



# WORTHING BOROUGH COUNCIL

4 July 2023

<b>Worthing Planning Committee</b>	
<b>Date:</b>	<b>12 July 2023</b>
<b>Time:</b>	<b>6.30 pm</b>
<b>Venue:</b>	<b>Gordon Room, Worthing Town Hall</b>

**Committee Membership:** Councillors Andy Whight (Chair), Ödül Bozkurt (Vice-Chair), Helen Abrahams, Noel Atkins, Russ Cochran, Dan Coxhill, Sophie Cox and Samuel Theodoridi

**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](mailto:democratic.services@adur-worthing.gov.uk) before **midday** on **Tuesday** 11 July 2023.

## **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 7 July 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](mailto: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 7 July 2023** to Democratic Services, [democratic.services@adur-worthing.gov.uk](mailto: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 **Wednesday 7 June 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 - 98)**

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

### **8. Planning Appeals (Pages 99 - 110)**

To note Planning Appeals decisions AWDM/0966/22, AWDM/1790/21 and CA-2022-001665, copies 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:
Katy McMullan Democratic Services Officer 01903 221006 <a href="mailto:katy.mcmullan@adur-worthing.gov.uk">katy.mcmullan@adur-worthing.gov.uk</a>	Caroline Perry Senior Lawyer & Deputy Monitoring Officer 01903 221081 <a href="mailto:Caroline.perry@adur-worthing.gov.uk">Caroline.perry@adur-worthing.gov.uk</a>

**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  
12 July 2023

Agenda Item 7

Ward: ALL

Key Decision: Yes / No

## Report by the Director for Economy

### Planning Applications

**1**

**Application Number:** AWDM/2026/22      **Recommendation – APPROVE** subject to the completion of a legal agreement securing contributions towards air quality mitigation and sustainable travel.

**Site:** Unit 2 To 3, Downlands Retail Park, Lyons Way, Worthing, West Sussex

**Proposal:** External alterations, amalgamation and refurbishment of existing Units 2 & 3, including associated works to the car park including new trolley bay and servicing areas and widening of use to enable the sale of food and drinks, and associated non-food goods from the Unit.

**2**

**Application Number:** AWDM/0711/22      **Recommendation – APPROVE** subject to the completion of a Planning Obligation including contributions towards off site affordable housing and open space provision.

**Site:** Columbia House, 4 Romany Road, Worthing

**Proposal:** Erection of a new block to provide 78 residential dwellings with associated secure cycle storage provision, vehicle parking, bin storage and landscaping.

**3**

**Application Number:** AWDM/0821/22      **Recommendation – APPROVE**

**Site:** Land South Of Lyne House, 20 Links Road, Worthing

**Proposal:** Outline planning application for 2 no. new detached dwelling houses (access only with all other matters reserved).

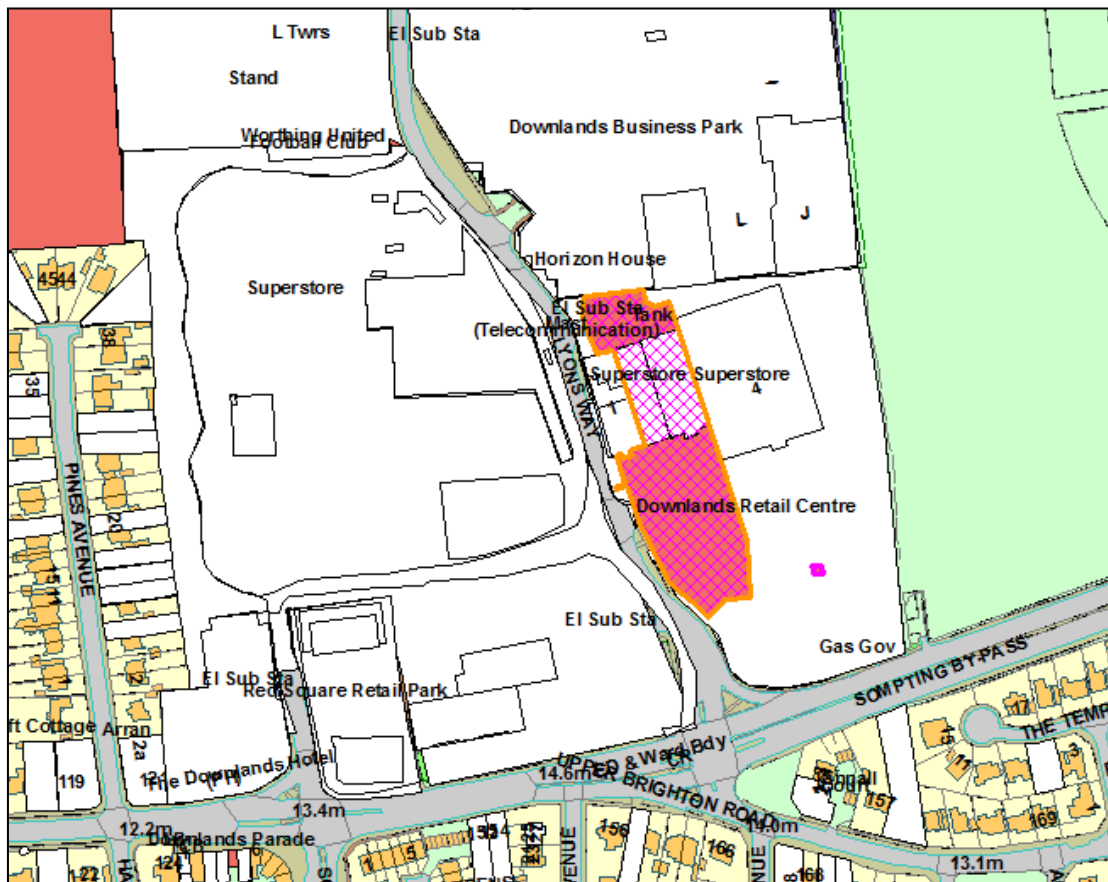
**4**

**Application Number: AWDM/1680/22      Recommendation – 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.]**

<b>Application Number:</b>	<b>AWDM/2026/22</b>	<b>Recommendation - APPROVE</b> subject to the completion of a legal agreement securing contributions towards air quality mitigation and sustainable travel.
<b>Site:</b>	<b>Unit 2 To 3, Downlands Retail Park, Lyons Way, Worthing, West Sussex</b>	
<b>Proposal:</b>	<b>External alterations, amalgamation and refurbishment of existing Units 2 &amp; 3, including associated works to the car park including new trolley bay and servicing areas and widening of use to enable the sale of food and drinks, and associated non-food goods from the Unit.</b>	
<b>Applicant:</b>	Worthing Retail Limited	Ward: Offington
<b>Agent:</b>	Montagu Evans	
<b>Case Officer:</b>	Neil Holdsworth	



**Not to Scale**

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## **Proposal, Site and Surroundings**

The site comprises units 2 and 3 of the Downlands Retail Park, together with part of the associated public car park to the front of the site and the associated delivery and servicing yard to the rear. One of the units is currently occupied by Bensons for Beds and the other is vacant, being formerly occupied by Halfords. The other units in the four unit retail park are Currys and B and Q, comprising a total of around 6250 sqm of floorspace with 397 car parking spaces to the front of the site. The Downlands retail park forms part of a wider complex to the west of Lyons Way, including a Sainsbury's supermarket and a variety of other retailers within the Lyons Farm Retail Park.

