



WORTHING BOROUGH COUNCIL

11 April 2023

Worthing Planning Committee	
Date:	19 April 2023
Time:	6.30 pm
Venue:	Council Chamber, Worthing Town Hall

Committee Membership: Councillors Andy Whight (Chair), John Turley (Vice-Chair), Noel Atkins, Russ Cochran, Dan Coxhill, Helen Silman, Samuel Theodoridi and Rosey Whorlow

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 **midday** on **Tuesday 18 April 2022**.

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 **Friday 14 April 2023**.

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

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

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

4. Members Questions

Pre-submitted Members questions are pursuant to rule 12 of the Council & Committee Procedure Rules.

Questions should be submitted by **midday** on **Friday 14 April 2023** to Democratic Services, democratic.services@adur-worthing.gov.uk

(Note: Member Question Time will operate for a maximum of 30 minutes.)

5. Confirmation of Minutes

To approve the minutes of the Planning Committee meetings of the Committee held on **22 March 2023**, which have been emailed to Members.

6. Items Raised Under Urgency Provisions

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

7. Planning Applications (Pages 5 - 80)

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

8. Planning Appeals (Pages 81 - 84)

Notice of the outcome of a Planning Appeal by the Planning Inspectorate, attached as item 8.

Part B - Not for publication - Exempt Information Reports

None.

Recording of this meeting

Please note that this meeting is being audio live streamed and a recording of the meeting will be available on the Council's website. This meeting will remain on our website for one year and will be deleted after that period. The Council will not be recording any discussions in Part B of the agenda (where the press and public have been excluded).

For Democratic Services enquiries relating to this meeting please contact:

For Legal Services enquiries relating to this meeting please contact:

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

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WORTHING BOROUGH
C O U N C I L

Planning Committee
19 April 2023

Agenda Item 7

Ward: ALL

Key Decision: Yes / No

Report by the Director for Economy

Planning Applications

1

Application Number: AWDM/1444/22 Recommendation – APPROVE

Site: Greater Brighton Metropolitan College, Littlehampton Road, Worthing, West Sussex, BN12 6NU

Proposal: Change of Use to Bus Depot (incorporating college car parking during the day) and erection of ancillary buildings and associated facilities in the north west corner of the car park adjacent to Titnore Lane

2

Application Number: AWDM/0119/23 Recommendation – APPROVE

Site: Air Training Corps Hq, 20 - 22 Victoria Road, Worthing

Proposal: Demolition of existing buildings; erection of 11no. residential flats for emergency and temporary accommodation with associated works

3

Application Number: AWDM/1680/22 Recommendation – Delegate to Head of Planning & Development to APPROVE

Site: Former Worthing College, Bolsover Road, Worthing, West Sussex, BN13 1NS

Proposal: Amended Description: Application to Vary Condition 2, 9 and 11 of AWDM/0363/11 to extend residential curtilage to allow the extension of rear gardens of residential dwellings up to the existing acoustic fence within Southern Buffer Strip only. [Planning permission AWDM/0363/11: Demolition of existing college buildings and construction of 265 dwellings together with floor space for commercial nursery units with associated access, parking and landscaping. Amendments - commercial nursery units replacing doctors' surgery in corner block, amendments to central square and surrounding buildings, minor elevational changes to other buildings, minor modifications to layout of streets.]

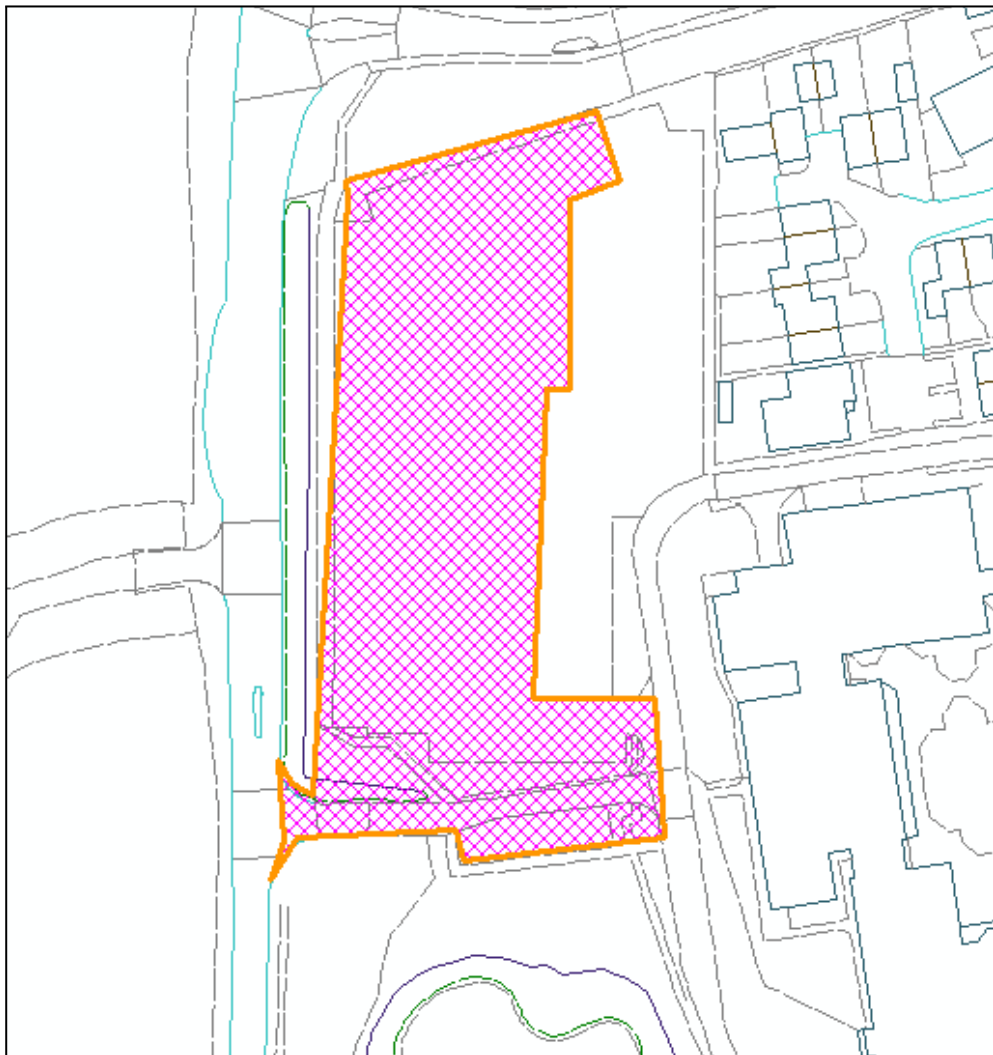
4

Application Number: AWDM/0510/22 Recommendation – APPROVE subject to the completion of a unilateral undertaking securing the sum of £3,500 towards sustainable travel

Site: Land At Former Car Park, Dominion Way, Worthing

Proposal: Demolition of all existing structures and construction of 5 buildings providing 22 flexible industrial units comprising light industrial (Class E(g)), general industrial (Class B2) and storage/distribution (Class B8) with associated car parking and landscaping with open storage use (Class B8) on land to the northern part of the site.

Application Number:	AWDM/1444/22	Recommendation - APPROVE
Site:	Greater Brighton Metropolitan College, Littlehampton Road, Worthing, West Sussex, BN12 6NU	
Proposal:	Change of Use to Bus Depot (incorporating college car parking during the day) and erection of ancillary buildings and associated facilities in the north west corner of the car park adjacent to Titnore Lane	
Applicant:	Compass Travel (Sussex) Ltd	Ward: Northbrook
Agent:	Wayne Gander MCIAT	
Case Officer:	James Appleton	



Not to Scale

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Site and Surroundings

The application site forms part of the Northbrook College car park on the west side of the campus buildings. The existing access to the campus is via Littlehampton Road with a one way route through the site to the western car park with further car parking to the south of the campus buildings. There is a secondary access onto Titnore Lane adjacent to the southern boundary of the application site which was previously used as an emergency access and was closed to College traffic by a barrier.

The site lies on the edge of the built up area of the Borough and to the west of Titnore Lane lies the National Park. To the north of the site is St Barnabas Hospice and to the west residential properties served off Red Kite Way. The residential development wraps around the campus buildings to the south having been built on former College land. A close boarded fence separates adjoining properties from the College car park.

The site is screened from the road by a relatively dense hedge and tree screen and landscaping along the northern boundary screens the site from the adjoining Hospice.

Proposal

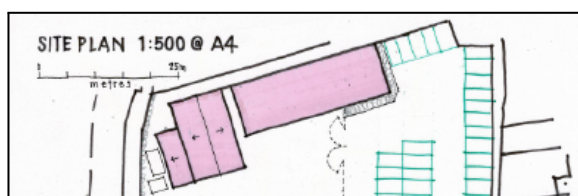
The application proposes a change of use of part of the existing car park to a bus depot accommodating up to 34 buses. The applicant has indicated that during the day when buses are out on the road the southern section of the site would be returned to parking for the College. An optional fence is proposed around the northern section accommodating space for 8 buses during the day.

The application also includes a maintenance building with a height of 5 metres to the eaves and a low 10 degree pitched roof with a lean-to store building. This is located in the north-eastern section of the site. The workshop would measure 15 metres by 9.5 metres. Adjacent to this workshop building would be a covered cycle store, a plastic chemical store and a cleaners shed. To the east of the workshop would be located a long modular building which would be used as offices.

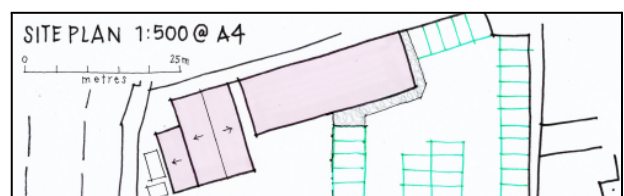
The application originally proposed buses entering and leaving the site adjacent to the residential dwellings in Red Kite Way. However, following concerns from residents and Environmental Health a revised plan has been submitted showing a new internal access to Titnore Lane access effectively moving bus movements further away from the residential properties. The application now proposes access and egress directly onto Titnore Lane via the previous emergency access point.

The original layout plan and the amended plan are shown below:

As Submitted



As Amended



Applicants Supporting Statement

In support of the application the applicant has submitted various supporting statements including:

- Planning Statement
- Transport Statement
- Air Quality Assessment and,
- Acoustic Report.

The Planning Statement is brief but sets out the background to the relocation of the bus company to this site:

“Since 2003 we have held a long-term lease for bus parking at Faraday Close, Durrington. The landlord was Tesco Pension Fund who declined to renew the lease when it expired in Feb 2021. Temporary extension was granted until August 2021.

We have actually spent the last 20 years looking for a more permanent site in the Worthing area for bus parking and over the last two years have been searching more earnestly. Several local sites were investigated in some depth but in each case it was not possible to proceed due largely to planning concerns.

In Sept 2021 we moved at short notice onto a temporary site at Barrington Road, Worthing (the old HMRC site) pending further development of this site for housing. This worked well but was only ever going to be a short-term option.

Unfortunately, due to a change in plans by the developers, we then had to move off the Barrington Road site at the end of Feb 2022 at very short notice.

One of the sites under discussion for possible long-term bus parking had been at Northbrook College, Durrington. The large car-park there was primarily only in use during the day, whereas our bus parking requirement was largely overnight. Shared use of the car park was therefore a sensible option and would potentially benefit both parties.

Throughout all the searching for a suitable site, over many months, we have always involved James Appleton from Worthing Planners who was always very helpful and supportive. However he had agreed that there were virtually no suitable options locally — and the Northbrook College site was realistically the only possibility.

Following further discussion with Northbrook College (who were very helpful) and James Appleton it was agreed that we could move our bus parking onto the college site from March 2022 as this was very much an emergency situation and we had no other options. Full planning permission would then be sought for permanent use of this site.

In preparation for the planning application there was consultation with local councillors and also neighbours. Only one letter of concern has ever been received and that was regarding additional traffic on Titnore Lane. However this has been addressed with an independent report by a Traffic Consultant and no particular concerns have been raised.

Various reports have now been produced by independent consultants on different aspects of use of this site for bus parking and there are no serious concerns.

Compass Travel is the main bus operator of rural and secondary services across both West and East Sussex. Over 180 staff are currently employed — many of whom live locally in the Worthing area.

Realistically this site at Northbrook College is now the only possible option for local bus parking for Compass Travel and if planning permission is not granted then the business would close. This would result in the loss of a large number of local jobs and many bus routes across Sussex.

Compass Travel is always keen to work with the local community and has a good relationship with Northbrook College and both Worthing and West Sussex local Councils. We will always continue to work to resolve any issues that arise and be a responsible member of the local community.”

The **Transport Statement** concludes that,

‘Northbrook College is in a sustainable location with a range of amenities within a short walk and cycle, and good access to local public transport, as bus stops and a rail station are within a short walk.

The proposal reduces the Northbrook College car park capacity by 93 spaces to 208 spaces. The collected parking survey data and college have confirmed that this is more than adequate to meet the parking demands of Northbrook College.

All bus and staff parking will be contained within the site, as there is ample space to facilitate the efficient use of the land by utilising the storage area for staff parking when the buses are in use.

The proposal will generate a maximum of 140 vehicle movements per day and this total is the worst-case scenario. It will not have any impact on peak hours, as the busiest operation hour will be between 06.00 and 07.00.

It is proposed that the junction via Titnore Lane will only be used by Compass Travel (Sussex) Ltd staff, most of whom will have Public Service Vehicle licences. The existing gate will be retained in its current position and operate with CCTV automatic number plate recognition when buses are departing and arriving. It is considered that this approach will maintain highway safety, as it is understood that the access gate was installed in response to the safety concerns raised by WSCC.

The tracking plans provided confirm that there is ample space for buses to manoeuvre in and out of the proposed access safely under the current conditions. Suffice to conclude that the relationship between bus movements and the possible island extension would not constitute an 'unacceptable' safety impact.

Collision records reinforce that the Titnore Lane junction use is not a material hazard. The available collision data demonstrates that there is an average of one collision every two years near the junction, and only one of these collisions is directly related to the junction use.

A Stage 1 Road Safety Audit was undertaken to consider the proposed development. There were no problems raised that cannot be addressed at the detailed design stage. Our client will welcome a planning condition that requires an Operational Management Plan (OMP) that can be the mechanism to control the routing of traffic associated with the proposal. The OMP will contain the following information;

- *Bus and staff operational details*
- *Bus and staff parking details and manoeuvring*
- *Operation and management of gated access*
- *Mechanism to limit and control use of the access*
- *Directional controls and limitation placed on bus drivers*
- *Reporting and monitoring mechanism.*

At the heart of the NPPF is a presumption in favour of 'sustainable development', and this is a sustainable development. The core objectives of the West Sussex Transport Plan 2011-2026 include 'encouraging and facilitating a high-quality and resilient transport network'. To support these objectives, it is imperative that Compass Travel are able to manage their routes in an efficient manner, as it enables a reliable service that customers can trust as a mode of travel. This proposal will

improve the transport network in the region and achieve wider, sustainable transport objectives.

Therefore, taking all relevant information into consideration, it is evident that the proposed development will not have a severe impact on highway capacity or an unacceptable impact on highway safety so should not be refused on transport grounds

The **Air Quality Assessment** concludes that,

The proposals have the potential to cause air quality impacts as a result of fugitive dust emissions during construction and road traffic exhaust emissions associated with vehicles travelling to and from the site, as well as within the depot itself, during operation. As such, an Air Quality Assessment was undertaken in order to determine baseline conditions and assess potential effects as a result of the scheme.

During the construction phase of the development there is the potential for air quality impacts as a result of fugitive dust emissions from the site. These were assessed in accordance with the IAQM methodology. Assuming good practice dust control measures are implemented, the residual significance of potential air quality impacts from dust generated by earthworks, construction and trackout activities was predicted to be not significant.

6.1.4 Potential impacts during the operational phase of the proposals may occur due to road traffic exhaust emissions associated with vehicles travelling to and from the site, as well as within the depot itself. Dispersion modelling was therefore undertaken in order to predict pollutant concentrations at sensitive locations both with and without the development in place. Results were subsequently verified using local monitoring data.

6.1.5 Review of the dispersion modelling results indicated that impacts on annual mean NO₂, PM₁₀ and PM_{2.5} concentrations as a result of traffic generated by the development were predicted to be negligible at all sensitive receptor locations. Following consideration of the relevant issues, air quality impacts as a result of the operation of the development were considered to be not significant, in accordance with the IAQM guidance.

6.1.6 Based on the assessment results, air quality factors are not considered a constraint to the development

In response to complaints from local residents and Environmental Health, the applicants have revised the proposed layout to incorporate a new access to the south of the site. The accompanying Noise Assessment has been also updated and concludes that:

'This 4th issue updates to the present day the situation both on site currently and what the proposed operation will be for the purpose of the planning application. This includes an updated parking layout design and also a revised bus entrance/exit location.

Measurements of the existing A-Weighted L90 background sound level have been carried out over a period of 5 days including a weekend.

Measurements of sound levels due to bus manoeuvring activities as measured on a previous application site were entered into a computer noise contour model to show the predicted sound levels at the nearest noise sensitive receptors (NSRs). Since then, due to the forced operation of Compass Travel on the application site (with full knowledge of the planning department and due to situations out of Compass Travel's control) it has been possible to measure the noise levels due to bus operation on site both as to how they are currently operating and how they propose to. These measurements have been undertaken with the survey equipment located at the nearest noise sensitive receptors' boundary fence.

Subsequently, these have been rated in accordance with BS4142:2014-A1:2019 and compared with the existing L90 background sound level.

Computer Generated Noise Contour models are shown in the appendices of this report.

With the proposed bus orientation now changed with the majority of the buses facing east (engines facing west) the Rating Levels due to Bus Engine Starting, Idling, Departing and Arrival mean that adverse impact is unlikely or significantly unlikely, with the worst-case Rating Level from a small number of buses being 2dB below the existing L90 Background Sound Level.

