- i) *I am very happy with the redesign of the Cafe roof.*

- ii) *The lower height and flat roof design improves the sea views to all first floor and second floor properties which have a seaview within the Bayside Development as well as those properties along New Parade.*
- iii) *The flat roof feature is also much more in line with the Marine Parade roof structures than the previously proposed roof design, maintaining the Worthing Beach Front look.*
- iv) *Overall a great improvement which I fully support.*
- v) *Compared to the beautiful design of the Vista tower with its curvy wave-like balconies, which I hope in time will be recognised as being an iconic building in the town, the original design for the café roof looks too garish and totally alien to the location.*
- vi) *This new design in my opinion is much better, carrying on the seaside theme it blends in and as the other commentator said is significantly lower thus affording the residents of the lower apartments uninterrupted views to Worthing's lovely seafront.*

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.

Relevant Planning Policies and Guidance

Worthing Core Strategy (WBC 2011): Policy 7, 8, 11, 13, 15, 16, 17
 Worthing Local Plan (WBC 2003) (saved policies): RES7, H18, TR9
 Supplementary Planning Document 'Space Standards' (WBC 2012)
 Supplementary Planning Document 'A Guide for Residential Development' (WBC, 2013)
 Worthing Housing Study (GL Hearn 2015);
 Worthing Strategic Housing Market Assessment Up-date (GL Hearn 2020);
 Community Infrastructure Levy Charging Schedule (WBC 2015);
 SPD - 'Parking Standards and Transport Contributions' (WBC 2005)
 National Planning Policy Framework (MHCLG 2019)
 National Planning Practice Guidance (MHCLG)

Planning Assessment

The main issue in this case is whether the revised design for the pavilion café is acceptable having regard to the character and appearance of the surroundings

including the design of the new Bayside Apartments and character of seafront buildings.

It is not considered that the development impacts on the visual amenities of adjoining residents. The overall café remains the same size as approved in terms of footprint and as indicated in the representations section, the lower roof would reduce the café's visual impact on existing residents in New Parade and future residents of the Bayside Apartments.

Whilst, the overall redevelopment scheme was considered in relation to the impact on heritage assets (Beach House a Grade II* listed building and Conservation Areas to the north and west), the proposed café is screened from Beach House and Conservation Areas and therefore it is not considered that its revised design has any impact on heritage assets.

The original design of the pavilion café was to be a striking feature on the seafront. Its yellow pitched roof form was to reflect the appearance of beach huts and the roof set at a jaunty angle to the café added a playfulness to the design which was also a characteristic of the curvaceous form of the main tower.

In contrast the revised design lacks the visual interest of the original. The original scheme architect has taken inspiration from the flat roof forms of many seafront shelters and many of these are locally listed and were influenced by the horizontal horizon line and a desire to reduce any visual impact of these structures on sea views. Ironically, these have not been that popular partly because of maintenance issues with the flat roofs and a number have been altered incorporating Victorian style pitched roofs.

Nevertheless, the applicant is committed to delivering the café and has provided a detailed analysis of some of the problems with the original design concept. It is also important to note that the applicant has secured an investor which in these difficult times is a significant achievement. Whilst, it is inevitable that the current design will be compared with the original approved scheme it does need to be assessed on its individual merits. The revised roof design incorporating a green roof would improve the thermal efficiency of the building, enhance biodiversity and help reduce surface water run-off. The revised design for the café itself reduces glazing and makes the building look heavier and less interesting but has significantly improved security issues and reduced the scope for vandalism.

Members will be aware that the original design concept for Splashpoint was to have glass balcony screens to the outside pool area. However, these glass balcony screens were constantly being smashed using pebbles from the Beach and have since been replaced with metal mesh fencing.

In the circumstances and notwithstanding some of the design concerns, it is considered that the revised design is considered acceptable. The practicalities of building the original design and operating a seafront café in this location have resulted in a more restrained architectural solution. Whilst, not as exciting as the original design concept, approval of this revised design will ensure the delivery of an

important new seafront café. It's more robust design will help to ensure its future sustainability as a new seafront café.

At a time when the future of other new seafront cafes is in some doubt (Pierre Bistro and Box Park at Beach Green, Shoreham) it is important to support this revised design to ensure the scheme is delivered particularly as it is more environmentally and economically sustainable.

Recommendation

APPROVE

Subject to conditions: -

1. Standard 3-year time limit
2. Prior to the commencement of development precise details of the external cladding of the pavilion café shall be submitted to and approved in writing with the LPA.
3. Prior to the occupation of the café a management plan for the green roof shall be submitted to and approved in writing by the LPA and thereafter implemented in accordance with the approved details.

All other conditions which have not been discharged in relation to AWDM/0607/19 to be also added to the decision notice.

12th August 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.