To the north of the Site is Downlands Business Park, made up of several office and light industrial buildings, with associated staff parking. The South Downs National Park immediately adjoins the eastern boundary. The site is accessed from the A27 which forms the southern boundary of the wider site. This is a major trunk road and part of the strategic road network. The retail uses including Downlands Retail Park are served by Lyons Way which leads off the A27 from a junction adjacent to the site.

In terms of their visual appearance, the units were built around 15 years ago. They have a distinctive timber clad fascia and an irregular valley roof.

The proposed works involve the amalgamation of units 2 and 3 and associated internal and external works including the creation of a new single shopfront with canopy, reconfigured timber fascia and alterations to the service yard at the rear. Internally a mezzanine level is being removed creating a smaller net internal sales area, a net overall reduction in retail floorspace of 933 sqm. This is to facilitate the operations of the proposed occupier, Lidl - a well known discount supermarket. In terms of the land use, the new planning permission would have the effect of altering the existing conditions imposed in the original planning permission that limit the existing retail use associated with units 2 and 3 specifically to the sale of bulky goods.

Alterations are also proposed to the public car parking area to the front of the site. This is to provide wider parking spaces including 8 disabled spots and 10 parent and child parking spaces. The resultant total parking provision within the retail park will be 361 spaces. Pedestrian access will be primarily from the south of the unit, with vehicular access via the existing car park access from Lyons Way.

The proposal was supported by the following information, which forms the basis of the decision:

1. Application Covering Letter
2. Planning Application Form (including notices);
3. Community Infrastructure Levy forms,
4. Site Location Plan;
5. Architectural Drawings;
6. Planning and Retail Statement;
7. Design and Access Statement;
8. Air Quality Assessment (AQA)
9. Transport Assessment;

10. Travel Plan;
11. Energy Usage Statement;
12. Sustainability Statement and Energy Summary;
13. External Lighting Impact Assessment;
14. Statement of Community Involvement; and

Additional information was provided in the course of the application, as follows:

1. Response to WSCC Highways
2. Response to National Highways
3. Town Centre Health Check

### **Relevant Planning History**

WB/903/85 - The original planning permission for the Downlands and Lyon Farm retail parks. Condition 'v' of the consent restricts the use of the premises to the retail sale of DIY, home improvement and builders' merchant goods, garden products and accessories.

06/0974/FULL: Refurbishment and extension of retail park

Condition 15 of this permission states the following:

"The development, the subject of this application, shall be used only for the sale of DIY, home improvement, builders and plumbers merchant goods, garden products and associated timber products, motoring parts and accessories, furniture and furnishing (including self-assembly flat pack furniture) carpets and floor coverings, and bulky electrical/gas appliances, pets pet products and supplies and for no other purpose including any other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes Order) 1987 or any provision revoking or re-enacting that order unless the Local Planning Authority gives written consent to any variation."

#### *Surrounding sites*

AWDM/0333/22 - Construction of drive-thru coffee shop unit. Planning permission granted for the construction of a new drive-through coffee unit in the south west corner of the car park associated with the wider site.

### **Consultations**

#### ***National Highways:***

***Response 29th June 2023 - No objection subject to conditions.***

*The traffic impact associated with the proposed change of use has been considered in detail, in particular with LinSig analysis being undertaken at the A27 junctions with both Lyons Way and Sompting Road. The addition of the development traffic does not significantly worsen traffic operation in the locality. National Highways' formal*

*recommendation is that we recommend that conditions should be attached to any planning permission that may be granted:*

*Condition: No part of the development hereby permitted shall be occupied until a lighting framework has been submitted to and approved in writing by the local planning authority (who shall consult with National Highways). The lighting framework shall include details of the impact of lighting on driver safety on the A27 trunk road. The development shall thereafter be undertaken in accordance with the approved details unless otherwise approved in writing by the local planning authority.*

*Reason: To ensure that any proposed lighting will not have an adverse impact on driver safety on the A27 Trunk Road and that the A27 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.*

*Condition: No works shall commence on the site hereby permitted (including site clearance or preparation) until the details of a Construction Environmental Management Plan (CEMP) have been submitted to and approved in writing by the local planning authority (who shall consult with National Highways). Thereafter the construction of the development shall proceed in strict accordance with the approved CEMP unless otherwise agreed in writing by the local planning authority (who shall consult National Highways).*

*Reason: To ensure that the A27 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.*

*Informative: The CEMP shall include details (text, maps, and drawings as appropriate) of the scale, timing and mitigation of all construction related aspects of the development. It will include but is not limited to: site hours of operation; numbers, frequency, routing and type of vehicles visiting the site (including measures to limit delivery journeys on the SRN during highway peak hours such as the use vehicle booking systems etc); measures to ensure that HGV loads are adequately secured, travel plan and guided access/egress and parking arrangements for site workers, visitors and deliveries; plus sheeting of loose loads and wheel washing and other facilities to prevent dust, dirt, detritus etc from entering the public highway (and means to remove if it occurs).*

First response (February 2023)

*A holding direction imposed preventing planning permission being granted until 17th July 2023. This is due to concern the proposals will have the potential to impact on the safe and efficient operation of the Strategic Road Network, in this case, particularly within the vicinity of the A27 near Worthing.*

*Further information required:*

- In line with DfT Circular 01/2022, there is a need for assessment to be undertaken at: Opening year, and the end of the Local Plan period. The 2028*

assessment does not fully align with DfT Circular 01/2022, as there is a need to undertake assessment at the end of the Local Plan which is 2036.