It is also important to note that whilst Compass Travel have been forced to operate on this site, the proposed layout and operation will be a significant improvement to how they are currently operating – buses currently pass close-by to the residential dwellings, but the proposed operation will see buses retained in the south-west corner of the site, departing and arriving via a new south-entrance/exit point.

It is also worthy of note that in summer when windows are more likely to be open, the sound insulation of the residential building envelope would be reduced to approximately 13dB (as referenced by ProPG Planning and Noise 2017. If one was to assess the Rating Level against the internal ambient noise level requirements of BS8233:2014 for night time (Leq,8hr 30dBA in a bedroom during night time hours) they would be 33dBA outside the window. With a further 13dB reduction through a partially open window, the sound from the buses would be just 20dB from the worst-case sound level (bus departure). This is significantly below the BS8233 criterion and thus adds weight to the planning application in favour of Compass Travel's operation on site.

With all morning activities occurring at the same time and their rating levels combined, the worst-case revised rating level would become 35dBA. This would be parity with the Background Sound Level for 06:00-07:00hrs and 12dB below the Background Sound Level for 07:00-08:00hrs.

Sound from Fixed Plant has not been assessed as no plant is proposed. However, if this is to change, it is required that the Rating Level from any fixed plant for the office building(s) should be no higher than the existing background sound level either

individually or when combined with bus activity at the nearest residential receptor location.

Mitigation measures have been discussed in Section 6 of this document. If they are adopted and operation occurs as assessed, it is considered that adverse impact will be unlikely and that there should be no reason why outline planning permission should be withheld on noise grounds.'

Relevant Planning History

A number of permissions have been granted over the years for various developments relating to the College including temporary buildings for changing rooms and temporary classrooms. The most relevant permissions are set out below:

AWDM/0468/12: Application Permitted - Replacement 285 space car park with associated lighting, landscaping and CCTV installation, with upgrading works to the existing internal site road and partial re-routing of existing internal site pathway. Closure of existing temporary College car park. New access road arrangement off from Littlehampton Road into the College campus and alterations to existing car-park layout, closure of existing College access road, highway infrastructure improvements and associated landscaping.

AWDM/0521/12: Application Permitted - Proposed mixed use development comprising; 117 residential properties (including 17 affordable units), car showroom (Sui Generis) and care home (C2) with associated access roads and landscaping on land east of Northbrook College

AWDM/1044/13: Application Permitted Demolition of 755m² GIA of sub-standard accommodation and the construction of two extensions to the existing building, a 1495m² GIA new entrance and LRC to the front of the College and new 443m² GIA Drama Studios to the rear, together with minor alterations to existing south-east facade and associated external hard and soft landscaping works and signage

Consultations

Do not cut and paste in non-Word format or copy verbatim or include extraneous or non-planning matters but provide a precis of their contents insofar as they relate to planning considerations, making sure to state whether they object and to cover all their main points.

West Sussex County Council: The County Council provided pre-application advice to the applicant as follows and the application has been submitted with the required supporting information. The formal consultation response from WSCC is awaited and will be reported at the meeting.

- Access-visibility splays are shown as 2.4 by 106 metres to the north and 2.4 by 80 metres to the south. To the south this is the maximum extent of the splay due to the A259/A2032 roundabout. To the north the splay is in accordance with SSD parameters from Table 10.1 of Manual for Streets 2. A proportion of

vegetation will need to be removed to achieve both visibility splays however this could be covered via a planning condition.

- Stage 1 Road Safety Audit (RSA) - it was agreed an RSA will be provided in support of the access proposals Swept path diagrams to be provided at the point of access to demonstrate that anticipated vehicles can safely enter and exit the site.
- 140 vehicle movements in total is not anticipated to result in a 'severe' increase onto the network. A proportion of the movements are not likely to occur during peak operating times.
- Justification to be provided on the existing levels of parking at the college and confirmation that the college can still run within capacity with the net loss of parking spaces proposed.
- A Travel Plan should be provided to promote sustainable transport mitigation for staff.

Adur & Worthing Councils:

Environmental Health Officer (Public Health & Regulation) comments that,

“Following noise complaints received by environmental health I have revisited this application. I visited the site this morning, Friday 13th January, observing from the parking area in front of 14 Red Kite Way.



I arrived on site just before 5am, with the intention of undertaking some background noise measurements before the depot open. Unfortunately it was too windy for noise monitoring. However, I stayed and observed the activities of the site until 7am. The wind was blowing in my face from a westerly/south westerly direction. The buses were parked in rows facing northwards.

The lights for the car park were turned on a few minutes before 5am when somebody arrived in a white van. The site was quiet, the dominant noise was the gusts of wind and the occasional traffic movements on the surrounding main roads.

A single decker bus arrived on site at 05:41 entering the site from the South and doing a u-turn so it was facing the porta cabin. The engine was switched off as soon as it was stationary. The bus was on site and parked within a matter of seconds, the engine noise I heard was no louder than the existing traffic on the surrounding roads.

At 05:48 I could hear an engine running from behind the parked double decker buses, the noise was lower than the passing traffic.

At 05:52 a single decker bus drove out beyond the line of double decker buses in a northerly direction turning east and then south past my position and the houses. All buses leaving the site took this route. The noise created was similar to the distant traffic on the main roads.

At 05:56 I noted the flow of traffic on the surrounding main roads was becoming more steady.

At 05:57 a single decker bus left the site, similar to the earlier bus leaving but the engine gave a bit of a rumble as it passed the porta cabin.

At 06:01 I heard another engine start, lower than the ambient traffic with a slightly less intrusive character. A single decker came from behind the line of double decker buses as it passed my location at 06:02 there was a squeal from the breaks. It stopped in front of the houses pausing for a couple of minutes, before the driver moved on leaving the site at 06:04.

At 06:04 I hear another engine start, a single decker bus is moved forward to the North of the site and the engine is switched off. The driver gets out and walks back behind the line of parked double decker buses. Shortly after another bus is heard starting and a single decker bus is moved forward to the north of the site and parked behind the earlier moved bus. It looks like the same driver as before. He again walks behind the line of double decker buses and at 06:07 another single decker pulls out from behind the line of double deckers and passes me before pulling up outside the porta cabin. The driver gets out, the engine is still running. At 06:10 the drivers gets back in the bus and turns the engine off.

At 6:11 the most northerly double decker engine is turned on. The engine is quite rattily soon after the lights of a white double decker come on but I cannot make out the engine noise over the nearer bus. This double decker is third in line from the North and is boxed in.

At 06:13 the single decker that had earlier been parked at the porta cabin is started up and reversed, there is a white noise reversing warning which was not intrusive at my position. It then drives forward and leaves the site.

At 06:14 a single decker leaves the site, this is fairly quiet.

At 06:17 the first double decker, the rattily one, pulls away and leaves site. I can now make out the engine on the white double decker which is not so rattily.

At 06:20 a single decker is driven forward and parked the driver gets out.

At 06:21 a single decker is moved forward and parked, again it looks like the same driver as before who gets out.

At 06:23 a further single decker bus is moved forward and parked.

At 06:23 another double decker bus is started that has a more intrusive noise than the single deckers. At this time there are a number of bus engines running and the bus noise is the dominant noise source in my location.

At 06:24 another single decker bus is moved forward. I can hear vehicle door banging on the site.

The picture below was taken on site soon after I first arrived. There are no buses to the North of the line of double deckers.



The above photograph shows the single decker's that have been manoeuvred so that other buses can leave the site.

At 06:26 another bus is reversed, again a white noise reversing alarm.

At 06:26 a single decker bus leaves the site followed by a coach both passing the earlier manoeuvred single decker's.

06:28 there are still several bus engines running and the bus noise is dominant noise in my location.

06:31, one of the previously manoeuvred single decker's is moved for a second time so that a bus behind it can leave.

06:32 a single decker leaves the site.

06:34 a single decker leaves the site.

06:37 the single decker that had been moved twice leaves.

06:39 single decker leaves.

06:40 double decker leaves, you can hear the air breaks.

06:43 White double decker leaves.

06:44 single decker reversing, white noise reversing alarm, leaves site at 06:45.

06:45 two more single decker's moved forward.

06:47 another double decker leaving. No more engines running on site.

06:49 engines heard again, a coach leaves followed by 2 single deckers.

06:50 single decker leaves.

06:51 a single decker leaves.

06:52 a double decker leaves, site quiet.

07:00 no more activity has occurred. 8 buses left on site, I leave.

From my observations it is evident that there is significant activity on the site before 7am, which for noise purposes is considered night time.

From my observations it is clear that noise from idling buses is coming from areas closer to the noise sensitive receptors than was modelled by the applicant's acoustician. Therefore we cannot rely on the conclusions of this report.

The fact raised by the acoustician that this is an existing car park is irrelevant. Residents will not be used to vehicles manoeuvring outside their homes so early in the morning. Furthermore, when Environmental Health considered the planning application for the new homes, it was never envisaged that the car park would be used so early in the morning, I understand no acoustic mitigation was provided for the new homes. It is reasonable to expect that traffic movement in the college car park from students and teachers would typically commence around 8am.

Regrettably, because of the adverse weather conditions I cannot provide objective noise data for the activity, I witnessed.

Moving forward, what we need to consider is how noise from this proposed development is actually impacting on nearby residents. The site is in operation, it can be measured in real terms rather than model scenarios, which was the only option for the applicant's acoustician at the time.

It is currently mid-winter and resident's windows that I could see from my location were closed this morning. What concerns me is how this development may impact on residents in the summer months when windows are open. It would be the maximum noise levels that can cause sleep disturbance in these homes that would be of interest. With regards to the complaint, for statutory nuisance purposes, I would be considering the excessiveness of the noise, the character of the area and whether the company/landowner is using best practicable means to minimise noise. The complication with character of the area comes from whether planning permission is granted or not. See the case law below.

"The Bermondsey/Belgravia point has been given new impetus in the case of Gillingham Borough Council -v- Medway (Chatham) Dock Co. [1993] QB 343. In that case the formal naval dockyard was given planning permission to operate as a commercial port. Very soon heavy traffic was using the area 24 hours a day causing severe disturbance. The local authority, Gillingham BC had been aware when planning permission was sought that lorry movements to the port would increase night noise levels particularly. Planning permission had been granted because of the economic benefits which were thought to outweigh the environmental problems that would ensue.

After complaints the local authority sought an injunction under Section 222 Local Government Act 1972 to prevent traffic movements between 7.00pm and 7.00am on the grounds of public nuisance. The application failed because Buckley J. said that the grant of planning permission had changed the character of the area to the extent that the claim of nuisance had to be considered in the light of its existing environment, not that which existed in the past.

However, this principle is open to doubt in view of the fact that planning authorities have no jurisdiction to authorise nuisances. In Wheeler -v- J.J. Saunders Limited [1995] 2 All E.R. 697 the Court of Appeal has indicated that, even if it is correct, the principle can have no application to ordinary grants of planning permission and should be confined to large scale developments."

With this uncertainty in mind, it may be worth postponing any decision until the noise can be accurately assessed or alternatively refuse the application.”

In response to the revised Accoustic Report and layout plan the EHO has indicated that he would remove his previous objection and comments that,

This looks better. Perhaps include a noise management plan condition which should encompass the noise mitigation advice in the report. We will need to see the details of any external plant once confirmed for the workshop.

Further discussions regarding the wording of conditions are ongoing and Members will be updated at the meeting.

Southern Water comments that,

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

To make an application visit Southern Water's Get Connected service: developerservices.southernwater.co.uk and please read our New Connections Charging Arrangements documents which are available on our website via the following link:

southernwater.co.uk/developing-building/connection-charging-arrangements

The supporting documents make reference to drainage using Sustainable Drainage Systems (SuDS).

Under certain circumstances SuDS will be adopted by Southern Water should this be requested by the developer. Where SuDS form part of a continuous sewer system, and are not an isolated end of pipe SuDS component, adoption will be considered if such systems comply with the latest Sewers for Adoption (Appendix C) and CIRIA guidance available here:

water.org.uk/sewerage-sector-guidance-approved-documents/ciria.org/Memberships/The_SuDS_Manual_C753_Chapters.aspx

Where SuDS rely upon facilities which are not adoptable by sewerage undertakers the applicant will need to ensure that arrangements exist for the long-term maintenance of the SuDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system.

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

- *Specify the responsibilities of each party for the implementation of the SuDS scheme.*
- *Specify a timetable for implementation.*

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

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

It is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.”

South Downs National Park Authority comments that,

“Although the application site is located outside of the National Park, the Council has a statutory duty to consider the Purposes of the National Park when making its determination. The statutory purposes and duty of the National Park are:

- **Purpose 1:** *To conserve and enhance the natural beauty, wildlife and cultural heritage of the area.*
- **Purpose 2:** *To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.*
- **Duty:** *To seek to foster the social and economic wellbeing of the local communities within the National Park in pursuit of our purposes.*

The National Park’s comments on the development are as follows:

The site relates to an existing car park associated with Northbrook College located to the east of Titmore Lane which forms the boundary of the National Park in this location. The proposal includes the provision of a number of new car park related structures, including a single storey office building and a large store and inspection building some 10m in height, which includes 10 large roof lights.

The Authority makes no comment on the principle of development, however if minded to approve, the Council should seek to minimise upward lightspill from the rooflights to prevent harm to the International Dark Skies reserve. This should be achieved by minimising the amount of rooflights, and securing suitable automated blackout blinds to prevent harmful upwards light spill. External lighting should also be kept to a minimum, be downwards pointing and either on a timer or motion sensor to avoid being left on all night.

Further advice is provided in the SDNPA’s Dark Skies Technical Advice note available on our website

<https://www.southdowns.gov.uk/planning-policy/supplementary-planningdocuments/technical-advice-notes-tans/dark-skies-technical-advice-note-tan/>”

Representations

A total of **10 letters of objection** have been received to the original application setting out the following concerns:

- i) The increase in noise and vibration from the forty plus diesel vehicles from 5.00am onwards is unacceptable.
- ii) During the Summer months of 2022, the arrival of workers at around 4.00 to 5.00am disturbs a very large local Seagull population that the College refuses to address. The level of noise generated from the College's twenty plus nesting common herring gull birds is fairly obscene at this time in the morning.
- iii) There are plenty of reports that the polycyclic aromatic hydrocarbons contained in the diesel fumes increase cancer in the local area. This increase would be in addition to the significant levels of existing pollution from the already very busy Titnore and Littlehampton Roads that are within 300 metres of the Yeoman Chase residential estate.
- iv) It is questioned why the use could not utilise the empty part of the Southern Water car park off Yeoman Way as this is a Business park, more appropriate to the proposed use and further away from residential homes.
- v) The site has been operating without planning permission already for six months.
- vi) It is questioned what the existing land use rules are for the College car park, have Compass and Northbrook College already been in breach of these conditions.
- vii) How many buses will be allocated to this location, there are already about forty vehicles and would there ever be a limit or can the numbers keep increasing?
- viii) It is also questioned whether the College was renting this area to Compass or is Compass purchasing the land?
- ix) The planning application results in a reduction of ninety three parking spaces for the College. This car park is full on most College days and a reduction in parking will cause College students to look for parking spaces elsewhere, including Yeomans Chase. parking is already sparse and limited on the adjoining residential development.
- x) The application refers to opening times being from 5.30 to 20.30 which could allow staff to work on the buses in the inspection building until 20.30 at night.
- xi) The noise report does not take into account the effect on the noise of working on buses and its effect on residents.
- xii) Reversing alarms - these were not to be measured as the bus made available did not have an alarm fitted or it was not operational. By way of their nature,

reversing alarms are attention drawing and some are also tonal. Alarms should be disabled while manoeuvring within the compound and it is the clients responsibility to ensure that a safe system of work remains in place. The use of a banksman could be an option here.

- xiii) The Noise Assessment report has not considered noise associated with maintenance and cleaning of the buses which currently does not take place on site and increases noise disturbance.
- xiv) The Noise assessment does not take into account buses exiting by driving along the east side of the car park along the fence next to the houses. This moves the sound level of buses near to the houses in Red Kite Way.
- xv) All of the reports in the Noise Assessment consider measurements while within the site and not in the center of the site where the buses are parked. If this same measurement point were further north, the noise impact on residents would be higher.
- xvi) The current level of diesel fumes and increased level of diesel pollution is a risk to local residents' health.
- xvii) The Council advises that loss of view and effect on the value of the properties deemed as irrelevant but how can that be the case as the proposed Portakabin and storage building are permanent buildings that will affect my outlook.
- xviii) The buildings could be on the south-west corner of the site further away from residents and this would move all noise, loss of privacy and impact from residents. As an adjoining resident, we were originally told that this was a temporary arrangement but to now learn that this is a permanent arrangement is completely unacceptable.
- xix) Most of the adjoining houses have young children and the Council needs to consider the health and wellbeing of these children given the increased noise and pollution.
- xx) This use should be located in an industrial area away from residential homes and where more appropriate buildings are already in place.
- xxi) The bus companies have a huge negative impact on adjoining properties, particularly with engines being started from 5.00am in the morning and being left idling for long periods of time before departing from the site. In addition, there are people shouting across the car park, reversing sirens, bus alarms etc which cause considerable disturbance. The plans do not indicate how the proposed use would connect to the public foul sewer and this is a concern of residents.
- xxii) The proposed use would increase overlooking to adjoining gardens, particularly from anyone on the top deck of the buses.

- xxiii) The Noise Assessment refers to the fact that nearest residents are already impacted by the use of the car park. To compare the use of the car park for the College is completely obscene as no-one attends Northbrook College between 5.00 and 6.00 am in the morning. The sound of buses being moved by foul-mouthed workers is completely different from a student or College Teacher parking in the morning and going home in the afternoon.
- xxiv) Adjoining residents can now no longer enjoy their properties or sit in their garden because of the noise and pollution proposed by the bus depot.
- xxv) This company is trying to ruin a peaceful and beautiful area instead of moving to a more expensive location which would be better suited to them. It is also apparent that the College is desperate for money and they do not care about the impact it has had on the local environment and people who live around the area.
- xxvi) The use of the site has already had a significant impact on the local environment with the rabbits and birds not being seen as they used to be on morning walks.
- xxvii) Titnore Lane was not designed to have buses going up and down on a daily basis. There have already been plenty of near misses and the congestion they are causing on the morning commute is not helping anyone.