- Committed development appears to have been considered 'in addition' to the proposed development traffic. The committed development should be included within the 'base' traffic at opening year and end of Local Plan. The impact of the proposed development should then be considered in addition to the base traffic.
- There is a need for further information to be provided with regard to committed development as follows:
  - Costa Coffee – this application is understood to be approved and should be reflected at 2023 base and 2036 base
  - Land to the North of Worthing United Football Club – this should be considered at the 'end of Local Plan' assessment year (2036 base)
  - Sainsbury's Application Online Deliveries – please clarify if this is considered in any way within the assessment
  - Please clarify with the local planning authority the committed developments which are required to be considered at each assessment year and provide this information to us for review.
- The Transport Assessment does not provide details of TEMPro growth factors which were applied between 2021 and 2023 or provide details as to why no TEMPro growth is applied between 2023 and 2028. There is a need for TEMPro growth factor details to be provided within the TA, both to the opening year and for the assessment at the end of the Local Plan. There should be clarification as to why no growth is currently applied between 2023 and 2028.
- **Junction Assessment** The assessment of the two A27 signal junctions has been undertaken using the LinSig model which was developed by TTP for a previous planning application within the same site, AWDM/0333/22 related to a Costa drive-thru. The model was previously reviewed and confirmed by us to be appropriate for use. The LinSig model has been reviewed and it is noted to align with the previously reviewed Costa LinSig model. **There is, however, a need for the opening year and end of Local Plan traffic flows to be updated in line with current policy requirements. The junction modeling therefore requires revision.**
- There is a need to ensure that no lighting from the development adversely impacts on the safe operation of the A27 Trunk Road. This can be dealt with by a planning condition.
- A condition is also recommended for a Construction Management Plan.

## **West Sussex County Council: (Highways)**

Second consultation response (June 2023)

WSSCC is satisfied with the approach. Comments raised:

- Off-site footway improvement works are not necessary with the footways wide enough subject to maintenance
- The Applicant is willing to make a contribution of £3,500 towards the Travel Plan Monitoring through the S106
- The Applicant is willing to accept a condition in relation to the cycle parking shelters

- *Lidl has confirmed that they are willing to accept a condition to implement a Servicing Management Plan subject to minor amendments to the suggested wording*

#### First consultation response (February 2022)

- *No objection in principle subject to additional information on footpath improvements to Lyons Way.*
- *Any issues relating to capacity of the A27 must be referred to National Highways.*
- *Regarding the impact on Lyons Way, in all scenarios by 2028 the Lyons Way arm of the junction would still operate at or close to capacity but there would not be any significant increase in queues and / or Degrees of Saturation with the implementation of the proposed development. Even within the cumulative scenario in 2028 (i.e., Costa, new and committed housing to the north of Lyons Way and the proposed Lidl's) the Lyons Way arm does not exceed 89% in the Saturday peak hour.*
- *Parking surveys produced in the Transport Statement have demonstrated there would not be an adverse impact on the operation of the car park and ability for it to accommodate the parking demand created by the two developments.*
- *Footway improvements desired through Section 278 agreement, including to the western side of Lyons Way.*
- *A Cycle parking shelter should be provided.*
- *Deliveries and Refuse Collection - deliveries to and from the store will be conducted in the rear servicing area and be shared with the existing stores on site. There will be 2-3 deliveries a day and swept path diagrams show there to be enough space for delivery vehicles to park and turn, to exit in forward gear. The bay would require managing across the stores to ensure timings are complementary to each other to avoid waiting in the highway. This could be managed through a suitably worded service management plan condition.*
- *Servicing management condition recommended specifically in relation to staff parking.*
- *Detailed comments provided on the travel plan.*
- *Suggested conditions: Cycle parking; Servicing Management Plan;*
- *Suggested informative regarding highway works.*

#### **West Sussex Fire and Rescue:**

No response received.

#### **Southern Water:**

*The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water, before the layout of the proposed development is finalised.*

#### **Sussex Police:**



- *The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17 of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder.*
- *The level of crime and anti-social behavior in Worthing district is above average when compared with the rest of Sussex, so additional measures to mitigate against any identified local crime trends and site-specific requirements should be considered.*
- *Measures recommended to enhance the security of the commercial premises.*
- *Lighting throughout the development should conform to the recommendations within BS5489-1:2020.*

### **South Downs National Park**

- Response confirming no comment

### **Adur & Worthing Councils:**

#### **Director of Place:**

*“Thank you for consulting the Council as landowner of the Teville Gate site mentioned in the Sequential Assessment provided by the applicants. I can confirm that Lidl continues to express interest in the Teville Gate site and has argued for some years that its existing edge of centre store on North Street does not meet its current retail format being too small with limited parking and that it wished to relocate to the Teville Gate site. I am therefore satisfied that in this instance the grant of planning permission for a second store at Lyons Way would not divert investment away from a sequentially preferable site.”*

#### **Environmental Health officer**

- *No objection in principle.*
- *Recommended conditions: Air Quality mitigation measures, Construction Environment Management Plan.*

### **Representations**

Site notices were installed in 3 locations around the site of the proposed development. In addition a press notice was published. 88 Neighbouring properties were consulted by letter.

There are 62 letters of support for the proposal. The supporters of the development make the following comments (in summary):

- *support for competition and choice between supermarkets and for the proposed operators discount model, particularly given the current economic circumstances.*

- *Suggestion that store would have better facilities than the existing Lidl store in the town centre, particularly in relation to parking.*
- *support for additional jobs / employment opportunities as a result of the development.*
- *support for the evolution and regeneration of the retail park of which the site forms part.*
- *proposal would reduce the need for trips in to Worthing Town Centre, by either car or bus.*
- *Proposal would reduce the need for residents of Lancing/East Worthing to drive to Shoreham to use the Lidl there.*
- *Support for additional disabled parking, and improved accessibility.*
- *Support for reuse of a vacant building, and would provide great utilisation of an under used parking area.*
- *proposed location is considered more convenient than the town centre.*
- *proposal will serve new housing development which is putting pressure on existing stores.*

There were five neutral or objection letters, including two from other retailers. These raised the following concerns:

Firstplan on behalf of Waitrose: (in summary)

- *Insufficient demonstration of flexibility in format and scale in the application of the sequential test*
- *The use of operator 'benchmark' turnovers in the applicants' retail impact assessment*
- *Patterns of trade draw in the applicants' retail impact assessment underestimate trade draw from stores in Worthing town centre*
- *Alternative sales density should be applied to retail impact assessment to reflect current trading performance of Lidl stores*
- *Potential need for a cumulative retail impact assessment*
- *No health check of Worthing town centre / district centres undertaken to support retail impact assessment*
- *No assessment against NPPF impact assessment criteria*
- *Assumptions / conclusions in terms of Lidl business model are out of date and should not be afforded weight.*

B and Q

- *Concerns that a food and drink retailer, as proposed, will generate significantly more trips and have a greater potential for traffic and congestion than a non-food retailer.*
- *Sequential and retail impact tests must be satisfied.*
- *Concern about potential cumulative impact with Lidl and proposed Costa Coffee outlet within this part of the retail park.*
- *Detailed comments in relation to transport assessment, as follows:*
- *The assessment utilises store location types which do not reflect the out of centre location of the application site.*
- *Concerns that the transport Assessment undermines the capacity assessment analysis presented by the Applicant including the demand for parking.*

- *Trip generation for the approved Costa Coffee drive-through appears to have been significantly underestimated and does not seem to correspond with the trips detailed in the transport assessment which supported those proposals.*
- *We are very concerned that the cumulative effect of the proposed Lidl and approved Costa Coffee drive-through could severely impact the operation of the roundabout access to the retail park and result in unacceptable additional delays for our customers.*
- *There is also potential for additional queuing traffic waiting to access the retail park to impact on the operation of the A27 signalised junction. In summary, the submitted Transport Assessment cannot be relied upon to assess the impact of the proposals on the local highway network.*
- *Detailed comments in relation to the retail impact, as follows:*
  - *In relation to the requirement to ‘demonstrate flexibility’ in applying the sequential test, the Applicant has only considered sites and premises that are capable of providing in the range of +/- 10% GIA of the proposed foodstore. A greater degree of flexibility is required in the consideration of sequential sites.*
  - *The Applicant has therefore not demonstrated there are any suitable and available sites and premises (having regard to the need to demonstrate suitable flexibility) to accommodate the proposed foodstore in more sequentially preferable locations.*
  - *Concerns that the retail impact evidence relies on a household survey from 2017 which predates recent events such as Brexit, Covid and the Cost of Living crisis.*
  - *The applicant has not provided a town centre health check.*

Other issues raised by interested parties, in objections.

- *concern about traffic congestion.*
- *proposal should incorporate works to the junction with the A27 to improve access, or create a new access on to the A27.*
- *concern whether transport infrastructure is sufficient to support the development.*
- *concern that proposal includes measures to improve the walking and cycling environment around the existing retail park.*
- *concern about whether the existing supermarket (Lidl) in town centre would remain.*
- *concern about capacity associated with parking, including the potential for future parking charges*
- *concern about additional traffic, particularly from consented development in close vicinity changing the nature and attraction of the site and the parking area.*
- *concern about impact of additional traffic on air quality.*
- *Concern about the existing landscaping and wildlife character of this area, suggestion that the proposal should make greater provision for landscaping and wildlife protection*
- *concerns about traffic light sequencing on the junction associated with the A27.*
- *Concern that parking spaces are of a satisfactory size and that parking remains free for the lifetime of the development.*

## **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

SS3 - Town Centre

DM5 - Quality of the built environment

DM6 - Public realm

DM7 - Open space, recreation & leisure

DM8 - Planning for sustainable communities / community facilities

DM10 - Economic Growth and Skills

DM13 - Retail and town centre uses

DM15 - Sustainable transport and active travel

DM16 - Sustainable design

DM17 - Energy

DM18 - Biodiversity

DM24 - The Historic Environment

Supplementary Planning Document 'Sustainable Economy' (WBC 2012)

'Infrastructure Delivery Plan' (WBC 2010)

## **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.

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**

### **Principle (including retail impact)**

The site falls within an 'out of town' retail park, it does not fall within any designated town centre. Whilst a retail use already exists on the site, there are conditions prohibiting the sale of food and drink from the units. This planning application seeks to create a new planning permission that would amalgamate two of the units and enable Lidl to operate from it, incorporating the sale of food and drink.

Policy SS3 of the Local Plan seeks to direct that retail, leisure, office and other town centre uses should usually be directed to Town Centres. DM13 (Retail and Town Centre Uses) states that the Council will identify, protect and enhance the vitality and viability of Worthing Town Centre Primary Shopping Area, the District Centres of Goring, Broadwater and West Durrington, Medium Scale Local Centres, and Small Scale Local Centres. It also confirms that where development of main town centre uses is proposed on the edge of or outside of centres, the sequential approach and impact test as set out in the NPPF will be applied.

In terms of the NPPF, paragraph 87 states that Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Paragraph 90 of the NPPF goes on to direct that, when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment where development of this scale is proposed. This should include assessment of:

*a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*

*b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).*

The application was supported by a planning and retail statement. This concluded that there are no sequentially preferable sites that could accommodate the proposed development, either available now or in a reasonable period of time. This was independently reviewed on behalf of the Council, by Urban Shape, an independent retail planning consultant, who initially expressed concern that the proposal would impact on planned investment by the Council as landowner in the Teville Gate site in Worthing Town Centre, which is considered as a sequentially preferable site.

Lidl has previously expressed an interest in the Teville Gate site as the location for a new store, but have advised Officers that this would be as a replacement for its existing store on North Street in Worthing town centre. It has advised that it is in discussions with Officers that any future operation at Teville Gate would operate alongside the proposed store at Downlands Retail Park as it serves a different catchment to the north of the Borough.

Following discussions with Lidl, the Council as landowner is satisfied that the proposal would not compromise its planned investment at Teville Gate. This is reflected in the consultation response from the Director of Place, which is discussed by Urban Shape in its supplementary letter of 28th June. It is therefore concluded that the proposal would not have an adverse impact on planned public and private investment in a Town Centre, so the test set out in paragraph 90 a) of the NPPF is passed.

In terms of the retail impact, the planning and retail statement submitted by the applicant seeks to model the impact of the proposed development by identifying how trade may be diverted away from other shops. This was supplemented by a Town Centre Health Check in relation to Worthing Town Centre which concludes that the town centre is performing well. The independent review commissioned by the Council concludes that the existing floorspace could withstand the levels of impact arising as a consequence of the proposed development, so part b) of the test set out in paragraph 90 of the NPPF is passed.