In connection with the revised layout and Noise Assessment, a further **6 objections** have been received to the development raising the following concerns:

- i) As a local resident, I have campaigned on several occasions to reduce the speed in Titnore Lane from 60 to 40, remove HG traffic over 3 ½ tonnes and provide a pedestrian crossing between Northbrook Recreation Ground linking with the footpath to the National Park. I have also campaigned in the past for a footpath from the Northbrook Recreation ground to the bridge that crosses the A2032 which was completed in 2020 and is a great asset for the local community improving safety.
- ii) Now to find out that Compass Bus Company is proposing to run a bus depot by building a workshop and offices at the north end of the car park is not acceptable as it will have a serious impact on the local environment.
- iii) Vehicles starting at 6.00am in the morning, sometimes earlier running and emitting diesel fumes into the atmosphere and causing unacceptable noise nuisance would cause health problems to residents with houses adjoining the car park.
- iv) The access road from the car park was only an emergency exit with a barrier across the road onto Titnore Lane. This is now permanently open to allow buses to exit and enter which has an impact when turning into Titnore lane. As this is a country lane and not wide enough to allow buses to turn, only being 7.1 metres wide without damaging the roadside.

- v) Compass staff also use this access to enter and exit the site. It is noticed that, at certain times of the day when the traffic is heavy at the roundabout on the A259 at the south end of Titnore Lane, members of the public take a shortcut through the College to avoid the hold ups at the roundabout which is not acceptable.
- vi) It is questioned where staff and students would park their cars and maintenance vehicles should the car park be full due to Compass parking their buses and this may cause a problem on nearby residential roads which, again, is not acceptable.
- vii) The footpaths crossing the emergency access road from the car park was not a problem when the barrier was closed 99% of the time. Now with this being open during operational times by Compass, it is a safety issue for students and members of the public using the footpath. Crossing this road with only painted strips on the road and signs on the roadway with sandbags is not acceptable as there are no warning signs either side of the road for anyone using the footpath and this may lead to a serious accident.
- viii) Having reviewed the amended plans, it is accepted that the new layout with the exit closer to Titnore Lane would improve things to a degree. However, you are still putting a commercial industrial use close to a residential area and it is still operating well outside of normal business hours for other industrial enterprises.
- ix) It is questioned why buses are starting at 5.45am when there are no bus routes in Worthing that run before 7.30am, certainly not 6.00am.
- x) The documents in the Reeves Transport Planning Ltd indicate that 80% of the buses to be stored at Titnore lane are not even servicing the Worthing and Adur area with 33 at Haywards Heath, No. 100 at Burgess Hill, 35A at Burgess Hill, 74A at Horsham and 33A operates at Hurstpierpoint etc The only bus serving Worthing is route 8.
- xi) Surely storing vehicles that are operating in a completely different Council Zone Horsham raises some questions on efficiency and responsibility. It is questioned, therefore, why these buses are travelling an extra hour of travel time and fuel costs associated when they could be located closer to their operating area.
- xii) We are shocked that this application has not been refused straight away. The noise report has only covered a small period of time. We have many videos that we have taken where we have been disturbed in our home by the noise caused by the buses. This includes working on a bus at 22.10 and the noise was not white noise as was referred to in the latest acoustic report.
- xiii) The noise caused by this site is significantly closer and louder than that of passing traffic on Titnore Lane, not to mention how much closer these fumes are to the houses and windows of adjoining properties.

- xiv) There are still a number of objections from local residents about noise, pollution and the effect on the local environment. It is questioned whether the latest noise assessment report is honest. While I appreciate the person who wrote the report might have been there for certain periods of time, they clearly were not there when the buses were being washed after 10.30 at night and when they start the engines before 5.30 which local residents have all witnessed.
- xv) The site is next to residential, highdown and a hospice. Noise or no noise, surely this is not a viable location for a bus depot.
- xvi) The new layout might reduce noise a little but it does not change the fact that the buses create a huge amount of diesel fumes very near residential houses and pollute the environment. Where is the report that looks into this pollution. Additionally, the noise report fails to address the noise of the cleaning that happens at night. This is loud and intrusive and stops us from opening our windows and sleeping at night.
- xvii) In his correspondence on 17th June, the Environmental Health Officer states that *“What concerns me is how this development may impact on residents in the summer months when windows are open. It would be the maximum noise levels that can cause sleep disturbance in these homes that would be of interest. With regards to the complaint, for statutory nuisance purposes, I would be considering the excessiveness of the noise, the character of the area and whether the company/landowner is using best practicable means to minimise noise.”* There is no evidence to suggest the issue of excessiveness of noise has been resolved, so how can planning permission be granted.
- xviii) It is questioned why the business is operating without planning permission. There is reference to Compass Travel having been forced to operate on the site but no-one has forced them. Both they and the College are benefiting from being at the site without consulting anyone.

Relevant Planning Policies and Guidance

The new Local Plan was adopted on the 28th March 2023. The relevant policies in connection with this development are:

- DM5 Quality of the built environment
- DM6 Public realm
- DM7 Open space, recreation & leisure
- DM8 Planning for sustainable communities/community facilities
- DM9 Delivering infrastructure
- DM10 Economic growth and skills
- DM11 Protecting and enhancing employment sites
- DM14 Digital infrastructure
- DM15 Sustainable transport & active travel
- DM16 Sustainable design
- DM17 Energy
- DM18 Biodiversity
- DM19 Green infrastructure

DM20 Flood risk and sustainable drainage
DM21 Water quality and sustainable water use
DM22 Pollution

The National Planning Policy Framework (NPPF) is also relevant to the determination of this application.

Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that 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

In addition, section 11A(2) of the National Parks and Access to the Countryside Act 1949 and section 85 of the Countryside and Rights of Way Act 2000 require that 'in exercising or performing any functions in relation to, or so as to affect, land' in National Parks and Areas of Outstanding Natural Beauty, relevant authorities 'shall have regard' to their purposes.

The Environment Act 1995 revised the original 1949 legislation and set out two statutory purposes for national parks in England and Wales:

- Conserve and enhance the natural beauty, wildlife and cultural heritage
- Promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public

When national parks carry out these purposes they also have the duty to:
Seek to foster the economic and social well-being of local communities within the national parks.

This duty is particularly important to the delivery of the statutory purposes of protected areas. The duty applies to all local planning authorities, not just national park authorities. The duty is relevant in considering development proposals that are situated outside National Park or Area of Outstanding Natural Beauty boundaries, but which might have an impact on the setting of, and implementation of, the statutory purposes of these protected areas.

Planning Assessment

The key considerations in this case are:

- The principle of development
- Traffic and access implications on the local highway network and the impact of the use on available parking for the College
- The impact of the development on the amenity of local residents

- The visual impact of the development on the National Park and wider landscape.
- Biodiversity and landscaping.
- Sustainability.

Principle of Development

The site lies on a brownfield site within the defined built up area as identified in the adopted Local Plan 2023. The spatial strategy for the Borough (Policy SS1) states that land within the defined built up area will be permitted subject to compliance with other policies in the Local Plan. It also states that development should make efficient use of previously developed land but the density of development should be appropriate for its proposed use and also relate well to the surrounding uses and the character of the area.

The adopted Plan recognises the importance of supporting sustainable transport and active travel and Policy DM15 seeks to promote and support the expansion and improvement of public transport services. The lack of commercial space within the Plan is also highlighted and policies seek to retain existing employment and commercial uses.

Your Officers are aware that the applicant has been seeking to find a permanent site for many years. Compass Travel was moved on from its previous site at Faraday Close following the decision of the freeholder to sell the site. Despite an exhaustive site the Company was forced to initially move to the former HMRC site in Barrington Road before agreeing terms with Northbrook College to locate onto the Durrington Campus site. The applicants search included sites in Arun but has centred on Worthing as the majority of its staff live in the Town and it has a second depot site with workshop facilities at Lewes in East Sussex.

The Company also looked at the scope to use existing car parks in the Town to reduce set up costs but also because of the lack of available land. The initial discussions with the College looked at the Worthing College site and then at the Durrington Campus site. The College was keen to maximise the use of their car parks, benefit financially but also explore the scope to improve the accessibility of its sites for students. In this respect the College is discussing with the Company providing shuttle buses to its two campus sites to local train stations.

Given that this is a brownfield site currently used as a car park for the College, in principle, subject to addressing other policies of the adopted Local Plan, the shared use of the car park with the College is considered acceptable.

Traffic and Parking Implications

In granting planning permission for the new access off Littlehampton Road and new car parking areas in 2012 there were no restrictions placed on the use of the car parking areas but they were clearly designed to meet the expanding needs of the College for staff, students and visitors. The Transport Statement submitted in support of the application identifies that the existing car park has a maximum capacity of 301 car parking spaces. The Transport Statement states that it has

assessed current car park demand data which indicates that in the busiest hour there were 205 cars parked with a spare capacity of 96 spaces.

The proposal seeks to secure permission to use this 'spare' capacity at Northbrook College's car park, as a storage facility for Compass Travel. The proposal reduces the car park capacity by 80 spaces to 221 spaces and therefore it is not considered that the proposal would impact on available parking for the College or displace parking to nearby residential roads as feared by some local residents. The layout below shows the day time parking available to the College once the majority of the buses have vacated the site.



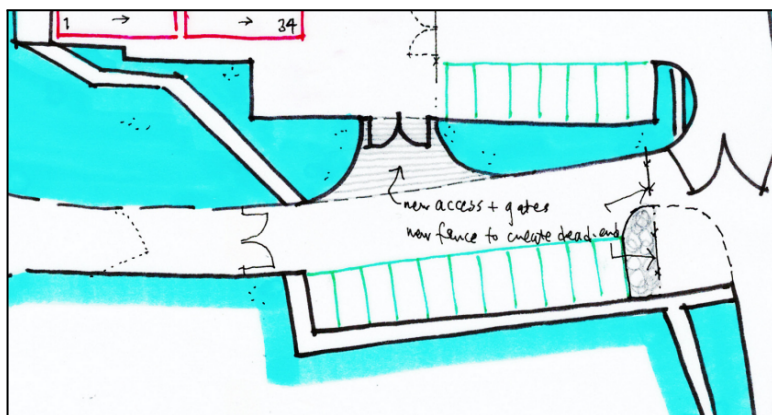
It is also important to stress that the College has an active travel plan and encourages alternative means of transport to the site and therefore car parking demand in the future would be controlled by the College. As indicated previously the College has raised no concern about current or future parking requirements and has been talking to the bus Company about the scope to improve the sustainability of its campus sites (including Worthing College) by providing a dedicated shuttle bus service.

The planning permission for the new access onto Littlehampton Road did, however, restrict access to Titnore Lane and the following condition was imposed on the 2012 permission:

'The existing Titnore Lane access shall remain closed by a barrier at all times and only used by vehicles for emergency purposes unless otherwise agreed in writing by the Local Planning Authority. Reason: In the interests of highway safety.'

At the time it was considered reasonable to direct all traffic to the new access off Littlehampton Road. However, during pre-application discussions the Highway Authority indicated that the use of this access directly onto Titnore Lane would be acceptable subject to undertaking a Road Safety Audit. The revised layout plan

does also ensure that any through traffic into the College Campus would be restricted by a gate and this is indicated below and this also addresses some of the concerns of local residents.



The supporting Transport report sets out that a speed survey was undertaken to demonstrate that they could provide sufficient visibility splays at the entrance/exit onto Titnore Lane. This demonstrated that speeds at this point in the Lane are between 38 and 40 mph and a subsequent Road Safety Audit has been carried out in the support of the application. A condition can ensure that vegetation can be cut back to maintain visibility splays and the applicant has suggested that an Operational Management Plan can also be agreed by condition to ensure that buses do not turn right out of the site or left into the site to avoid conflict with the pedestrian refuge north of the access.

The further comments of the Highway Authority are awaited and in particular in response to concerns about the use of the access affecting pedestrians crossing the proposed entrance. Funding has been provided in the past to secure a cyclepath along the highway verge to improve pedestrian connectivity and a local campaigner (see representations) has been keen to provide safer pedestrian crossing points and footpath links. Funding was provided from the West Durrington strategic allocation and St Barnabas developments Hospice to provide a cyclepath link from the north through the Littlehampton Road. Due to funding and technical issues a compromise scheme was delivered in 2020 (prompted by the work of a local resident) and a footpath has been provided from Pennycross Avenue to Titnore Lane. The following report to the Joint Strategic Committee released s106 funding for this project:

https://democracy.adur-worthing.gov.uk/documents/s4362/W_REG_007_20-21%20Release%20of%20s106%20Funds.pdf

The Highway Authority has also suggested the imposition of a Travel Plan to encourage employees to use sustainable transport to the site. The application includes cycle parking and it will be important that employees do not use College car parking spaces.

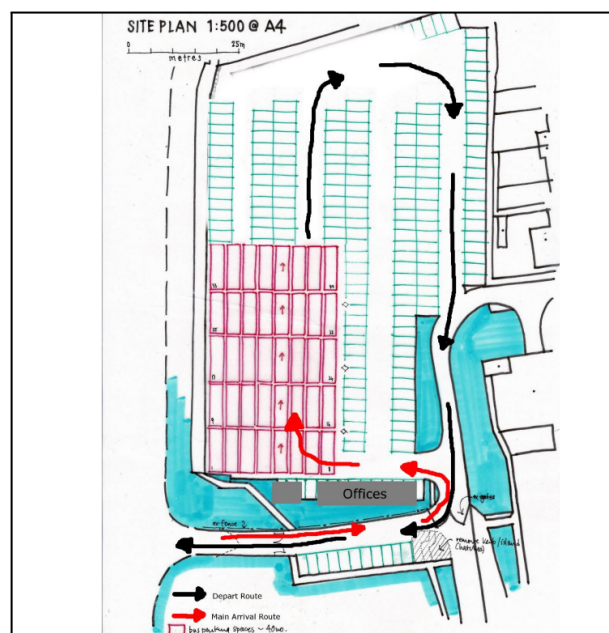
Residential Amenity

Noise and Disturbance

As indicated by the representations received objecting to the continued use of the site as a bus depot the main concern is the adverse impact the use has on the amenities of adjoining residents. Local residents have been disturbed at early hours of the morning by the movement of buses and are concerned about the visual impact of the use (and proposed buildings on their properties). The impact of the use is highlighted in the original response from Environmental Health following an early morning site visit. Although the properties to the east of the site were built next to the College car park, it was not considered that any additional noise mitigation measures were required. A domestic 1.8 metre fence separates the properties and there is little landscaping between the car park and adjoining residential properties. It was not envisaged, therefore, that the normal use of the car park by College students, staff and visitors would cause any undue disturbance with car movements not starting early or late. There was no restriction on the use of the car park approved in 2012, however, other than controls in connection with lighting.

As highlighted by adjoining residents, bus storage and movements are very different from the current use particularly starting at 5.00 am in the mornings. The original noise assessment undertaken sought to predict noise movements by measuring noise from a single bus but did not assess the actual use of the site. In response to the comments from residents and Environmental Health, the Company indicated that since occupying the site there have been more earlier morning movements as the Company has not had any on site facilities and they have had to move buses to the workshop in Lewes for any repairs. It is accepted that this has caused more noise than would be generated once the site is fully operational and buildings have been erected.

The current operation use of the site is illustrated below and shows the extent of movements adjacent to the properties in Red Kite Way. Whilst buses were orientated northwards (and engines to the south) to reduce noise impacts, this resulted in bus movements very close to the residential properties to the east.



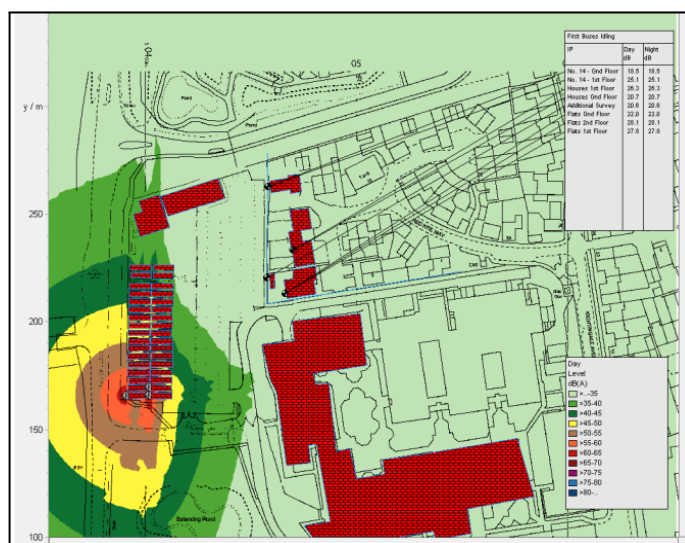
To address the primary concern about bus movements directly in front of the adjoining properties, the revised layout plan and southern access point has sought to

move traffic movements away from the eastern boundary. In addition, to reduce the impact of early morning noise the revised layout now also proposes the earliest buses leaving at the southern end of the site as indicated previously.

The revised Noise Assessment assesses the revised layout and states that the new layout plan would ensure that adverse impacts on local residents would be unlikely given that noise from early morning movements would not exceed existing background noise levels (primarily traffic on the Littlehampton Road. The report states that:

‘The latest layout proposal, which would supersede the current arrangement, has been modelled in this report and has been found to be highly effective as the buses act as barriers to their own engine noise. This would also enable swift departure from and arrival to the site via a new southern gate, meaning buses will no longer have to close by the aforementioned dwellings. These elements will ensure sound levels are significantly lower than as currently experienced.’