Two other retail operators raised questions about the methodology used by the applicant in the retail statement. These representations were reviewed by the Council's independent retail consultant, who comment as follows:

B&Q

- *In respect of retail policy, they raise concerns in respect of the sequential site assessment and flexibility, which we have addressed in our report.*
- *They note that a new household telephone survey should have been undertaken given the passage of time. We concur that the telephone survey was undertaken some time ago, and a lot has happened since, but given local circumstances we don't believe a new survey would change our conclusions.*
- *Household telephone surveys represent a point in time, and the economy is always subject to fluctuations. In this case, there has been no substantial change to the*

*distribution and representation of foodstores and the survey results continue to provide a sound understanding of choices and popularity.*

- *A number of foodstores are substantially overtrading, and whilst changing trends may have reduced their turnovers, it is unlikely to have tipped them into under-performing stores. Turnovers may be more subdued, but only marginally.*
- *Impact of national trends would more likely have impacted the larger food superstores including Sainsbury's and Tesco Extra, and benefitted the smaller local stores in the town and district centres (including edge of centre Lidl).*
- *Rather than economic trends having a detrimental impact on convenience goods turnover, foodstores have benefitted from strong sales during Covid. It is also the case that they have benefitted from a continued – albeit small – growth in consumer expenditure.*
- *Our final point is that, aside from Covid, the impact on foodstores from the internet is more limited than for non-food shopping. This is not to dismiss the impact of the internet, but some expenditure growth is still taking place in actual shops.*
- *The applicant submitted a supplementary health check report, and we consider this as part of our report.*
- *Their representation suggests they should consider impact on investment – we have addressed this in our report.*

#### Waitrose

- *Their representation firstly covers flexibility, and technical data points forming part of the applicants impact assessment (Matters 1-4). We have addressed these points in our report forming our own judgements and balanced position. In terms of trade diversion from the Waitrose store, we have added in additional comment in paragraph 7.18. in terms of Lidl sales density/turnover, we have added further comment in paragraph 7.12.*
- *We do not believe there is a need for a cumulative impact assessment (Matter 5) – the NPPF makes no reference to cumulative impact; the PPG makes reference to cumulative impact on recently completed developments. Any impact on planned development should form part of the impact test Part (b), which we have addressed in our report.*
- *Matter 6 – a health check has now been completed and we consider this in our report.*
- *Matter 7 – impact assessment Part a and b – we have addressed this in our report.*
- *Matter 8 – Lidl business model – we have addressed this in our report, Section 4.*

The applicant advises that it did not include Lancing in its search area as it views it as forming a different catchment to that served by the site, which is considered to be a reasonable stance to take. The Council may need to consider the retail impact of any future proposals at Teville Gate when such proposals come forward. It is noted that the possibility of three Lidl stores operating within Worthing would potentially have a more significant impact, but this scenario would not arise as a direct consequence of the approval of this planning application.

Overall the evidence submitted to the Council, which has been independently reviewed, indicates that the sequential test is passed and the proposed development accords with National and local planning policy on retail development.

## ***Sustainability***

Policy SP2 of the Local Plan requires development to reduce the amount of energy used in construction and operation of buildings and improve energy efficiency, including retrofitting existing properties, to contribute to achieving zero carbon emissions, also to prioritise active travel such as walking, cycling and public transport to reduce reliance on the private car and facilitate car free lifestyles. Policy D17 states that all new major non-residential development should incorporate renewable and low carbon energy production equipment to meet at least 10% of predicted total energy requirements.

The supermarket would be located in an existing residential area and is accessible on foot to a significant catchment of residential properties, although it is acknowledged that many customers would access the store by car as a consequence of the nature of the supermarket use proposed.

The proposed development undertakes a number of steps to achieve a high level of environmental performance. It largely reuses the fabric of an existing unit which is an inherently more efficient approach than the demolition and replacement of an existing building. The Energy Usage Statement submitted with the planning application identifies 46.97% of the anticipated regulated annual energy consumption will be generated by Air Source heat pumps and PV panels mounted on the new entrance canopy.

Overall, whilst the use would be likely to generate trips by car this is also true of the existing facility on the site and the development has been designed to achieve a high level of environmental performance that exceeds policy requirements. As such the proposal is considered to be acceptable in sustainability terms. It complies with policy SP2 and D17 of the Local Plan.

There is an intention to construct EV charging stations within the wider site but, according to the submitted information, this is subject to agreement with the electricity supplier and will potentially require a separate planning application. As such, whilst the intention to provide these facilities is welcome in sustainability terms it can only attract minimal weight at this stage.

## ***Highways, Accessibility and Parking***

### *Impact on the Strategic and Local Road Network.*

Policy DM15 of the Local Plan seeks to direct new development to sustainable locations and encourage travel by non car modes. It goes on to state that development which generates a significant demand for travel or is likely to have other transport implications to be supported by a Transport Assessment, and contribute to improved sustainable transport infrastructure, including the provision of safe and reliable sustainable transport modes.

The retail use already exists on the site which generates a significant number of car trips. However, despite the reduction in floor area, the supermarket use proposed would be likely to generate an increase in vehicular traffic. Lyon's Way, to the immediate west of the site is an adopted road which leads immediately to the junction



with the A27, to the immediate south of the site, which is part of the strategic road network. The other internal roads serving the other retail parks are unadopted.

A Transport Assessment was provided to the Council on the submission of the planning application. This models the likely impact of the proposal on traffic flows around the site based on existing surveys of traffic movements. It uses TRICS data to predict likely traffic demand arising from the development. The models were revised following feedback in consultation, in particular from National Highways in their first consultation response. The transport modelling does assume traffic flows from the Local Plan allocation to the north of Beeches Avenue and including Worthing United's ground (this is now the subject of a planning application for up to 90 dwellings AWDM/0693/23).

The supplementary transport statement concludes that the highway currently operates at or near capacity during the peak periods with relatively long queues on the approaches. Within this context, the level of increased peak time flows would amount to up to 76 vehicular additional vehicular movements each way, in to and out of the development, in the case of the PM Peak (1700-1800).

The transport statement notes that the proposed Discount store would offer an alternative to existing shops in the locality, and provide additional retail capacity for consented and proposed housing. It therefore concludes that whilst the local highway network currently operates close to capacity during peak times, and the proposed development could result in increased queues and degrees of saturation, it would not materially impact on the operation of the junctions.

Members that know how the Lyons Way junction operates will recognise the above comments about the capacity of the junction. The queues at the traffic lights often extend up to the roundabout and along the internal retail park spine road. The difficulty of exiting Downlands Retail Park is accentuated by the volume of traffic leaving Sainsburys and will be made worse by an increase in traffic emerging from the Beeches Avenue residential scheme. Part of the difficulty is that traffic seeking to exit onto the A27 in a westbound direction are often waiting for traffic to vacate the three Lanes existing eastbound or southwards because the left hand filter Lane is so short as the aerial photograph below illustrates.