The noise impact assessment report also considers noise impacts from buses idling and leaving the site at different times and at ground, first and second floors of adjoining properties. The following plan is an example showing noise contours from idling buses at the southern end of the site (earliest movements):



The Noise Impact Assessment report also considers other sources of noise that would have an impact on residential amenity and many of these adverse impacts have been identified by local residents in the initial use of the site. The report accepts that reversing beepers could cause noise nuisance and therefore recommends that,

‘alarms should be disabled while manoeuvring within the compound and it is the client’s responsibility to ensure that a safe system of work remains in place – it has been confirmed by the client that there is always a banksman on site to ensure safe manoeuvring.’

In relation to complaints of buses being revved the report also accepts that this should not take place on site early in the morning and it is recommended that,

'If engine revving is necessary to pressurise braking systems etc, this should be limited to daytime hours only (07:00hrs – 23:00hrs) or carried out off-site. From recent observation (02/03/2023), no revving occurs on site during a morning departure period or on arrival in the evening.'

Residents have also complained about other adverse impacts of the use in terms of the visual impact, vibration and diesel fumes as well as concerns about the future use of the workshop building.

Visual Impact

In terms of the location of the buildings, the College was keen to ensure that the workshop and compound was located to the north of the site so that car parking for the College remained in the southern section of the site closer to the College entrance. In addition, the location does ensure that bus movements, particularly those buses leaving early are located furthest from residential properties. Whilst, residents will now see buildings rather than across the car park and countryside beyond, the current configuration is better in amenity terms and Members will be aware that a loss of view is not a material planning consideration.

Whilst, modular buildings are often given temporary permissions (because some can be of a temporary nature) the applicant has provided further details of the type of modular building. The Company providing the modular building has indicated that the building would be steel frame, have a new plastic coated steel external clad finish which could be finished in a variety of colours (as well as alternative cladding finishes including cedar). It is also submitted that the building would have a life expectancy of approximately 20 - 25 years. Your Officers are satisfied that the building would be of an attractive finish and a condition can be added ensuring appropriate maintenance to the structure. The maintenance building would be functional in appearance but the applicant is happy to agree cladding colours and finishes.

Vibration and Air Quality

The revised layout removing vehicles from passing the adjoining houses will help to address some of the concerns about vibration as well as remove some of the more direct impacts of diesel fumes affecting adjoining gardens. The Air Quality Assessment concludes overall that the,

'Review of the dispersion modelling results indicated that air quality impacts as a result of traffic related exhaust emissions generated by the development were not predicted to be significant at any sensitive location in the vicinity of the site.'

Whilst the views of Environmental Health in relation to air quality are awaited it is considered that amenity terms the revised layout will help to mitigate concerns about diesel fumes.

Workshop / Maintenance Activities

The applicant has confirmed that the workshop would only be carrying out light maintenance works as its main workshop is located at its Lewes depot. The use of the workshop could be restricted by condition to control the level of activity and ensure no body work or activities like paint spraying are undertaken.

Some residents have complained about the noise from late night washing down of buses and the applicant has agreed that these activities can also be restricted by condition.

Residential Amenity Conclusion

There is little doubt that the current use of the site as a bus depot has had an adverse impact on local residents. However, the amended application has sought to address the primary areas of concern and the revised layout would ensure bus movements are located furthest further residential properties particularly in the early mornings. Nevertheless, even with a number of conditions seeking to control the use in line with the amended Noise Assessment Report, there will be some loss of amenity caused by the proposed use.

The Environmental Health Manager is satisfied that the most harmful aspects of the the use can be controlled and now raises no objection to the proposed use and therefore a refusal of permission maybe difficult to sustain and Members would need to balance any residual loss of amenity concerns with the benefits of retaining employment and assisting the retention of Compass Buses operating in the town and across the local area.

The Visual impact of the development on the National Park and wider landscape.

As indicated in the policy section of the report Members need to assess the visual impact of the development on the setting of the National Park which is immediately to the west and north-west of the site. Whilst, the modular building is single storey and set into the site and would not have any wider landscape impact the taller workshop building and storage of buses would have some limited visual impact on the setting of the National Park. When viewed from Titnore Lane there would only be glimpsed views during the winter in view of the dense hedgerow and tree screen along the highway verge. The workshop and buses stored on the site would be more visible from more elevated vantage points and from parts of Highdown Hill but they would be seen against the backdrop of the College buildings and the rest of the built up area of the Town. Any visual impact would be therefore negligible.

The National Park has raised no concerns about the proposal other than to raise a potential issue regarding light pollution from rooflights from the workshop building. This has been discussed with the applicant and a condition will limit rooflights located on the west side of the workshop building (facing the National Park unless fitted with blackout blinds). Because of practical issues of fitting blackout blinds and the cost involved the applicant may just propose rooflights on the eastern roofslope.

The existing car park has lighting and the only additional lighting proposed is some security lighting on the building and this can be conditioned to ensure that it involves

down lighters and movement sensitive complying with the National Parks Darker Skies policies.

Biodiversity and landscaping.

As the site is currently a car park and will continue to operate largely as a car park for the College there are limited opportunities to provide both landscaping and biodiversity net gain (as required by policy DM18 of the new adopted Local Plan for Major developments). Nevertheless, there is some landscaping proposed to the east of the new modular office building and the applicant has been requested to investigate (possibly in partnership with the College) some tree and hedge planting adjacent to the new access road and alongside the boundary fencing with Red Kite Way properties. In addition, the applicant has agreed with your Officers suggestion of bird/bat boxes to be located on the proposed buildings.

Sustainability

Although the Compass buses run on diesel and have yet to convert to more greener forms of fuel, buses generally are more sustainable forms of transport ensuring less vehicles on the road and allow cheaper more affordable transport particularly for the elderly. Policies of the Plan encourage enhancement of public transport.

In terms of power for the proposed workshop and Office building the agent submits that the energy solution has not been fixed but it would not involve a gas solution. The agent has expressed concern about the costs of requiring renewable energy on site but is happy to accept a condition requiring details of the final energy solution for the site. The new building regulations would require an element of renewable energy but for commercial buildings if no heating is provided (which may be the case for the workshop building) then no renewable energy solution needs to be provided.

Conclusion

This is a difficult case as your Officers are both sympathetic to the Bus Operator who has been looking for a site for a number of years and the local residents who have experienced disturbance with the unregulated use of the site by the bus operator. The applicant has worked hard with your Officers to try and address all the concerns of local residents and the revised proposal is certainly an improvement on the original submission. Once implemented the revised layout will improve the situation for local residents. The compromise measures now suggested by the applicant will require significant on site management and it will be important that the Company builds a relationship with local residents to ensure that any future problems can be quickly resolved to protect residential amenity.

On balance, it is considered that the benefits of retaining local employment and finding a new location for a local bus operator does outweigh any residual concerns regarding a loss of amenity to local residents. The revised Noise Impact Assessment and support for the mitigation measures by Environment Health helps to tip the balance in favour of recommending the application for approval.

APPROVE

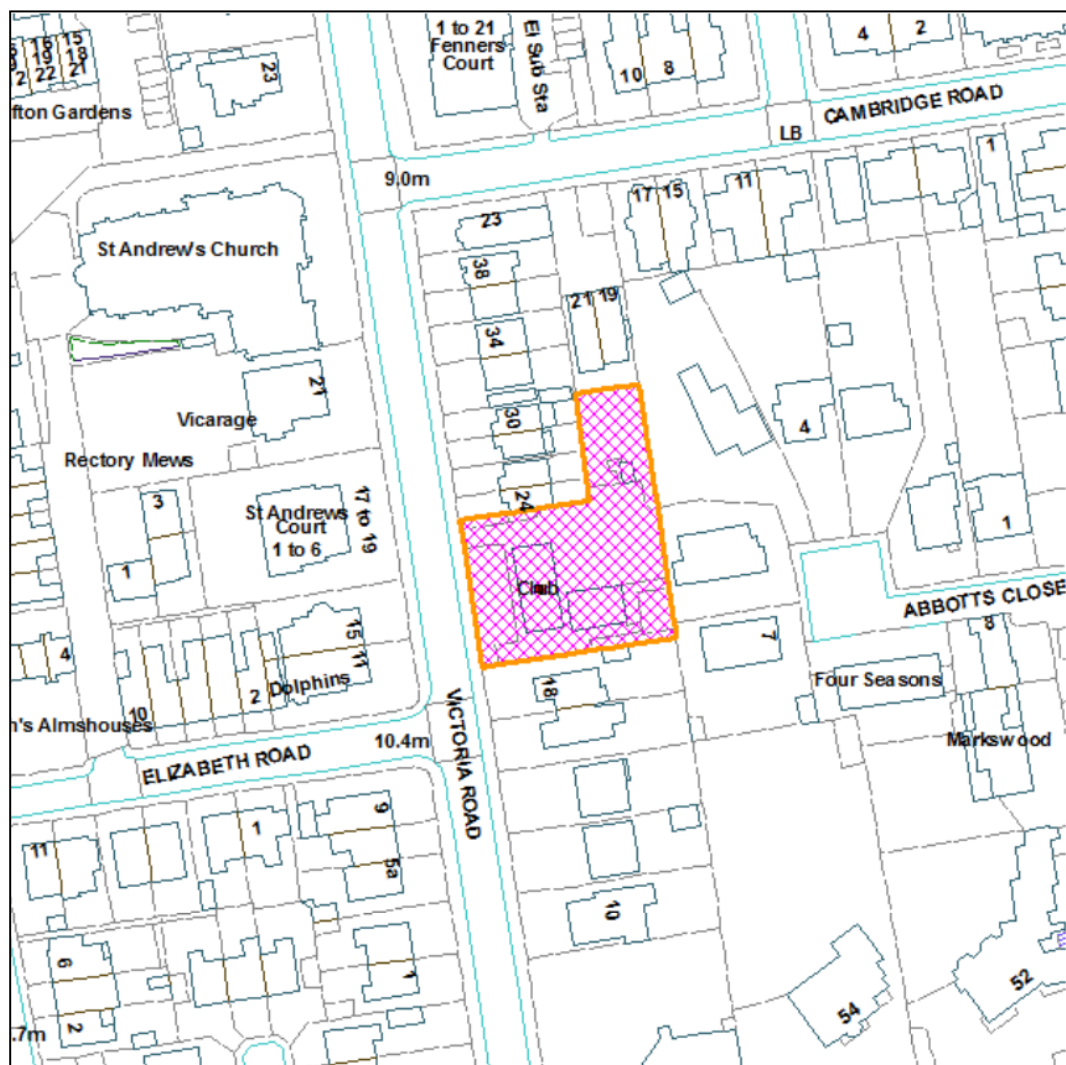
The Committee is recommended to approve this application, subject to the satisfactory comments of the Highway Authority and the following planning conditions (and any additional conditions recommended by Environmental Health):

Subject to Conditions:-

1. All bus movements should be in accordance with the revised layout to avoid movements adjacent to residential properties in Red Kite Way with movements in accordance with the 4th Issue Noise Assessment report.
2. No bus movements shall be undertaken other than between the hours of 05:45hrs – 20:30hrs on each day and from Monday to Saturdays other than in cases of exceptional circumstances where buses have to provide replacement cover for other operators (for instance Rail Operators) or in connection with private hire for local schools.
3. The site shall be closed between the hours of 2300 and 0500 other than in connection with any administrative work or cleaning within the modular building.
4. All repairs to buses shall be undertaken within the workshop building and only between the hours of 0800 and 2200 hours other than when urgent repairs are required to keep the fleet operational
5. The operation of the site shall be in accordance with a noise management plan which should be submitted to and approved in writing with the LPA prior to the first use of the buildings hereby approved. The Management Plan shall provide details of management controls to ensure the use of the site in accordance with the approved 4th Issue Noise Assessment report.
6. The workshop shall only be used for the carrying out of light repairs to vehicles and be used ancillary to the use of the site as a bus depot and for other use including any spray painting or bodywork repairs.
7. Details of the external appearance and colour of cladding for the modular building and workshop shall be submitted to and agreed in writing by the LPA prior to the commencement of any building operations and the buildings shall be maintained in accordance with an agreed maintenance schedule
8. Prior to the first use of the buildings hereby approved details of measures to create new habitat on the site with the addition of new bird/bat boxes shall be submitted to and approved by the LPA and installed on the approved buildings.
9. Provision of covered cycle storage in accordance with the approved plans prior to the first use of the approved offices.
10. Details of Landscaping
11. All rooflights installed on the west roof slope of the workshop building shall be fitted with black out blinds. During the hours of darkness the blackout blinds should be deployed to prevent undue light pollution.
12. No external washing of buses beyond 08.30 hours on any day.
13. No reversing beepers to be used on site unless non-tonal

14. Within 3 months of the date of this permission the new southern access point shall be installed. Thereafter, the use of the site shall be strictly in accordance with the revised layout plan with all buses accessing and egressing from the site via the southern access.

Application Number:	AWDM/0119/23	Recommendation - APPROVE
Site:	Air Training Corps Hq, 20 - 22 Victoria Road, Worthing	
Proposal:	Demolition of existing buildings; erection of 11no. residential flats for emergency and temporary accommodation with associated works	
Applicant:	Mr A Probert, Adur & Worthing Councils	Ward: Central
Agent:	Neal Thompson, Robinson Escott Planning	
Case Officer:	Gary Peck	



Not to Scale

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Proposal, Site and Surroundings

This application, submitted by the Council, seeks full permission for the demolition of existing buildings (two existing prefabricated buildings on the site which were formerly used as an air cadet training centre/scout hut although their demolition has already been granted permission, but not yet implemented, via a Notice application) and their replacement with 11 residential flats for emergency and temporary accommodation. The supporting information submitted with the application states *'The Council often has to put families in need into bed and breakfasts and hotels, and sometimes has to find accommodation out of the area, often for long periods of time. This disrupts children in school and parents in jobs. By developing and owning their own stock, the Council can better serve families in need of emergency housing with purpose built, quality accommodation, and as a further benefit, save around £120,000 a year on fees.'* It is therefore further stated that a key aim of the scheme is to *'provide purpose-built accommodation for Emergency and Temporary use - providing single people, partners and families in need a safe and comfortable place to stay for approximately 6 months to 1 year.'*

The block is proposed to be three storeys in height, with the second floor consisting of a mansard roof with a mixture of dormer and Velux style rooflights. The proposed facades will comprise of facing brickwork with zinc standing seam roof and fascia. 7 of the units would be 1 bed and the remaining 4 would be 2 bed units. 6 parking spaces and 6 cycle parking spaces would be provided.

The Richmond Road Conservation Area runs immediately to the south of the application site and also incorporates the front boundary wall of the site. Across the road to the north west is the listed St Matthews Church and Vicarage. To the north and south of the site are residential properties of differing styles, with the buildings to the north being slightly lower than those to the south. In close proximity to the rear of the site are a house and bungalow in Abbotts Close, the latter being more directly in line with the application site and with windows facing the application site although its main external amenity areas are to the side of the property.

There is a line of trees to the front of the application site as well as a further sycamore tree to the rear southern boundary which are subject to Tree Preservation Orders and proposed to be retained under the application. The proposals will also include the planting of 4no. native trees to the east of the site to provide visual screening to adjacent properties.

Relevant Planning History

NOTICE/0029/22: Application for Prior approval as to the method of demolition of 2no steel structures on the site used for Air Cadet Training Facilities and any restoration of the site - Prior Approval and Granted

No other recent history directly relevant to the determination of the application with the only other applications in recent years being for minor tree works.

Consultations

Environmental Health

No objection subject to contaminated land condition

Worthing Society (comments submitted before the adoption of the Local Plan)

We note that the present building on the proposed development site is unremarkable and somewhat dilapidated. The area is no longer used by the Air Training Corps and the site would seem ripe for redevelopment. We appreciate the need for temporary and emergency housing in Worthing so we have no objection, in principle, to a redevelopment for this purpose.

However, we do have concerns regarding the height, design and mass of the proposed new, three storey building. It appears out of scale with the neighbouring two-storey buildings which are low rise. The grey finish to the design also appears out of context and somewhat oppressive.

The development site has a border with the Richmond Road Conservation Area (CA) where, again, the buildings are low rise. There is particular mention in the Conservation Area Appraisal Document (CAAD) of the 1930's white stuccoed houses which are very close to the development site. We consider the new building will be over dominant, detracting from the setting of the CA and, in addition, the prominence of the nearby Grade II St Andrews Church and Vicarage. The scale of the development would not, in our view, be consistent with Core Strategy Policy 16, relevant paragraphs of the NPPF, the Planning (Listed Buildings & Conservation Areas) Act 1990 and Policy DM24(c) of the Submitted Draft Local Plan.

In conclusion, we consider the proposal represents the over-development of a relatively compact site. A building of more modest proportions with a lighter colour palette would better complement the setting of the proximate heritage assets and the scale of the neighbouring residential properties. A smaller footprint would also facilitate improved outdoor areas increasing the amenity value for families using the accommodation

Planning Policy

The application concerns the proposed loss of the existing use on the site, which was formerly an air cadet training/scout hut. For the purposes of planning policy, the existing use is treated as a community facility and therefore the principle of development must be assessed against Policy 11: Protecting and Enhancing Recreation and Community Uses of the Worthing Core Strategy (2011). Policy 11 seeks to safeguard existing community facilities unless the application can demonstrate that it meets one of the four exceptions as listed in the policy (see bullet points).

A new Local Plan, the Worthing Local Plan (SDWLP) (as modified) has been endorsed by the Council and has recently been found sound by an independent inspector. It now has significant weight in the determination of planning applications.

As such policy DM8: Planning for Sustainable Communities / Community Facilities is considered material in the determination of the application. The application will need to be assessed against criterion e) of the policy.

The submitted Planning Statement (p.19) states that the existing buildings have not been used for some time after the previous users decided not to renew their lease. The prefabricated buildings are in a poor condition and have approval to be removed under demolition notice 0029/22. The removal of the current buildings on the site was a requirement of the lease. On this basis, it has been demonstrated that bullet point 1 of Policy 11 has been met (with regards to the premises being unsuitable for such uses) and also criterion e) ii) of Policy DM8 (with regards to demonstrating that the existing premises are no longer required).

In addition, it is understood that there are a range of alternative accommodation available locally that is as accessible to the local population and therefore this meets bullet point 2 of Policy 11.

Whilst the proposed development will result in the loss of a community use, it is considered that the proposal complies with Policy DM8 of the Worthing Local Plan and therefore the loss of a community use is considered acceptable in principle. It is considered that great weight should be afforded to the significant need for emergency and temporary accommodation within the Borough.

Southern Water

No objection

Sussex Police (summarised)

Following a meeting last year with the architects, local council housing team, and other parties in relation to this site on the 15th of September – I am very pleased to note that the following crime prevention measures have been implemented into the development. These include - lighting, natural surveillance, secure car parking, robust door entry and door sets, external post boxes which negates the need for trades access, and CCTV.

Due to the potential array of tenant type that may be accommodated within this property - having spoken to the neighbourhood policing team Inspector there is some concern about the potential vulnerabilities different client groups may have. We would therefore ask that there is a degree of recognition with regards to this concern and that it is acknowledged and reflected within management plans. We would also ask that management teams have the ability to signpost vulnerable tenants to access services to ensure that safe-guarding measures are maintained.

West Sussex County Council

WSSCC acting as the Local Highway's Authority (LHA) refer to your consultation in respect of the above planning application and would provide the following comments.

Site Context & History

The access onto the application site is located on Victoria Road, an adopted public maintained highway. The LHA would view said road to be set within an urban setting. The said highway is subject to a 30-mph speed limit. No current speed survey data is located within a reasonable distance of the access that would state otherwise. In terms of design parameters, the LHA consider the parameters of Manual for Streets (MfS) as guidance.

Access & Sustainability

No changes to the access onto the highway are proposed. The site is in a sustainable location within walking and cycling distance of a range of public services, amenities and employment options. Buses and rail station provide a realistic travel opportunity for longer trips. The Local Highways Authority (LHA) would not anticipate that future occupiers of the dwelling would be reliant on the use of a private motor vehicle.

Parking

The development will consist of 11 Dwellings being made up of 7 x 1 bed and 4 x 2 bed flats. WSCC Parking Demand Calculator (PDC) states that a development of this kind would require 10 spaces. The LHA notes that the applicant has provided 6 motor vehicle spaces and 6 cycle spaces. Experience has shown through other similar applications, that to substantiate that a shortfall of 4 car parking spaces could result in an unacceptable highway safety issue would be difficult to uphold. Therefore, the LHA does not consider this a justification for refusal on highways grounds. It should also be noted that Traffic Regulation Orders (TRO's) are enforced in the surrounding areas, protecting carriageways that would not be deemed adequate to accommodate on street parking. The LPA may wish to consider the amenity implications caused by a small increase in the on-street parking demand.

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 111), and that there are no transport grounds to resist the proposal.

Arboricultural Officer

I consider that although the nearest tree - Sycamore Tree T01 is close to the proposed building, it can be managed. Also the provision of additional trees is appreciated.

Representations

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

- I was very concerned re both the area for applicants due to this area having a drink /drugs problem.

- It was an area where we had plenty of wild animals & Birds. Included on the flight of Swifts that have for many years used this area on their Flight Path.
- There is very little Parking already in this area & I am disabled. Already find it very difficult. Heaven knows what it will be like after increasing the number of Tenants in this area.
- The proposed design of the building to accommodate 11 flats (7 x one bed and 4 x two bed roomed) is over development of the site and the overall impression to the street front is not in line with the low level, low density residential feel of the Richmond Road end of Victoria Road. This design, although the architect argues differently, does not match sympathetically to any of the existing designs of buildings in Victoria Road or the Richmond conservation area (of which this proposal has a joint boundary with). There are three styles of distinct architecture in the road that have a synergy but other than some window detail, this design does not have the same synergy with materials not seen in the rest of the street (grey brick and green metal roof), The massing of the design of the building is out of scale in size and height with the rest of the immediate area: its 3 storey construction looming over the adjacent properties that are within 5 metres of the boundary walls, in particular to the 1930 art deco houses immediately adjacent and to the back of this site. Number 10 to 18 houses are included in the Richmond Road conservation area and this modern building is not in style or keeping with the adjacent massing of buildings. On the north side of the Cadets site there are four modern semi detached dwellings that I understand were built as social housing with gardens. These developments had been designed to reflect the scale and the 1930s architecture of the houses on that side of the road and provide family accommodation with gardens that are in line with the residential nature of the street.
- The design intent of this building is meant to be emergency housing for Worthing families, for up to one year occupancy. The internal design is cramped, with little circulation space and storage facilities with a minimum sized bedroom. The majority of flats (7 out of the 11) are single bed roomed flats, therefore of very little value to families with children and therefore likely to be planned single occupancy. Can the council confirm how they will manage the stock so that the flats are not overly occupied and that children do not share bedrooms with their parents? There is a proposal for two small gardens at ground floor out of 11 flats, which again is not going to give the council scope to use for families with children who will be living there for up to 1 year.
- The density of the design is of great concern. By definition, and highlighted by the consultation response from the Police, vulnerable families requiring accommodation will be stressed, potentially at risk from violence from partners and a higher risk of public disturbance. It is stated that there will be CCTV in place, but it is unclear from the proposal where these cameras will be located, where they will be supervised from (police/town centre/private security) and over what time period ie 24/7 and who will act if there is untoward activity? How will the safety of the occupants (who the council say are vulnerable) be maintained if there is no warden on site? Putting families into such small flats without any outside spaces, limited site security or support with the expectation that they will not be permanent residents is going to cause huge pressures for any occupant and will not foster community amongst residents. In the outline plans there did not seem to be any provision of an on-site warden, counselling rooms or even social spaces for the residents other than a strip of grass at the

back of the block (unclear who will be responsible for maintenance and safety of this space as there will be no real ownership of the tenants).. The model of care does not seem to represent good practice, rather replicate what is acknowledged as a flawed system of emergency housing into one bedroom hotel rooms or hostels. The council is at risk of making itself a slum landlord with this design and model of care. It is unclear how these properties will be managed. There was a suggestion in the consultation documents of the council entering into a 3rd party private landlord arrangement with the council as a social landlord managing the building. The planning application is on behalf of the council but within the application where it asks if there is a relationship with the authority employer/member it says "yes" but the explanation of how it is related is redacted - can it be made clear who owns the land (freeholder), who will be the developer and who will be the leaseholder post completion? By designing accommodation that is inherently cramped, potentially not secure and temporary is not good for their well being this could be a dis-service to Worthing families, perpetuating a very poor practice already in place within the council procedures of using temporary bed and breakfasts. What would be better and more sustainable for Worthing families is to provide good decent social housing with gardens similar to those adjacent to this property (24 to 30 Victoria Road).

- It should be noted that Central Worthing already provides a disproportionate share of housing and services for distressed families and individuals; indeed a recent planning application was approved to demolish a house and place a large block of flats on the site adjacent to St Andrews the Apostle Church which is less than 100m from this proposed development. A large number of families or individuals cannot be easily supported or absorbed by the strength of a community. I do not object to this land being developed by the council as social housing, but it would be far more beneficial to provide social housing on a smaller scale in units of no more than 4 to 3 families, in small groupings across the council districts so that the tenants become integrated with the surrounding community. The council has access to s106 and CIL powers that could provide this model of community environments.
- I am not convinced that the Council has looked sufficiently at other potential sites and it is unclear why Clifton Road and Victoria Road are the preferred sites for development of such models of care for vulnerable individuals and are almost adjacent to each other? If the council are convinced of the merits of this model of care, there are a number of sites that the council has sold in very recent times on the open market that could have had social housing incorporated as part of the planning approval but these opportunities have not been taken up. Indeed the Council owns sites such as Tevillegate where a mix of social and private development, with the associated supporting infrastructure of social services (play spaces, child care, GP offices, community halls etc) could be incorporated into an exciting model of social enterprise and have a more sustainable model for Worthing families who require social housing.
- There is a fine specimen of mature tree to the back of the property. Other trees in the conservation area have been lost due to development, which is affecting the biodiversity of the area. What assurances will be given to protect this tree during construction?

- The design is not in keeping with the surrounding houses. The plot should be used for semi detached homes. I do not want the aesthetic view of my road compromised.

The design is for 3 storeys and as such both my bathroom and landing windows will be overlooked. I feel this will be an unreasonable invasion of my privacy.

The concentration of residence in the proposed building will cause a noise problem. I already have noise coming from the Reflections children's nursery. I am of the opinion that that is enough noise the council should expect for me to bare.

The amount of car parking spaces will be a noise problem. The development factors in 7 cars to be used on the site. If the site was 2 semi-detached houses it would be reasonable to factor in 2 to 4 cars using the site. The semi-detached houses here are normally occupied by two residents with one car.

I would also like to make the following objections that have been shared by other local residents.

1. Design and Massing of the buildings

The proposed design of the building looks like a block construction modernistic 21st Century house. This design does not match sympathetically to any of the buildings in Victoria Road or the Richmond conservation area (of which this proposal has a joint boundary with). There are three styles of distinct architecture in the road that have a synergy but other than some window detail, this design does not match.

The design of the building is out of scale in size and height with the rest of the immediate area. The massing of this design is out of proportion to the adjacent buildings and in particular to the 1930 house immediately adjacent and to the back of this site. Number 10 to 18 houses are included in the Richmond Road conservation area.

On the north side of the Cadets site there are four modern semi detached dwellings that I understand were built as social housing. These developments had been designed to reflect the scale and the 1930s architecture of the houses on that side of the road.

2. Emergency Housing for families

We understand from the presentation that the number of proposed dwellings is 11 flats, 4 of which are two bedrooms and the remaining 7 are one bedroom - These are to be provided for families for emergency housing for between 6 to 9 months as short term tenancy.

This means that most families on the site will be living in one bedroomed flats. Can you confirm how the local authority rules for overcrowding are likely to be disregarded within this development; indeed it's unclear whether normal statutory overcrowding rules will apply to this development at all. It is well documented that overcrowding will produce excess damp and mould if not well ventilated. There is no

separate laundry or drying facilities, so the families will be expected to wash and dry within these cramped conditions. Storage is also limited, there being no separate pram stores for the units.

- The proposed building is considerably higher than its neighbours - a very dominant three storeys. This is also visually out place with its neighbours in Victoria Road. Maybe if it were reduced to two storeys it would fit in better, but then it would house fewer people.

Worthing seems to excel in ruining pleasing townscapes with ugly and unsympathetic blocks of flats etc, whether on the seafront or on other well-established streets of period and other properties. From the east end of Elizabeth Road, I can see the extremely ugly Westbrooke Court dominating its neighbours, or Fenners Court (which, while three-storeys, is less intrusive as it lies on the other side of the rise in Victoria Road).

Are these flats each designed for occupancy by one family or for shared occupancy by single persons? (or both?). It all seems rather cramped and unsuitable for a densely housed singles and families.

There are other, as yet, undeveloped suitable sites for mixed developments of private and social (not just affordable) housing, for example Union Place and Teville Gate.

- The proposed design of the building looks like a block construction modernistic 21st Century house. This design does not match sympathetically to any of the buildings in Victoria Road or the Richmond Conservation Area (of which this proposal has a joint boundary with). There are three styles of distinct architecture in the road that have a synergy but other than some window detail, this design does not match.

The design of the building is out of scale in size and height with the rest of the immediate area. The massing of this design is out of proportion to the adjacent buildings and in particular to the 1930 house immediately adjacent and to the back of this site. Number 10 to 18 houses are included in the Richmond Road conservation area.

The internal design is cramped, with little circulation space. There is the proposal for two small gardens out of 11 flats..

On the north side of the Cadets site there are four modern semi detached dwellings that I understand were built as social housing. These developments had been designed to reflect the scale and the 1930s architecture of the houses on that side of the road.

3. Density and model of care

The density of the design is of great concern, by definition the families requiring accommodation will be stressed, potentially at risk from violence from partners. Putting families into such a small space without any on site security or support and then expecting them to move on within 6 to 9 months to an unknown destination is going to cause huge pressures to them and even putting the children, within an environment that is cramped, not safe, not secure or good for their well being is doing them a dis-service and perpetuating a very poor practice already in place within the council procedures..

It is unclear how these properties will be managed, there was a suggestion of an arrangement of a 3rd party private landlord and the council as a social landlord managing the building. In the outline plans there did not seem to be any provision of an on-site warden, counselling rooms or even social spaces for the residents other than a strip of grass at the back of the block (unclear who will be responsible for maintenance and safety of this space as there will be no real ownership of the tenants)..

The model of care does not seem to represent good practice, rather replicate what is acknowledged as a flawed system of emergency housing into one bedroom hotel rooms or hostels. The council is at risk of making itself a slum landlord!

4. Adjacent planned "emergency housing" developments

It should be noted that Central Worthing already provides a disproportionate share of housing and services for distressed families and individuals; indeed a recent planning application was approved to demolish a house and place a large block of flats on the site adjacent to St Andrews the Apostle Church which is less than 100m from this proposed development.

A large number of families or individuals cannot be easily supported or absorbed by the strength of a community. I do not object to this land being developed by the council as social housing, but it would be far more beneficial to provide social housing on a smaller scale in units of no more than 4 to 3 families, in small groupings across the council districts so that the tenants become integrated with the surrounding community. The council has s103 and CIL powers that could provide this model of community environments.

5 Other sites across Worthing

I am not convinced that the Council has looked sufficiently at other potential sites, if they are married to the idea of providing a development of this size. There are a number of sites that the council has recently sold in very recent times on the open market (the library site opposite the council offices) that would have been ideal for these types of development, and indeed the Council still has interests in sites such as Teville Gate where a mix of social and private development, with the associated supporting infrastructure of social services (child care, community halls etc) could be incorporated into an exciting model of social enterprise.

6. Business model

I am not convinced the Council is looking at the appropriate business model. My understanding is; the new block will be mostly owned by the council with a smaller number of flats owned by a private landlord whom the council will in effect guarantee the rental income ? Has the council considered working with a charity / housing association which could potentially draw in more money to fund and build the project.

7. Creating stable communities and families

As discussed above it is questionable whether the best interests of families are served by placing them in short term emergency accommodation in such crowded conditions. A requirement for housing usually means a family has been under terrific distress for some time and placing them in an unsecure one/two bedroom flat, with unknown neighbours (who themselves may be under stress from violence or drugs) is, I would suggest, a flawed model of care. Providing longer term, stable housing almost immediately so that a family can "normalise" and be supported by their community must surely be the goal? For instance ;parents need to feel stable; children need to know where they are going to school and be supported by a reliable social landlord, must be better for these families?"

- The application for the block of flats is not in keeping with the houses that are to the south and north of the proposed development. The existing dwellings are traditional semi-detached houses with off road parking. Victoria road has a number of existing flats and blocks of flats and another block of flats would create an overuse of the street.

Relevant Planning Policies and Guidance

Worthing Local Plan 2023

SP1 - Presumption in favour of sustainable development
SP2 - Climate change
SP3 - Healthy communities
SS1 - Spatial strategy
DM1 - Housing mix
DM2 - Density
DM3 - Affordable housing
DM5 - Quality of the built environment
DM6 - Public realm
DM7 - Open space, recreation & leisure
DM8 - Planning for sustainable communities / community facilities
DM16 - Sustainable design
DM17 - Energy
DM18 - Biodiversity
DM19 - Green infrastructure
DM21 - Water quality and sustainable water use
DM22 - Pollution
DM24 - The historic environment

Supplementary Planning Document 'Space Standards' (WBC 2012)

Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that 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 73A and also Section 72 Planning (Listed Building & Conservation Areas) Act 1990 which require the Local Planning Authority (LPA) to pay special attention to the desirability of preserving or enhancing the appearance of the Conservation Area.

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

It is considered that the main issues in the determination of the application are whether the principle of the development is acceptable, and the effect of the development upon the character and appearance of the surrounding area including the adjacent Conservation Area and the amenities of neighbouring properties.

The application site is within the built-up area as defined by the Local Plan and is in a sustainable location, in between the railway station and town centre with good access to a range of services. It is a site which is ordinarily considered suitable for the redevelopment of housing. It should be borne in mind that the site has been used for community purposes previously, albeit not for some time as the buildings on the site are beginning to fall into disrepair. Nonetheless, policy DM8 of the newly adopted Local Plan states:

Development which would result in the loss of community 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 current use and the premises have been appropriately marketed for an alternative community use.*

The existing buildings are prefabricated and have not been used for some time with approval granted for their demolition last year. The central location of the site means that are various facilities available for community use within a close proximity to the site, including the Church across the road and the Town Hall and Library a short distance further beyond. Given that no other user has come forward to use the rather poor quality buildings on site, it is not considered that the proposal could be resisted on the grounds of the loss of a community facility. Furthermore, the acute need for housing in the town, and especially for temporary and emergency accommodation, sometimes leading to residents having to be accommodated outside of the Borough, is well recognised and the application offers the opportunity to provide some much needed residential units to help address this issue. In principle, therefore, there is no objection to the application.

The site is an attractive location, being immediately adjacent to the Conservation Area and with the listed Church buildings just across the road to the north west. Notwithstanding the need for the development, therefore, there is still a requirement

to ensure it preserves and enhances the character of the area. As can be seen from the representations above, some concerns have been raised by neighbours and the Worthing Society in this respect.

The starting point is that the application site offers little to the attractiveness of the area and it is not surprising that the Conservation Area boundary is drawn to the south of it and just includes the front wall of the site. There is a clear opportunity to improve the visual appearance of the application site. The rear of the site, with a large expanse of hardstanding and somewhat open appearance to the properties behind could also be improved to the enhancement of the area.