Although this application could have helped ease congestion by extending this left hand Lane the applicants' Consultants have argued this is unnecessary and National Highways have agreed with this approach. The difficulty is that NPPF advice is quite clear that planning authorities should only refuse applications on highway grounds, *'if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'* In this case whilst it is inevitable the development would increase queueing both highway authorities do not consider that conditions would be materially worsened.

The lack of certainty about what improvements National Highways would make to this section of the A27, compounds concerns about traffic congestion in this area. Indeed one of suggested improvements in the Consultation exercise by National Highways last year would increase the traffic exiting onto Lyons Way. The consultation suggested preventing two way movements from the other traffic junction with Sompting Road and creating a one way system for all traffic generated from the former Argus and Pets at Home Stores. National Highways has not decided whether to proceed with the £20 million highway improvements consulted on last year but its lack of an objection to this application does make it difficult to address the congestion issues indicated above. National Highways are the government department responsible for the operation of the strategic road network and their views carry significant weight. Whilst it is noted that the approval of the development would increase localised traffic movements around the retail park, this would not manifest itself in material harm to the Strategic Road Network given the scale of the development proposed.

#### Pedestrian and public transport access

There are footpaths into the site and on the various surrounding roads. The surrounding area comprises residential development to the west and south, as well as employment land. Consequently it is likely that a reasonable proportion of users will access the site either on foot or by bike. The retail park is also served by two bus routes (7 and 16), which roughly provide an hourly service to the site on weekdays.

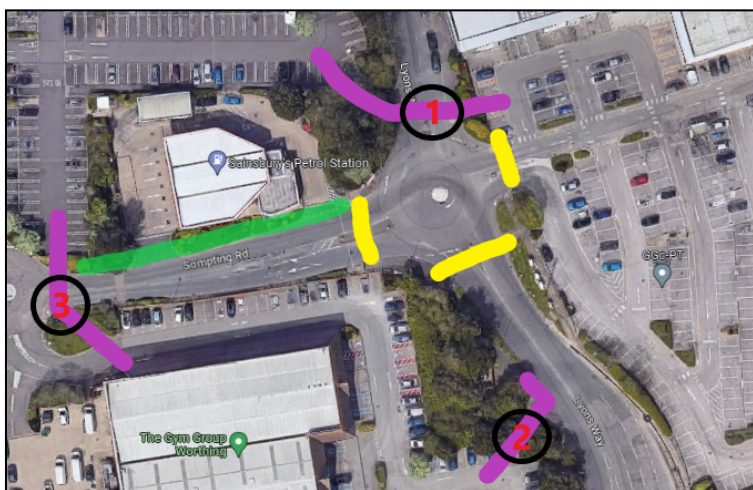
The proposal seeks to encourage non vehicular access to the site on the part of staff by way of a travel plan which seeks to promote walking, cycling, public transport and car sharing, setting out an action plan for this purpose.

One of the transport arguments for this proposal is that it would encourage linked trips thereby ensuring that the proposal would not generate only single trip movements to the proposed Discount store. In general terms this is accepted as there are many examples of retail Parks incorporating competing supermarket chains. In this respect people will often combine trips with the big 4 supermarket chains but then use Discount stores for other bulk purchases or niche items. However, your Officers have raised concerns with the applicant and WSCC Highways that pedestrian links between the four different retail Parks are very poor (having been delivered separately and at different times).

Most of the linked trips are likely to be with Sainsburys but there are no obvious connection points between the two stores. Whilst there is a pedestrian link in the south-east corner of the site it is hidden with vegetation and there are no sign posts within the Sainsburys car park. The applicant has agreed to cut back the vegetation to

ensure a 2 metre footway link is provided. However, the lack of footways adjacent to the internal spine road is a deterrent to improved pedestrian connectivity between the various retail units and the applicant was requested to consider contributing to an off site improvement to deliver a new footpath link. In response to this criticism the applicant has responded by stating that,

*'It would not improve accessibility or linkages between the retail parks. If a shopper parked at the Sainsbury's car park, and wanted to do a further shop at Downlands Retail Park, they would use Link 1 or use Link 3 if they wanted to visit Boots etc (and vice versa). A shopper already at Boots that wants to go to Downlands, would use Link 2 (and vice versa).'*



**Link 1** - Existing pedestrian link and crossing between Downlands RP and Sainsbury's

**Link 2** - Existing pedestrian link into Boots / Wren / The Gym, accessed via Lyons Way.

**Link 3** - Existing pedestrian link and crossing between Sainsbury's and Boots/Wren/The Gym.

- *The suggested footpath will need to cross the entrance and exit of the petrol station – creating unnecessary conflict between pedestrians and vehicles. The route is unlikely to be attractive to shoppers – who would use either of the 3 existing links, as these do not require walking along a busy Sompting Road, and crossing the petrol filling station access/egress.*
- *The suggested footpath does not improve on existing linkages, as it doesn't create a new link that does not exist currently, and is not more attractive to shoppers than the existing links, i.e. it doesn't shorten any existing journeys from/to existing retail destinations, and does not provide an improved environment for shoppers to walk between the retail parks over the existing established links.*
- *As you have also highlighted, there are land ownership issues, which are likely to make any works to privately owned third party land very difficult to deliver.*

*Given the above, we do not agree that any additional pedestrian improvements are needed as a consequence of the proposed development. In any event, our proposal will deliver other accessibility improvements, including improved cycle parking facilities – providing additional 18 cycle parking spaces at Downlands RP and enlarged parent and child parking spaces.*

*Notwithstanding, there may be some potential merit in providing a new zebra crossing to the north of Link 1. This could provide an improved direct pedestrian link between Downlands RP and Sainsbury's. It could also provide an improved pedestrian link from*

*Downlands RP to the future residential developments to the north. Our client would be happy to discuss wording relating to a financial contribution within a s106 that would allow the Council / County to use the funds to deliver this crossing.*

The applicant's response has been shared with WSCC and it has indicated that it will provide further comments in time for the meeting. Whilst there has been some resistance to the idea of a footpath in front of Sainsbury's petrol filling station, it is positive that the applicant is willing to explore methods of improving the pedestrian permeability of the wider retail complex, through improving links to Sainsburys so as to avoid users driving by car between shops adding to localised congestion. The scope for a pedestrian crossing point between the new store and the link into Sainsburys would improve the current situation and it would be in both Lidl's and Sainsbury's interest to improve pedestrian connectivity.