The character of Victoria Road in general is quite mixed, with stuccoed houses immediately to the north and more contemporary houses immediately to the south. Beyond is a mix of styles and sizes ranging from villa type properties to blocks of flats and including the aforementioned listed church. Boundary screening also varies in the locality with some sites softened by boundary screening and others quite open. The application site certainly benefits from the screening to its front boundary, along with its attractive wall, which to some extent reduced the adverse visual impact of the prefabricated buildings on the site.

The applicant's agent notes that the committee had previously welcomed a design strategy that interpreted the key design features and materials of an area into a contemporary construction approach when granting permission for a scheme in nearby Clifton Road. In discussion with your officers at the pre-application stage, preference was for a light toned brick to compliment the surrounding residential properties within the conservation area, listed church, and flint site wall. It was felt that a 3 storey building could be accommodated on the application site but it would be necessary to reduce the scale of the roof form which is proposed as a mansard with a mixture of dormer and Velux style rooflights. Because of the close proximity of surrounding properties, your officers requested that balconies were not part of the proposal and accordingly bay windows have been used as a design feature instead.

A visual impression of the scheme is shown below:

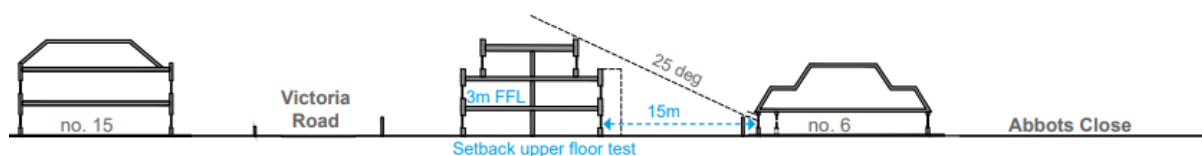


Your Officers consider that the light brickwork and facade of the proposed building offers an acceptable transition from the generally lighter coloured buildings within the Conservation Area to the south and the darker in material buildings to the north including the listed Church. It is not felt that the scale of the building, with its set back roof, is unduly obtrusive in the general street scene given that variation of roof heights along the road as a whole. Similarly, it is not considered that any harm arises to the Conservation Area as a result. It is not uncommon, as seen further along the road, for flat blocks to sit amongst housing. It is considered that there is sufficient spacing between the neighboring buildings with just in excess of 5 metres maintained on both sides of the site. The newer housing to the north is adjacent to the site boundary and therefore the spacing is maintained by the vehicular access while the property to the south is set away from the boundary.

As well as providing sufficient spacing in a visual sense, the siting of the proposed building also ensures that there would be no material impact upon the amenities of the neighbouring properties in Clifton Road. The footprint of the proposed building is in line with the front elevation of the number 18 to the south and only extends a small distance further back into the site. The footprint of number 24 is smaller as a result of the lesser sized garden serving that property to the rear, which means that the proposed building does extend further back into the application site, but this impact is mitigated by the spacing between the properties.

The main impact upon neighbour amenity, therefore, relates to the property at the rear in Abbots Close, a chalet bungalow with windows at ground floor level facing the site, although it is understood that these are dual aspect. Although there has not been an objection raised from the occupier of this property, your officers have visited the site and viewed the proposed development from the mutual boundary. The rear of the property is in close proximity to the boundary wall of the site with the amenity areas serving the bungalow being to the site. The proximity to the wall to some extent restricts the outlook from the rear windows already.

The distance between the rear of the proposed building and the rear elevation of the bungalow is 15 metres. In terms of the impact of light from the proposed building, your officers required demonstration that the '25 degree rule' would not be breached. In essence, if a new building or a perpendicular line at an angle of 25 degrees above the horizontal taken from a point 2 metres above ground level on an existing house, it is likely that windows in the existing house will be overshadowed. Ordinarily, a distance of around 14 to 15 metres will be sufficient to meet this requirement when the existing property is a bungalow, partly dependent on the height of the building. It was apparent that the roof would need to be set back on the top floor to meet this requirement and, in addition to the impact of the scale of the building upon the street scene mentioned above, it is a further benefit of the set back roof structure. A diagram has been provided demonstrating that the proposal meets the guidance:



Your Officers consider that this relationship is acceptable.

The remaining issue in respect of neighbour amenity is therefore the distance between facing windows which is normally required to be 21 metres between facing windows, but would only be 15 metres in this instance. Were 6 Abbots Close a 2 storey dwelling, it is likely that the distance between the properties would be a significant impediment to the current form of development. However, the fact that it is a bungalow in such close proximity to the boundary wall, means that the affected windows are only partly visible from the siting of the proposed dwelling. The applicant's solution is to provide increased tree screening towards the mutual boundary and it was noted at the site visit that the rear boundary wall despite its proximity to the bungalow appears quite low from the application site and would appear to have allowed a view from the site previously into the amenity area of the bungalow. The concept of screening along the boundaries would not be out of keeping with the surroundings, given that there are mature trees within the gardens of the adjoining properties of the bungalows and in fact the application site at present is an unusually harsh and open boundary on the eastern side compared to its surroundings.

On balance, therefore, it is considered that, given the siting of the bungalow and the nature of the existing boundary and relationship with the application site, appropriate planting could mitigate the impacts of any overlooking to an acceptable distance. Certainly, appropriate planting would have the potential to result in a visual improvement to the general character of the area.

The proposed development is stated to target 'Passivhaus' standards in respect of energy efficiency. It is further stated that an energy efficient strategy has been developed to meet the low heating requirements and hot water demand including Mechanical Ventilation with Heat Recovery (MVHR) supplemented with an electric pre-heater.

The Highways Authority note that there is a shortfall of 4 spaces against the Parking Demand Calculator but that this would not be sufficient to uphold an objection against the proposal. Your officers are mindful of the sustainable location of the site and that the NPPF states that only where the transport effects of a development are severe that an application could be refused on such a basis. This is not considered to be the case in this instance and accordingly, having regard to the wider benefits of the scheme, it is not felt a refusal could be justified on the grounds of lack of parking.

A Biodiversity Net Gain Assessment was submitted with the application, which is now required by policy DM18 of the Local Plan (although this application was submitted before the Plan was adopted, nonetheless the application was accompanied by the information as set out in the new policy). This concludes that:

Metric calculations have identified that the proposed scheme would result in net gains for biodiversity to meet the policy requirements of the national planning policy. It is noted that there is a loss of 0.01 scrub habitat but as the scheme incorporates areas of habitat creation such as wildflower grassland and areas of introduced shrub which shall have a recognised wildlife value. It is considered that the new native hedge planting and area of mixed native scrub shall offer an enhanced ecological function. A condition requiring a specific ecological management condition can be imposed to ensure that the anticipated gains are secured.

As the application proposes emergency and temporary accommodation, the provisions of policy DM3 (Affordable Housing) would not apply in this instance. Similarly, in respect of the provision of Public Open Space, as set out in Policy DM7, which is normally required on site for developments of more than 10 units, it is clearly impractical in this instance to provide open space on the site itself and given the nature of the development proposed, it is not considered that a contribute to off-site provision could be justified.

In conclusion, it is considered that the proposal offers an opportunity to provide much needed housing and has provided a suitable design and adequate mitigation to neighbouring properties. Accordingly, it is recommended that permission be granted.

Recommendation

APPROVE

Subject to Conditions:-

1. Approved Plans
2. Full Permission
3. Construction of the development shall not commence until details of the proposed means of foul sewerage and surface water disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.
4. No part of the development shall be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall always thereafter be kept for their designated purpose.

Reason: To provide car-parking space for the use.

5. No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with the approved site plan.

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

6. Precautionary contaminated land condition
7. Works of construction or demolition, including the use of plant and machinery, necessary for implementation of this consent shall be limited to the following times:-

Monday - Friday 08:00 - 18:00 Hours
Saturday 09:00 - 13:00 Hours
Sundays, Bank and Public Holidays no work permitted.

Any temporary exception to these working hours shall be agreed in writing by the Local Planning Authority at least five days in advance of works commencing. The contractor shall notify the local residents in writing at least three days before any such works.

Reason: In the interests of amenity.

8. No construction works shall progress beyond slab/foundation stage until details and samples of facing materials and finishes to be used in the construction of the external walls, roofs, windows, doors, balconies, footpaths and ground floor patios of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall only be carried out in accordance with the approved details

Reason: In the interests of visual amenity and to comply with policy DM5 of the Worthing Local Plan

9. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended (or any Order revoking and re-enacting that Order with or without modification), no windows or other openings shall be formed in the southern walls of the approved dwellings.

Reason: To prevent overlooking and to comply with policy DM5 of the Worthing Local Plan

10. The window in the northern and southern elevations of the building hereby permitted shall at all times be obscure-glazed and non-opening (except that part which is above 1.7 metres above the floor of the room in which the window is installed) and it shall not subsequently be altered in any way.

Reason: To prevent overlooking and to comply with policy DM5 of the Worthing Local Plan

11. No construction works shall progress beyond slab/foundation stage until full details of all hard and soft landscaping works and the proposed times of planting have been approved in writing by the Local Planning Authority and all soft landscape works shall be carried out in accordance with those details and at those times. Any plants which within a period of five years from the time of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure adequate landscaping is provided.

12. Finished Floor Levels
13. Prior to commencement of any works above slab level details of secure entrances/entry systems to the building, external lighting, means of enclosure and gateways to the site shall be submitted to and approved in writing by the Local Planning Authority. The details thereby approved shall be implemented and fully adhered to.

Reason: To ensure a well-designed, good quality and safe environment in accordance with Policy DM5 of the Worthing Local Plan

14. Prior to commencement of any works above slab level details and samples of all materials to be used on all external faces of the buildings hereby approved, including windows and doors and roofs, colours and finishes, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out only in accordance with the details thereby approved.

Reason: In the interests of visual amenity, to ensure a high quality appearance and character of development in accordance with policy DM5 of the Worthing Local Plan.

15. 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:-

- a) the anticipated number, frequency and types of vehicles used during construction,
- b) the location of any site compound, office, welfare facilities, storage of plant and materials used in construction of the development,
- c) any parking of vehicles by site operatives and visitors,
- d) arrangements for the loading and unloading of plant, materials and waste, including use of a supervisor as appropriate,
- e) the erection and maintenance of security hoarding and gates, which shall

- include out-of-hours contact information for site management and images of the approved development,
- f) any site lighting, including measures to minimise light nuisance,
 - g) a commitment to no burning on site,
 - h) details of public engagement, including neighbours both prior to and during construction works,
 - i) methods to control dust and fumes from the site,
 - j) methods to manage the impact or noisy activities,

Reason: To minimise and manage risks of nuisance and pollution in the interests of the amenities of the area and highway safety during the construction phase.

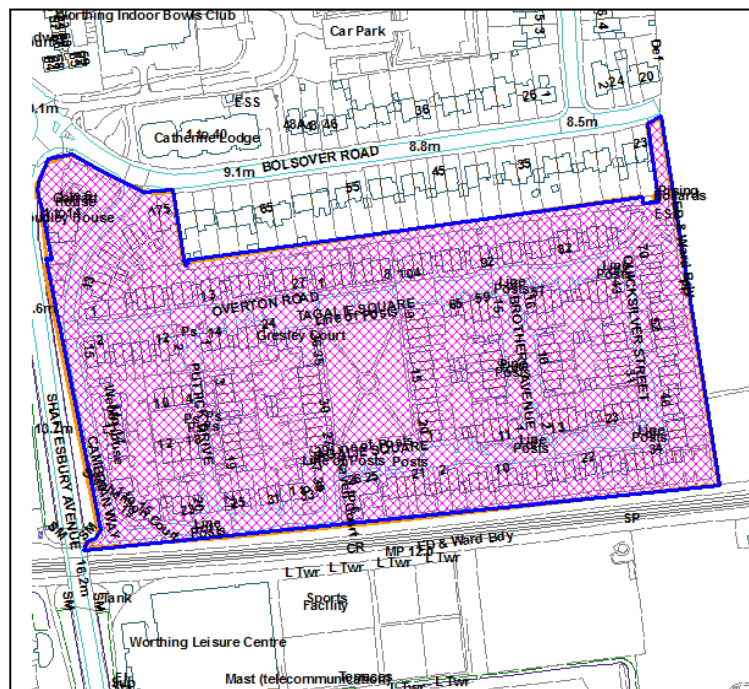
16. Prior to commencement of development a scheme for protecting existing trees to be retained in the development hereby approved and any associated pruning works, shall be submitted to and approved in writing by the Local Planning Authority. The details thereby approved shall be implemented and fully adhered to.

Reason: To retain trees which are of value in accordance with policy DM5 of the Worthing Local Plan.

17. Submission of Landscaping and Ecological Management Plan to include provision to secure Biodiversite Net Gain in accordance with Policy DM18 of the Local Plan.

18. Development only to be used as emergency/temporary accommodation.

Application Number:	AWDM/1680/22	Recommendation - Delegate to Head of Planning & Development to APPROVE
Site:	Former Worthing College, Bolsover Road, Worthing, West Sussex, BN13 1NS	
Proposal:	<p>Amended Description: Application to Vary Condition 2, 9 and 11 of AWDM/0363/11 to extend residential curtilage to allow the extension of rear gardens of residential dwellings up to the existing acoustic fence within Southern Buffer Strip only. [Planning permission AWDM/0363/11: Demolition of existing college buildings and construction of 265 dwellings together with floor space for commercial nursery units with associated access, parking and landscaping. Amendments - commercial nursery units replacing doctors' surgery in corner block, amendments to central square and surrounding buildings, minor elevational changes to other buildings, minor modifications to layout of streets.]</p>	
Applicant:	Cissbury Chase (Worthing) Management Company Ltd	Ward: Castle
Agent:	Refer to Company Name	
Case Officer:	Jo Morin	



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This application has been called to Committee for determination by Cllr Lionel Harman on the grounds that it would give the residents an opportunity to present their case for enclosing the buffer landscaped area. Determination of the application was deferred at the Committee meeting on 22 February 2023 to enable discussions to take place between Officers and the Applicant. The application has since been amended as described below.

The initial Committee report is attached as an Appendix to this report.

Background

The application relates to Cissbury Chase, a residential housing estate developed on the site of the former Worthing Sixth Form College. To the north, east and southern edges of the site are narrow strips of land comprising landscape 'buffer strips' onto which the rear gardens of a sizeable proportion of perimeter dwellings in Overton Road, Tagalie Square and Quicksilver Street back onto. The buffer strips, with gated access for maintenance purposes, were included as part of the planning layout of the original estate granted planning permission under AWDM/0363/11.

The buffer strips consist of an unmaintained hedgerow planting mix made up of young trees, shrubs and ruderal vegetation.

The southern landscaped buffer (roughly 4 metres wide) backs onto railway land and the main south coast railway line. A two metre high acoustic fence is positioned within the buffer (and continues eastward and westward beyond it). For the most part, that section of acoustic fence that lies within the buffer is positioned centrally within it except at the western end where it angles inward and then doglegs outward (rear of 144-147 Quicksilver Street) running close to, and parallel with, the southern site boundary. There is no obvious reason why the acoustic fence is so positioned. Residents backing onto this buffer have stated anecdotally that spoil material was left within the buffer by the original developer and that ground levels within it drop sharply beyond the acoustic fence toward the railway land.

Amended Proposal

As originally submitted, permission was sought by the resident's management company, Cissbury Chase (Worthing) Management Company Ltd to vary Conditions 2, 9 and 11 of planning permission AWDM/0363/11 to remove the Northern, Eastern and Southern landscaped buffer strips to allow the extension of the adjacent private residential gardens.

The application was deferred from the February Committee meeting to enable discussions to take place between the residents' management company (the Applicant) and officers. Following discussions the application has been amended and now relates to the Southern landscaped buffer only, proposing to extend the adjacent residential curtilages, namely Nos 2-32 Quicksilver Street and 21-24 (cons) Tagalie Square up to the existing acoustic fence incorporated within it.

Only one property (34 Quicksilver Street), at the far eastern end of the southern buffer, has not participated in this element of the scheme and the landscaped buffer to the rear of this property would be retained, as would all of that to the south side of the acoustic fence.

It is proposed that the existing close-boarded fencing to the private gardens will be reused to separate the new extended side boundaries of each dwelling plot with the existing acoustic fence in effect becoming the new rear boundary for the individual dwelling curtilages.

The initial application was accompanied by a Preliminary Ecological Appraisal and Biodiversity Enhancement Strategy (EclA) by Lizard Landscape Design and Ecology. This was subsequently supplemented by an Addendum report (LLD2710/ECO/GS) in response to a review of the Preliminary Ecological Appraisal by Hankinson Duckett on behalf of the Council.

Relevant Planning Policies and Guidance

National Planning Policy Framework (HCLG 2021)
National Planning Practice Guidance
Adopted Worthing Local Plan (2023): SP1, SP2, SP3, DM5, DM18, DM19, DM20, DM22

Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that 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

Principle

The Worthing Local Plan has been adopted since the application was last reported to Committee in February and now has full weight. The saved policies of the Worthing Local Plan (2003) and the Worthing Core Strategy (2011) previously referred to have fallen away.

The key considerations relate to the effects of incorporating the land in question into the adjacent private residential gardens on the character of the area, including green infrastructure and biodiversity as well as the effect on the residential amenities of neighbouring occupiers taking account that there are no residential properties

bordering the southern buffer strip other than those within the Cissbury Chase estate itself.

Visual Amenity

As explained in the earlier Committee report, although the planting within the 3no buffer strips has taken some years to establish itself, generally speaking by Summer 2022 the landscape planting made up of woody species (such as silver birch, hazel, hawthorn, dogwood, beech, holly and dog rose) and ruderal ground cover (bramble, cook's food, nettle, dandelion, forget-me-not, ivy, 'lords and ladies' etc.) had grown up to 3-4 metres in height in places, being more established in the wider northern buffer than the southern buffer where the positioning of the acoustic fence has restricted light and available space for the planting to develop and where growth has been slower.

The current proposal would retain the existing hedgerow planting on the south side of the acoustic fence with the land on the north side incorporated into the adjoining residential gardens in Quicksilver Street/Tagalie Square. Some residents have indicated a desire to retain the existing hedgerow landscape planting within their extended gardens particularly where the young trees/shrubs have started to establish. However, such intentions would be difficult to control or enforce in planning terms across 20no differently owned dwelling plots and over time it can reasonably be expected that the areas of land in question will become domesticated in their character and appearance.

Residential Amenity

The amended proposal has resolved previous concerns about risks to the integrity and effectiveness of the existing acoustic fence since it is not proposed to be moved. This could be secured as a condition of planning permission.

As stated above, only one property owner (No.34) backing onto the southern buffer, at its far eastern end, is not taking part in the scheme. At its western end the buffer adjoins the fenced, rear tarmac car park of Nos 25-26 Tagalie Square and Raven Court.

In the event of permission being granted residents may choose to work together to implement the works to extend their gardens (by relocating the existing fences at the same time) but there is no guarantee that this would happen. Again, coordinating the timing of implementing the works would be difficult to control or enforce in planning terms if residents on individual neighbouring plots decided not to work together for whatever reason. However, as this would not affect any residents not taking part in the scheme this could essentially be a matter for the residents management company to oversee and monitor.

Responsibility for maintaining the retained areas of the buffer strip not incorporated into the adjoining residential gardens would remain with the residents management company.

Ecology and Biodiversity

As previously reported, the review of the Preliminary Ecological Appraisal by Hankinson Duckett highlighted a number of omissions and discrepancies between Appraisal and the Covering Letter initially submitted with the application. This was addressed by a subsequent Addendum report that acknowledged the likely change in habitat within the extended garden areas over time and the loss of potential 'overspill' habitat suitable for reptiles and amphibians in the buffers adjoining the allotments and railway line. In terms of connectivity the Addendum confirms that the impact on wildlife resulting from the loss of the southern landscape buffer would be minimal, with animals still able to commute along the adjoining railway embankment habitats and the residual buffer land south of the acoustic fence remaining as a wildlife corridor. Nevertheless, even the partial loss of this landscaped buffer habitat to residential gardens would fail to demonstrate the net biodiversity gain required by the now adopted policy DM18 of the Local Plan and NPPF. As the Addendum points out, any categorisation as 'vegetated garden' would represent a biodiversity 'net loss' compared to even low value habitats including derelict land and ruderal/ephemeral growth in poor condition.

The initial proposals included provision of two amphibian and reptile hibernaculum as a compensatory biodiversity enhancement. The value of this provision as an 'enhancement' was questioned by the Hankinson Duckett review, but as the amended proposed will now retain the majority of the existing buffer strips it is considered at least one hibernaculum would be welcomed in the SE corner, near the 'overspill' habitat within the eastern and retained component of the southern buffer strip.

Conclusion

By omitting the northern and eastern buffers from this application the amendment has resolved previously raised concerns about the impact of the proposals on residential amenity and has also minimised the ecology and biodiversity impacts of the proposals. This represents a significant compromise made by the residents management company although it does not prejudice consideration of any application made in the future in relation to the northern and eastern buffers which would need to be considered on its own merits at the time.

Taking into consideration that the hedgerow growth potential and ecological value of the southern buffer has been significantly compromised by the siting of the acoustic fence, it is considered the incorporation of the relatively narrow strip of buffer land on the north side of it into the adjacent residential private gardens would have minimal harmful ecological impacts, and taking a pragmatic view, would no longer justify refusal on this ground.

Recommendation

Delegate to Head of Planning and Development to **APPROVE** following expiry of neighbour notification period of the amended proposals and there being no new issues raised in any representation received; and:-

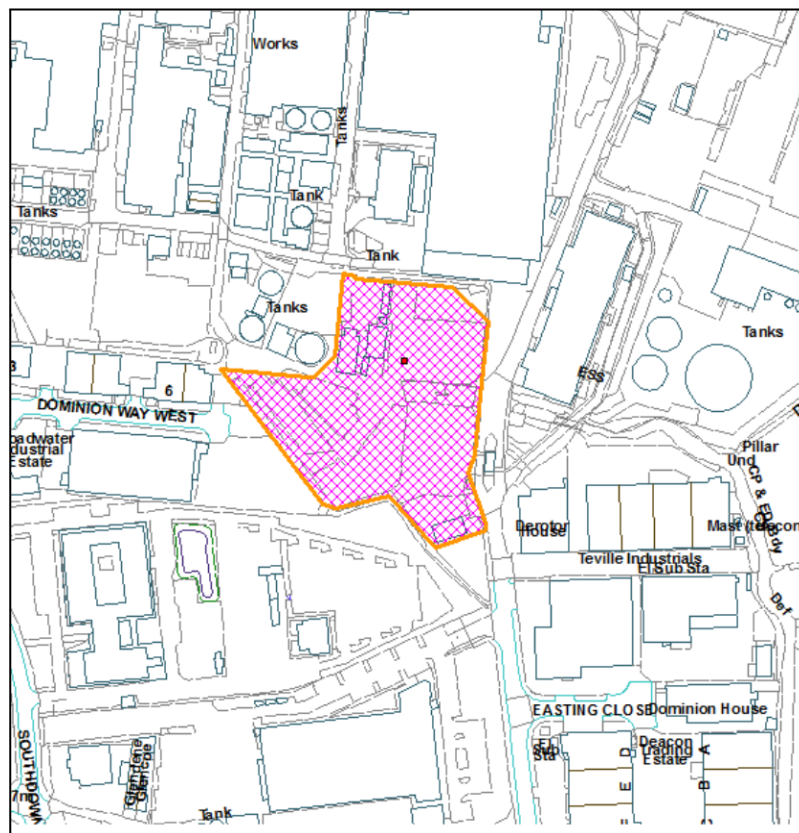
Subject to Conditions:-

Amendments and additions to the conditions of AWDM/0363/11 in **bold**.

1. **New time limit 3 years**
2. **Approved Plans**
3. Discharged condition AWDM/0363/11
4. Discharged condition AWDM/0363/11
5. Discharged condition AWDM/0363/11
6. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any order revoking and re-enacting that Order with or without modification) no dwelling hereby approved shall be altered or extended unless permission is granted by the Local Planning Authority in an application on that behalf.
7. Discharged condition AWDM/0363/11
8. Discharged condition AWDM/0363/11
9. No development shall take place unless and until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping which shall include indications of all existing trees and hedgerows on the land, and details of those to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of any of the buildings or the completion of the development, whichever is the sooner. **Except for the land to be transferred and highlighted in blue on the approved South Strip Plan (v14)** any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping shall be provided prior to the occupation of the development hereby permitted.
10. Discharged condition AWDM/0363/11
11. **No development including removal of trees and vegetation or any existing fencing to implement the proposals shall take place until an amphibian and reptile hibernaculum has been provided within the SE corner of the site as shown on Dwg. LLD2267-ECO-FIG-001 and shall thereafter be monitored and maintained as set out in the submitted Biodiversity Enhancement Strategy. No existing fencing shall be moved other than in accordance with Reasonable Avoidance Measures set out in Section 2.4 of the submitted Biodiversity Enhancement Strategy.**
12. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any Order revoking and re-enacting that Order with or without modification) no gate, fence, wall or other means of enclosure shall be erected or constructed within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts any existing or proposed highway(s) (including public paths) unless permission is granted by the Local Planning Authority on an application in that behalf.
13. Discharged condition AWDM/0363/11
14. Discharged condition AWDM/0363/11

15. Discharged condition AWDM/0363/11
16. Discharged condition AWDM/0363/11
17. Discharged condition AWDM/0363/11
18. The buildings shall not be occupied until the parking spaces, garages, access and turning facilities shown on the submitted plans have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The areas of land so provided shall not thereafter be used for any purpose other than access, garaging and parking of vehicles incidental to the use of the proposed development.
19. Secure and covered cycle parking/storage shall be provided for the dwelling and business units within the curtilage of the site in accordance with precise details of numbers and siting which shall be agreed in writing with the local planning authority prior to the commencement of the works. Such agreed cycle facilities shall be provided prior to the occupation of the buildings and shall thereafter be retained for such purposes.
20. Discharged condition AWDM/0363/11
21. Discharged condition AWDM/0363/11
22. Discharged condition AWDM/0363/11
23. No work for the implementation of the development hereby permitted shall be undertaken on the site on Sundays or on Bank or Public Holidays. On all other days such work shall only be implemented between the hours of 8.00 a.m. and 6.00 p.m. inclusive.
24. The dwellings and business units hereby permitted shall not be occupied until refuse and recycling facilities have been provided in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Such facilities as provided shall thereafter be retained and used only for the storage of refuse and recycling materials.
25. Discharged condition AWDM/0363/11
26. Discharged condition AWDM/0363/11
27. **The acoustic fence shown on the approved South Strip Plan (v14) shall be retained in situ at all times unless otherwise approved in writing by the Local Planning Authority**

Application Number:	AWDM/0510/22	Recommendation - APPROVE subject to the completion of a unilateral undertaking securing the sum of £3,500 towards sustainable travel
Site:	Land At Former Car Park, Dominion Way, Worthing	
Proposal:	Demolition of all existing structures and construction of 5 buildings providing 22 flexible industrial units comprising light industrial (Class E(g)), general industrial (Class B2) and storage/distribution (Class B8) with associated car parking and landscaping with open storage use (Class B8) on land to the northern part of the site.	
Applicant:	Glenmore Holdings Limited	Ward: Broadwater
Agent:	Max Plotnek, MJP Planning	
Case Officer:	Gary Peck	



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Proposal, Site and Surroundings

This application seeks full permission for the construction of an industrial development of 22 units (for E(g)(iii)/B2/B8 use Class) on the West side of Dominion Way, within a site that was formerly part of the GSK facility. The proposed units would be provided within five buildings with a total floor area of some 2525 sq. m (inclusive of 50% of ground floor area at mezzanine level to most units).

The applicant states that the most efficient way to lay the site out is with units in a back-back arrangement with a footpath, loading bays and parking arranged either side of the roadway. 64 parking spaces are proposed in total.

The blocks have generally been designed with brickwork at low level, with metal faced cladding above, up to the underside of the roof eaves. The cladding is stated to be predominately "Hamlet" (Light Grey) with "Sargasso" (blue) trims, flashings, downpipes and banding panel at eaves level. The Sargasso banding is intended to provide the appearance of a shadow detail. The buildings are described as of steel frame construction with insulated wall and roof cladding with a minimum of 6 metres eaves height. It is stated that the units are sold as a shell for future fit-out by purchaser or tenant.

The southern portion of the site lies within areas indicated as Flood Zone 2 whilst the northern element is indicated as within Flood Zone 3 Accordingly a Flood Risk assessment was submitted with the application following discussions with the Environment Agency who it was stated had agreed redevelopment of the existing building footprint within Flood Zone 3 with the remainder of that area being used for open storage. As shall be seen in the report below, although the Environment Agency have never objected to the application, it has been the subject of extensive discussions most particularly with Southern Water which has resulted in a lengthy delay to the determination of the application, having been submitted in March 2022.

The site is located at the northern end of Dominion Way. The premises were recently cleared for parking and open storage uses by GSK (except for one storage building to the north of the site) who have found the site area redundant for their requirements and accordingly have sold the site for development. The surrounding area is predominantly in industrial and commercial uses although the former EDF offices that lie to the south west have been converted to residential use under permitted development rights and are known as the Broadwater Apartments.

Relevant Planning History

None directly relevant to the determination of the application. The site was previously part of the GSK complex.

Consultations

West Sussex County Council

The above proposal has been considered by WSCC as the County Highway Authority (CHA). No objection is raised subject to any conditions attached.

Access

The site is located on the Dominion Way Industrial Estate and forms part of the Glaxo Smith Kline site. Access will continue to be taken from Dominion Way via an existing crossover, and no changes are proposed. This can accommodate large vehicles and is wide enough to accommodate two-way traffic. Swept path drawings ITL16501-GA-007-Rev D show this can accommodate two-way movements from a 7.5t box van, and 13/18 tonne rigid vehicle. The site is in a sustainable location with access to the public footway network and is near East Worthing train station, and local bus services. Cycling is a realistic alternative form of transport to the site, and the National Cycle Network Route 2 runs along the coast to the south.

Demolition and Construction

The demolition and construction process will require trips from large vehicles and a Construction Management Plan should be submitted, see condition attached.

Parking, Cycling and EVC

The site will provide 64 parking spaces, 13 EV charging spaces which equates to 20% of the total number of spaces, and 4 disabled bays as per NPPF guidance. Space for 30 cycles will be provided and these should be in a secure and covered area. Each unit will also have a space for a shower room to encourage cycling to work. We have reviewed the WSCC parking standards, and it is considered the car parking proposal will provide an appropriate level of parking for the use.

Internal Layout The layout of the site provides a good flow and one way direction signage to encourage this. The site layout allows for each unit to have a loading/unloading area large enough for a 7.5t vehicle, which is likely to occur with the size of the units. Car parking spaces for cars should be provided at 2.4m x 4.8m and disabled bays have been given ample room around the side and rear, for access. Bin storage and the collection of waste will need to be provided; it would seem a refuse vehicle could easily access the site for this purpose.

Trip Impact

The former site was mainly used for car parking (120) spaces, as part of the overall GSK site. However, if the applicant were to assess the car park trips in isolation for the purposes of the existing use this would be extremely high, therefore the applicant has used the existing land use and then compared this against the proposed land use. In summary the site will create an additional 7 trips in the morning peak hour, this equates to 1 trip every 8-9 mins, and 1 additional trip in the evening peak hour. This increase is minimal and is not considered to have a significant impact on the highway network. It is also noted an air quality assessment was undertaken and it was considered the air quality impacts were not significant.

Travel Plan

The applicant has provided a travel plan which will help to encourage sustainable travel. This is welcomed by WSCC as it will have many co-benefits. This may require collaboration with the WSCC Senior Local Transport Improvements Officer. Once this has been reviewed comments will be sent separately to the applicant. WSCC are now requesting a Travel Plan Auditing Fee to cover the resource costs of assessing and auditing Travel Plans through the planning process, and as part of the 5-year monitoring period. Therefore, WSCC as the Highway Authority would look to secure a contribution of £3,500 through a S106 contribution, or unilateral undertaking, whichever is more appropriate.

Summary

The proposal to create 22 flexible industrial units at the former GSK car park on Dominion Way, has been considered by WSCC as the CHA. The proposals will create a small increase in trips in the morning and evening peak hours and is not likely to create any significant highway capacity impacts. Nevertheless, the applicant will encourage sustainable travel which is supported within the design of the site and the production of a staff travel plan. This will be secured and delivered as part of the planning permission and s106 agreement.

No Objection.

West Sussex Fire and Rescue

No objection subject to conditions

Environmental Health

A Phase 1 Desk Study (Report Ref. 2073-21 / Final dated 10 March 2022) has been submitted with this application. This Desk Study recommends site investigation works to assess ground conditions on site to identify potential contaminative issues in soil, groundwater and concentrations of ground gases/vapours. A contamination condition is therefore recommended.

Technical Services

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

Flood risk- The application site has areas within flood zone 3 and areas at high risk of surface water flooding. The Environment Agency should be consulted. The FRA states that the buildings have been sequentially located to be mainly located within Flood Zone 1. However, the FRA does not demonstrate how pluvial flood risk has been considered when sequentially locating the buildings. The area at risk from pluvial flooding extends further south than the area at risk from fluvial flooding. As per NPPF all flood sources must be considered. We therefore request further information is submitted prior to determination evidencing what development is

proposed within the 1 in 100 plus 45% pluvial extents. It must be demonstrated that the development will be safe and will not increase off site flood risk.

Surface water drainage- we have the following comments on the submitted drainage strategy.

1. The drainage strategy states that infiltration is not possible. And proposes to discharge surface water at 28l/s to surface water sewer. Please evidence why it is not possible to discharge to watercourses. This is required to demonstrate compliance with LLFA management of surface water policy 1.
2. As per policy requirement please supply evidence to support 28l/s as the lowest achievable discharge rate.
3. Evidence should be provided of the available capacity within the surface water sewer at the proposed location of discharge.
4. FEH 2013 rainfall should be used in calculations.
5. It has not been possible to review the high level drainage strategy further due to the lack of information supplied, specifically within calculation printouts. Inputs should be included within printouts to include but not be limited to the inputted storage features, rainfall, design and simulation parameters.

Given the above points we OBJECT to this application and REQUEST FURTHER INFORMATION IS SUPPLIED.

Insufficient evidence has been submitted to demonstrate that a policy compliant design can be achieved. Further information is required prior to determination as it is not clear that drainage can fit within the proposed layout and be secured via conditions.

To overcome this objection the applicant should:

1. Submit evidence that the proposed development is located outside of the predicted 1 in 100 year plus 45% cc pluvial flood extents. If the proposed development is not located out of these predicted flood extent details of how the development will be kept safe and how it will not increase off site flood risk will be required.
2. Submit evidence supporting the proposed discharge location.
3. Submit evidence supporting the proposed surface water discharge rate.
4. Submit revised calculations which detail calculation inputs fully.

Following correspondence with the applicant, the Technical Services Officer further confirmed:

As per NPPF paragraph 161 a sequential approach should be taken to locate development outside of areas at risk of flooding, considering all flood sources.

If they do not move the proposed buildings (B, D and E) outside of the area at risk of surface water flooding then they will need to demonstrate the exception test is passed. They would also need to demonstrate the buildings are appropriately flood resistant and resilient and safe access and egress can be achieved. Furthermore, they must compensate fully on site for the displaced surface water flooded volume (currently indicated to be 53.84m³) on a volume and level basis. This compensation volume is in addition to the requirement for surface water drainage to deal with the rain directly falling on the site. This would need to be included within a detailed site specific flood risk assessment.