Overall, the arrangement is considered to be acceptable in relation to pedestrian and public transport access.

#### Parking (Car and cycle)

The proposal provides 361 car parking spaces serving the site. This is a decrease from the 397 that currently exist, partly a consequence of the Costa Coffee unit approved in October 2022. If the Costa Coffee unit is not built out, then the number of parking spaces would be 387. The reconfiguration of the units would enable 8 disabled and 10 parent and child parking spaces to be provided to the front of the proposed foodstore. The applicants revised Transport Assessment states that,

*'Consent has recently been granted for the construction of a new unit within the car park to be occupied by Costa which would result in the loss of 26 spaces, i.e. a combined loss of 36 spaces, thereby reducing the overall number to 361 spaces. Table 4.18 sets out the anticipated demand for parking for the Development and Cumulative Scenarios, i.e. without and with the consented Costa, with the results demonstrating that the proposals would not impact on the availability of parking. The exercise demonstrates that the proposed level of car parking, although less than existing and to serve additional retail floorspace, is adequate and would not impact on the availability of car parking under normal trading conditions.'*

<b>Table 4.18: Summary of Parking Demand Levels (Saturday)</b>						
	<b>Observed Scenario</b>	<b>Development Scenario</b>			<b>Cumulative Scenario</b>	
		<b>NFR Lost</b>	<b>New DFS</b>	<b>Total</b>	<b>Costa</b>	<b>Overall</b>
1000	64	-22	+37	80	+10	90
1100	78	-36	+45	89	+15	104
1200	98	-44	+47	104	+12	116
1300	101	-42	+41	102	+12	114
1400	105	-45	+42	104	+10	114
1500	88	-43	+38	85	+9	94
1600	71	-33	+35	75	+8	83
1700	54	-26	+34	63	+9	72

In terms of cycle parking, 18 additional cycle parking spaces would be provided, reducing to 14 if the Costa Coffee unit is not built out. The applicant is in agreement with a planning condition suggested by the WSCC Highways, to provide cycle parking shelters.

The transportation modelling carried out as part of the transport statement indicates that sufficient parking spaces exist within the parking area to accommodate the proposed use. This position is accepted by the WSCC Highways, who do not object to the proposed development.

#### Other Issues raised - Highways

The consultation response from B and Q raised a number of detailed technical issues relating to the assumptions used in the modelling in the transport assessment. Some of these issues were also raised by National Highways in their initial consultation response, and were addressed within the revised transport assessment in April 2023. The applicant has prepared a detailed response to these issues, which is published on the Council's website.

The operational issues around parking on the retail park, including any charging or enforcement regime are a private matter for the owner of the site.

The proposed access arrangements are considered to be acceptable for the reasons outlined above. Any future alternative proposals for changes in the way the site is accessed, including for new vehicular access points to the A27 would potentially require a new planning application.



Issues with traffic light sequencing are a matter for the relevant highway authorities, they do not affect the acceptability of this proposal in planning terms.

### Overall Conclusions - Highways, Accessibility and Parking

The proposal would generate additional vehicular traffic demand to the site but much of this would be displaced from elsewhere. This is a long established retail use on this site and the additional traffic arising from the character of the proposed operator can be accommodated on the local and strategic road network without leading to harmful levels of congestion or highway safety concerns. Appropriate car and cycle parking would be provided for future users of the development, and the site is accessible by foot, with an intention to pursue improvements to the pedestrian permeability of the wider site. Overall it is considered that the proposal complies with policy DM15 of the Local Plan.

### ***Design, Character and Appearance***

Policy DM5 of the adopted Local Plan requires that all new development should be of a high architectural and design quality and respect and enhance the character of the site and the prevailing character of the area.

External works include the construction of a single fascia across the amalgamated building, replacing the existing impression of a central gully. The new fascia would match the existing materials and design associated with the existing building. It would present a visually coherent and symmetrical frontage to the car park associated with the retail park. There would also be a canopy to the front, housing an enclosed area serving the purpose of solar shading and adverse weather protection, improving the functionality and customer experience of this supermarket.



*Figure 2 - The proposed frontage to the car park.*

To the rear there would be a new plant enclosure with an acoustic fence. This would be of a modest scale and would address a service yard which is away from any important

public views. It would appear as ancillary operational development and is acceptable in design terms.

The renewable energy features associated with the proposed development (Canopy mounted PV panels) are discreet and would blend in with the surrounding established built environment.

The external alterations to the existing building and the other works associated with the development are considered to be acceptable in design terms, in compliance with relevant national and local planning policies, including policy DM5 of the Local Plan.

### ***Air Quality***

Policy DM22 of the Local Plan deals with pollution. It states that development should not result in pollution or hazards which prejudice the health and safety of the local community and the environment, including nature conservation interests and the water environment.

The site falls within an Air Quality Management Area (AQMA). The proposed development will result in an increase of over 100 vehicle movements per day so an Air Quality Impact Assessment was submitted with the planning application. This concludes that, following implementation of mitigation measures, the residual effects of dust and emissions from construction activities upon the local area and sensitive receptors, although adverse, will be temporary and 'not significant.' In terms of the operational Phase, the air quality modelling exercise indicates that the scheme will result in a negligible (adverse) impact on baseline air quality concentrations at the specified receptor locations. However, although one receptor (R3) is exceeding the annual mean objective for NO<sub>2</sub>, the impacts for the 2023 scenario are considered to be 'not significant.' A payment totalling £29,481.41 is proposed by way of damage mitigation in relation to Air Quality impacts, and the Environmental Health officer has confirmed that they are happy with this approach.

Subject to this mitigation payment being secured by way of a Section 106 agreement, it is considered that there would be no harm through pollution including air quality impacts. There is no conflict with the development plan, in this respect.

### ***Neighbouring Amenity***

Policy DM5 of the Local Plan requires that development must not have an unacceptable impact on the occupiers of adjacent properties, particularly of residential dwellings, including unacceptable loss of privacy, daylight/sunlight, outlook, an unacceptable increase in noise giving rise in significant adverse impacts.

In this case the site is surrounded by other retail uses to each side and commercial development to the rear. The overall intensity of use, together with levels of noise being generated, would be similar to that which exists at present. The physical works to the building are very minor in scale and would not have any adverse impact on neighbouring amenity.

The proposal is therefore acceptable in terms of neighbouring amenity and would not give rise to any adverse impacts in this respect, there would be no loss of privacy, daylight/sunlight, outlook, or any unacceptable increase in noise giving rise to any significant adverse impact, in this respect. The proposal therefore complies with the development plan.