The applicant subsequently contacted the Council and stated that they considered the consultation response above was not quite correct in respect of the necessity to relocate buildings B, D and E as the displaced surface water drainage was far less than suggested. Following further review by a different Council officer (as the original consultee had left the Council) it was further commented that the logic of the applicant was correct and that the surface water displacement was sufficiently low that with appropriate conditions there would be no necessity to relocate the proposed buildings.

Environment Agency

No objection subject to conditions being imposed.

Southern Water - original comment

We have reviewed this planning application and feel that it does not go far enough to consider potential impacts to groundwater. The site is located within the EA SPZ1 and SPZ2 for our East Worthing public water supply groundwater abstraction. Any construction or operational related contamination of the groundwater has the potential to impact our abstraction source within 50 days.

The geo-environmental report states that local groundwater flow can be away from the groundwater abstraction. Southern Water would strongly contest this when the site is located within the EA SPZ1 and zone of influence of our East Worthing abstraction. If the groundwater flow understanding that the conceptual model is based upon is flawed, then this will require revision. Clarity is required between the superficial alluvium aquifer and the principal Chalk bedrock aquifer.

Piled foundations are currently proposed. The risks these features will have to the groundwater environment have not been assessed in the provided documentation. Cross contamination has also not been considered.

Southern Water note that the groundwater quality suite included in the Phase 1 and 2 geoenvironmental report is not comprehensive for the site's historical land-use and thus cannot be relied upon to inform upon actual drinking water risks. The Generic Quantitative Risk Assessment is therefore likely to be missing a number of determinants that could pose risks to drinking water quality. This should be updated given the proximity of the site to our East Worthing abstraction source.

Southern Water note that the current drainage strategy is to discharge surface water to a drain to the east of the site. Southern Water will require review of the drainage design.

At present based on the information provided we believe the development poses a high risk to our East Worthing groundwater abstraction as the impacts from site construction and operation have not been considered in full. We require hydrogeological assessment(s) to ensure that risks to groundwater are identified and appropriately mitigated. Southern Water would also like to review and approve the proposed piling risk assessment. At present Southern Water OBJECT to this

application and seek further reassurances that our groundwater abstraction source will not be impacted by the proposed development.

Southern Water further comments following the receipt of additional information submitted by the applicant:

Further to our response dated 30/05/2022 and additional information provided by the developer, Southern Water would have the following comments to make:

The applicant's consultant has requested the outstanding and unaddressed groundwater /hydrogeological issues be resolved in the design phase as part of a planning condition for this planning application. Ground works are a fundamental aspect to construction projects and this location is hydrogeological sensitive, with the development posing a high risk to our abstraction source (as outlined in our original objection).

However, Southern Water does not object to this planning application on the following conditions.

- A Hydrogeological Risk Assessment is completed, and this information is instilled within all required design reports and CEMP. This should not be a contaminated land report.
- Foundation Assessment and/or Piling Risk Assessment to address cross contamination, contamination, and turbidity issues.
- Piling is not permitted until turbidity water quality issues are fully mitigated. The adopted piling methodology requires approval from Southern Water.
- All other construction will take place at least 5m above the water table. Note this will need to account for seasonal groundwater level fluctuation and winter peaks. The only method to accurately collect this data is continuously. At least one winter season should be monitored, and this is defined as October to March of any given year.
- CEMP to address turbidity impacts to the Chalk and contamination safeguarding. All mitigation and management plans should be included in this document.
- Southern Water require review and acceptance of the above listed and associated documents/assessments/reports to satisfy the risk to the Chalk aquifer has been appropriately mitigated

Following the receipt of these comments, the agent contacted the Council and stated that he felt the comments above had been issued in error and some of the matters had already been resolved and others were still the subject of ongoing discussions. It also appeared that some of the comments related to a different site. The applicant therefore requested that the application be held in abeyance while the matters were resolved.

Following further discussions, Southern Water confirmed to the applicant:

'There appears to be large improvements in the hydrogeological assessment since the original application. We look forward to reviewing the Phase 2 report and HRA in due course.'

The Phase 2 report was subsequently submitted by the applicant to Southern Water who responded:

‘Thank you for sending the HRA to Southern Water to review. It is encouraging to see the adopted Vibro Stone Columns foundations, in order to consider the potential Hydrogeological risks proposed from the construction. We do not object to this planning application on the condition Southern Water review the CEMP, that the observation wells be decommissioned once the turbidity monitoring has ended and a borehole decommissioning method statement be provided in due course for review to us and the Environment Agency.’

Your Officers have requested from Southern Water the precise wording of the conditions to ensure their requirements are met and it is anticipated that this information will be received prior to the meeting.

Representations

No representations received

Relevant Planning Policies and Guidance

Worthing Local Plan

SS1 - Spatial Strategy

DM5 - Quality of the Built Environment

DM9 - Delivering Infrastructure

DM10 - Economic Growth and Skills

DM11 - Protecting and Enhancing Employment Sites

DM16 - Sustainable Design

DM18 - Biodiversity

DM20 - Flood Risk and Sustainable Drainage

DM21 - Water Quality and Sustainable Use

Supplementary Planning Document ‘Sustainable Economy’ (WBC 2012)

Relevant Legislation

The Committee should consider the planning application in accordance with:

Section 70 of the Town and Country Planning Act 1990 (as amended) provides that 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 application site is located within the heart of the East Worthing Industrial Estate, a key industrial estate that is protected under policy DM11 of the Local Plan. It has long been acknowledged that there is a lack of employment space in the town and relatively few opportunities to provide additional employment space to meet future needs. As such, therefore, the potential to provide 22 industrial units within an existing industrial estate, the area having become surplus to the requirements of GSK who have cleared and subsequently sold the site, in principle offers an excellent opportunity to provide much needed additional floorspace.

The application site is located at the northern end of Dominion Way in a location largely surrounded by existing industrial uses. While the countryside is a short distance to the east, the existence of intervening buildings mean that the proposal would have little wider visual impact. The recently converted Broadwater apartments are close to the south west of the site, but at an oblique angle and in light of other commercial developments in the area, including to the rear of the apartments which would in part be between the proposed buildings and the existing residential apartments, it is not considered that there would be a loss of residential amenity arising as a result of the proposal.

The main issue therefore relates to the risk of flooding on the application site. The application was submitted in March 2022 and ordinarily, given the principled support outlined above, could have been expected ordinarily to have been dealt within the statutory timescale of 13 weeks for a major application. As a result of the necessity, however, to consider the matters of flooding in some detail, the application will have taken over a year to reach the Committee since it was submitted in March 2022.

Part of the application site lies within Flood Zone 3, the area most at risk of flooding. The Design and Access Statement submitted with the application states that agreement had been reached with the Environment Agency to only construct buildings within this zone where buildings had previously stood, with the remainder being open storage.

Accordingly, a sequential test is necessary, the aim of which, as stated in the National Planning Policy Framework, is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding. The Flood Risk Assessment submitted with the application states that the sequential test is to be applied if considered necessary by the Local Planning Authority.

The NPPF states that when planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again. The application site is allocated in the Local Plan as a protected employment site and accordingly it is not considered that the sequential test need be applied again.

The NPPF further goes on to state that if it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The application of the exception test should be informed by a strategic or site specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage.

The submitted Flood Risk Assessment (FRA) states that as the proposed development consists of commercial / industrial buildings, it would be classed as “less vulnerable” in line with government development use classes. It further states that the proposed building to be located in Flood Zone 3b would be in the same footprint of the previous building located within the floodplain and that a meeting with the Environment Agency was held the approach agreed in principle. The FRA further states that *areas which would naturally flood, but which are prevented from doing so by existing defences and infrastructure or solid buildings, will not normally be identified as functional floodplain*. This is borne out by the subsequent consultation response from the Environment Agency.

The NPPF further states that to pass the exception test it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. It is considered that the provision of additional employment space within a protected estate meets the requirements of part a and therefore the main issue whether the proposal complies with part b. As outlined in the comments above, some months have been spent by the applicant compiling a Hydrogeological Risk Assessment which has resulted in the objection of Southern Water now being withdrawn. Along with the detailed conditions suggested by the Environment Agency already, it is therefore considered sufficient safeguards can be imposed by condition to meet the requirements of the NPPF.

In respect of sustainability, the applicant states that the project achieves an overall improvement in regulated emissions of around 17% over Part L 2013 standard, through the introduction of high elemental performance in the new build elements, a low-energy natural ventilation strategy, high efficiency gas fired heating systems and a roof mounted PV arrays. It is further stated that the project will achieve a certified BREEAM “Very Good” status.

This application has been delayed for a considerable amount of time trying to address the concerns raised by Southern Water. In the meantime the emerging Local Plan has been adopted and requires a 10% biodiversity net gain (BNG) to meet the emerging requirements of the Environment Act. Although the application was submitted a considerable time before the Local Plan was adopted, a Biodiversity Net Gain Assessment was submitted which concluded that ecological enhancements would be required to improve the predicted eventual biodiversity value of the site which include vertical greening in the form of trellises with climbing plants and biodiverse living roofs on all available flat roof surfaces. Should these measures be adopted, then it is anticipated that the policy requirements can be met. A condition is therefore suggested to secure these improvements.

In conclusion, it is considered that the applicant has patiently worked to overcome the concerns expressed at the consultation stage and subject to the imposition of suitable conditions, a recommendation for approval can now be given.

Recommendation

To approve permission, to be delegated to the Head of Planning and Development to issue the decision, subject to the completion of a unilateral undertaking securing the sum of £3,5000 securing the sum towards sustainable travel and subject to the following conditions (and any further conditions suggested by Southern Water)

1. Approved Plans
2. Full Permission
3. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:
 1. A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and
 - potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
 3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority.

The scheme shall be implemented as approved.

Reason: This site is on Alluvium which overlies the Tarrant Chalk, these are designated secondary and principal aquifers respectively. It is also within a Source Protection Zone 1 for Southern Waters public water supply ay

Northbrook. Therefore, groundwater is very sensitive to contamination and needs to be protected.

4. Prior to any part of the permitted development being occupied, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 174 of the National Planning Policy Framework.

5. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority.

The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.

6. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters.

The development shall be carried out in accordance with the approved details.

Reason: The previous use of the proposed development presents a medium risk of contamination that could be mobilised by surface water infiltration from the proposed sustainable drainage system (SuDS). This could pollute controlled waters. As stated previously, the site is located in the groundwater Source Protection Zone 1 (SPZ1) for Southern Waters public water supply at Northbrook. Therefore, controlled waters are particularly sensitive in this location.

7. The development shall be carried out in accordance with the submitted Flood Risk Assessment ('FRA') (Ref: AEG0182_Worthing, dated 17/03/2022, by Aegaea) and the following mitigation measures it details:

- The built footprint within the floodplain shall not exceed the existing use as shown in drawing A-SK12P2 (Appendix A of the FRA) and stated in section 12.2 on page 45 of the FRA.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development, future occupants and adjacent sites.

8. Piling and using penetrative methods shall not be carried out other than with the written consent of the Local Planning Authority.

The development shall be carried out in accordance with the approved details.

Reason: Piling and using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways.

9. 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.

10. No part of the development shall be first occupied until Electric Vehicle Charging spaces have been provided in accordance with plans and details submitted to and approved by the Local Planning Authority.

Reason: To provide EVC charging points to support the use of electric vehicles in accordance with national sustainable transport policies.

11. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period.

The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,

- the storage of plant and materials used in construction of the development, - the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

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

12. Prior to the commencement of the development details showing the proposed location of the required fire hydrants shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service. These approvals shall not be unreasonably withheld or delayed.
13. Prior to the first occupation of any unit forming part of the proposed development that they will at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.
14. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), the use of the development hereby permitted shall be limited to Class E(g), B2 and B8 of the Town and Country Planning (Use Classes) Order 2020 (or in any provision equivalent to that class in any Statutory Instrument revoking and re-enacting that Order with or without modification).

Reason: To ensure that appropriate uses are continued within the protected Industrial Estate.

15. No external lighting or floodlighting shall be installed on any building or elsewhere on the development, including the access drive, except in accordance with details to be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity and to comply with policy DM5 of the Worthing Local Plan.

16. No development or site works shall commence unless and until details of the finished floor levels of the buildings in relation to the existing ground levels, and details of any proposed earthworks including the excavation, levelling or mounding of land either across the site or adjacent to the site boundaries have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and constructed in accordance with the details approved under this condition.

Reason: In the interests of amenity and the environment having regard to policy DM5 of the Worthing Local Plan.

17. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), the buildings hereby permitted shall not be extended or externally altered nor any ancillary building or structure erected or installed within their curtilage.

Reason: In the interests of amenity and the environment having regard to policy DM5 of the Worthing Local Plan.

18. All works of demolition and construction on the site, including the use of plant and machinery and any deliveries or collections necessary for implementation of this consent shall be limited to between 08:00 and 18:00hrs on Monday to Friday, and between 09:00 and 13:00hrs on Saturdays. No works 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 policy DM5 of the Worthing Local Plan.

19. The development hereby permitted shall be implemented fully in accordance with the Biodiversity Impact Assessment dated March 2022 unless otherwise agreed in writing with the Local Planning Authority.

Reason: In the interests of enhancing biodiversity on the site having regard to policy DM 18 of the adopted Local Plan.

19 April 2023

Local Government Act 1972

Background Papers:

As referred to in individual application reports

Contact Officers:

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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.



Appeal Decision

Site visit made on 14 February 2023

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2023

Appeal Ref: APP/M3835/X/21/3279523

Castle Residence, 6 Windsor Road, Selden, Worthing BN11 2LX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Mr M Strom against Worthing Borough Council.
 - The application Ref AWDM/1270/20 is dated 11 August 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is described as: Existing use for the provision of housing for those in need of emergency accommodation (temporary).
-

Summary of Decision

1. The appeal is dismissed.

Preliminary Matter

2. The parties opted for the appeal to be determined by means of written representations and did not identify injustice that would otherwise arise. I am content to determine the appeal on the written evidence that is already before me, and do not consider that injustice would arise.

Main Issue

3. The main issue is whether the appellant has demonstrated their case for lawfulness on the balance of probabilities.

Reasons

4. In matters such as this, the onus is on the appellant to demonstrate their case on the balance of probabilities that the property has been occupied for the provision of housing for those in need of temporary emergency accommodation. Accordingly, the appellant must demonstrate a continuous 10-year period, prior to the date of the appeal application on 11 August 2020 (a relevant period), of use.
5. The site comprises a two-storey semi-detached property. The evidence before me is that the previous lawful use was as a guest house with private owners' accommodation/flat. The appellant purchased the site in November 2019 and there are currently 14 letting rooms as well as 2 kitchens for communal use.

6. The appellant contends the use for housing for those in need of temporary emergency accommodation has taken place continuously since at least 2001. It is contended the use is a sui generis use, being a Latin term meaning in a class of its own. This has however led to some ambiguity as to the precise nature of the use. The appellant does not consider the use to be that of a large House in Multiple Occupation (large HMO) as the character of the unit is different.
7. I am however not convinced that the use as temporary emergency accommodation, which sees occupant's staying anything from 1 night to over 2 years, is different in character from a student or young professional occupying a room and sharing communal facilities. The appellant's assertions concerning the character of the use are vague, which as a matter of fact and degree do not demonstrate the use materially differs from that of a large HMO. I however recognise that a large HMO is also a sui generis use, but there remains a lack of precision regarding the use.
8. The appellant has then provided evidence to support his case in the form of correspondence from the Council's housing accommodation officer and landlord support coordinator, neighbouring occupiers, lists of guests and related councils and tenancy dates, amongst other things. None of this is however in the form of a sworn statement.
9. There is then contradictory evidence before me, not least from the previous owner of the site, who contends that it was bought, operated and then sold on the understanding it was a guest house. Until 2010, it is said there were a mix of what are described as typical guests together with guests referred by local authority housing departments. Since 2010, guests were only taken from local authorities, but the site was always run as a guest house, and it is contended that at no time was it an HMO.
10. Following the purchase of the site the appellant undertook works to convert the flat which were completed in around March 2020. Even if I were to unwaveringly accept all the evidence in support of the appellant's case, including that the flat was in ancillary use to the guest house, its conversion resulted in an increase of 3 rooms making a total of 14 letting rooms. There is also the provision of 2 communal kitchens as well as toilet/bathing facilities. It is therefore necessary to consider whether the conversion resulted in an intensification of the use of the site.
11. The appellant contends that there is an HMO licence for 14 people. It is said that the former arrangement had the capacity to accommodate a similar number of occupants, as rooms on occasion had up to 3 people. However, there is very limited evidence to support this, and it is conceded that bookings would still be made under one name, which may influence statistics. There is accordingly very limited evidence to persuade me that the conversion has not resulted in a material increase in the number of occupants at the site.
12. This in turn could lead to both on-site and off-site effects that result in a use of materially different character, also noting the comments from interested parties about anti-social behaviour. As a matter of fact and degree, the appellant has not demonstrated there to not be a materially different character arising from the conversion, or indeed simply the use undertaken since the appellant purchased the site. Moreover, there has only been an HMO licence issued since the appellant purchased the site, which I consider to be telling despite the differing licensing and planning regimes.

13. In considering all the evidence in the round there is contradictory evidence concerning the historical use of the site as well as that pertaining to a relevant period. The appellant's case is vague in parts and there is no sworn evidence before me to which I can attach considerable weight. The previous lawful use of the site was that of a guest house. There may or may not have then been a material change of use in/around 2010, and, again since the appellants purchase of the site and/or the early 2020 conversion works and issue of an HMO licence. This all culminates to cast significant doubt in mind about the use for which certification for a relevant period is sought.
14. It remains the case that the appellant's own evidence needs to be sufficiently precise and unambiguous to justify the grant of a certificate. As a matter of fact and degree, based upon the evidence before me, the appellant has not discharged the necessary burden of proof to demonstrate a case on the balance of probabilities.

Conclusion

15. For the reasons given above I conclude that the appellant has not demonstrated their case for lawfulness on the balance of probabilities and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Formal Decision

16. The appeal is dismissed.

Paul T Hocking

INSPECTOR

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