### ***Drainage & Flood risk***

The proposed development reuses an existing retail structure and is not in an area of significant flood risk. As such there are no issues relating to Drainage and Flood risk that are relevant to this assessment.

### ***Landscaping and Biodiversity***

A number of comments were received from the public querying whether the landscaping around the proposed shop could be improved and enhancements made to biodiversity.

The wider site benefits from an existing landscaped buffer with a tree belt to the east and south. The design and access statement and sustainability statement both make reference to the provision of Bird / Bat boxes, bug hotels and hedgehog houses in these landscaped areas of the park. Further details of these can be required by way of planning conditions. Subject to this there is no conflict with the relevant parts of policy DM5 of the Local Plan which, amongst other things, require new development to respect the existing natural features of the site, including landform, trees and biodiversity and contribute positively to biodiversity net gain.

The development is adjacent to the National Park but as indicated previously there are few external alterations to the building and therefore it is not considered that there is any adverse impact on the setting of the National Park. The addition of solar panels (PV) could potentially have an impact but these are to be tilted angled southwards to maximise solar gain and therefore any adverse impact is considered minimal; and would be offset with the benefits of generating renewable energy.

### **Lighting**

An external lighting assessment was provided. National Highways have requested further details of this by way of condition, given the proximity of the site to the A27. The matter of external lighting can be left to planning conditions.

### **Security**

The comments from the police secure by design advisor provide guidance on security measures that can be incorporated into the development. It is recommended that an informative is added to the decision notice advising the applicant of this consultation response.



## Legal Agreement

Whilst the majority of matters can be dealt with by way of planning conditions, there is a requirement for a financial contribution towards air quality mitigation and sustainable transport improvements as discussed in this report. Any financial contribution would be secured by a Unilateral Undertaking and a draft has been submitted by the applicant. The key matters to be included in a planning obligation are set out in the following table:

Type of Contribution	Requirement or Amount of Contribution
Air Quality	£29,481.41
Travel Plan Monitoring Fee	£3500
Measures to promote Sustainable Transport	Requirement to Implement Travel Plan and incentives to encourage staff to come to work using sustainable travel.
Off site sustainable transport improvements	Possible construction of zebra crossing - subject to agreement with Local Highway Authority

## Conclusion and Recommendation

The proposed development complies with the development plan and any adverse impacts can satisfactorily be mitigated through conditions or a Section 106 Obligation.

**APPROVE** to be delegated to the Head of Planning to issue the decision subject to completion of a satisfactory section 106 Agreement to provide for an air quality mitigation payment and measures to improve sustainable transport, and the following conditions:

1. The development hereby approved shall commence within 3 years from the date of this planning permission.

**Reason:** To comply with legislation relating to commencement of development.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

**Reason:** For the avoidance of doubt and to facilitate the option of future amendments to the planning permission.

3. No works shall commence on the site hereby permitted (including site clearance or preparation) until the details of a Construction Environmental Management Plan (CEMP) have been submitted to and approved in writing by the local planning authority (who shall consult with National Highways). Thereafter the

construction of the development shall proceed in strict accordance with the approved CEMP unless otherwise agreed in writing by the local planning authority (who shall consult National Highways). The CEMP must include the proposed construction phase mitigation in the approved air quality impact assessment.

**Reason:** To ensure that the A27 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

4. The Use hereby approved shall be limited to class E , Part A, Schedule 2, paragraph a) of the Town and Country (Use Classes) (Amendment) (England) Regulations 2020. Namely, for the display or retail sale of goods, other than hot food, principally to visiting members of the public. No other uses, including those in class E or any other part of the Use Classes Order shall take place on the premises at any time without the grant of planning permission by the Local Planning Authority. This is notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any other order that may be enacted in its place in the future.

**Reason:** The development has been justified in retail policy and highways terms on the basis that it comprises a particular use within a subset of the E use class. It is necessary to impose this condition to ensure that any alternative use is reassessed against National and Local Planning Policy.

5. Between 15% and 25% of the floor area of the shop floor area that is accessible to the general public shall be used for the sale of comparison goods.

**Reason:** The development has been justified in retail policy and highways terms on the basis that it comprises a particular use within a subset of the E use class. It is necessary to impose this condition to ensure that any alternative use is reassessed against National and Local Planning Policy.

6. Any food and drink sold on the premises hereby approved shall be consumed off the premises.

**Reason:** The development has been justified in retail policy and highways terms on the basis that it comprises a particular use within a subset of the E use class. It is necessary to impose this condition to ensure that any alternative use is reassessed against National and Local Planning Policy.

7. 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.

8. No part of the retail store extension shall be first occupied until such time as until a Servicing Management Plan for has been submitted to and approved in writing by the Local Planning Authority. This shall set out the arrangements for the

loading and unloading of deliveries, in terms of location and frequency, and set out arrangements for the collection of refuse. Once occupied the use shall be carried out only in accordance with the approved Plan.

**Reason** – to safeguard the operation of the public highway.

9. Upon the first occupation/commencement of use, the Applicant shall implement the measures incorporated within the approved travel plan. The Applicant shall thereafter monitor, report and subsequently revise the travel plan as specified within the approved document.

**Reason:** To encourage and promote sustainable transport.

10. The development hereby approved shall not be brought into use until such point as the parking layout, as shown on plan number xxx, has been laid out in full.

**Reason:** To provide satisfactory parking arrangements for future users of the proposed development.

11. No part of the development hereby permitted shall be occupied until a lighting framework has been submitted to and approved in writing by the local planning authority (who shall consult with National Highways). The lighting framework shall include details of the impact of lighting on driver safety on the A27 trunk road. The development shall thereafter be undertaken in accordance with the approved details unless otherwise approved in writing by the local planning authority.

**Reason:** To ensure that any proposed lighting will not have an adverse impact on driver safety on the A27 Trunk Road and that the A27 Trunk Road continues to be an effective part of the national system of routes for through traffic in accordance with section 10 of the Highways Act 1980 and to satisfy the reasonable requirements of road safety.

12. The development hereby approved shall not be brought into use until the measures set out in the sustainability statement (including air source heat pumps and PV panels) have been implemented in full and once installed these features shall be retained for the lifetime of the development.

**Reason:** In the interests of sustainability and to help address the climate emergency.

13. The development hereby approved shall not be brought in to use until further details of a programme of ecological and landscape enhancements to the wider retail park, based on the details set out in the design and access statement, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved detail.

**Reason:** In the interests of sustainability and to help address the climate emergency.

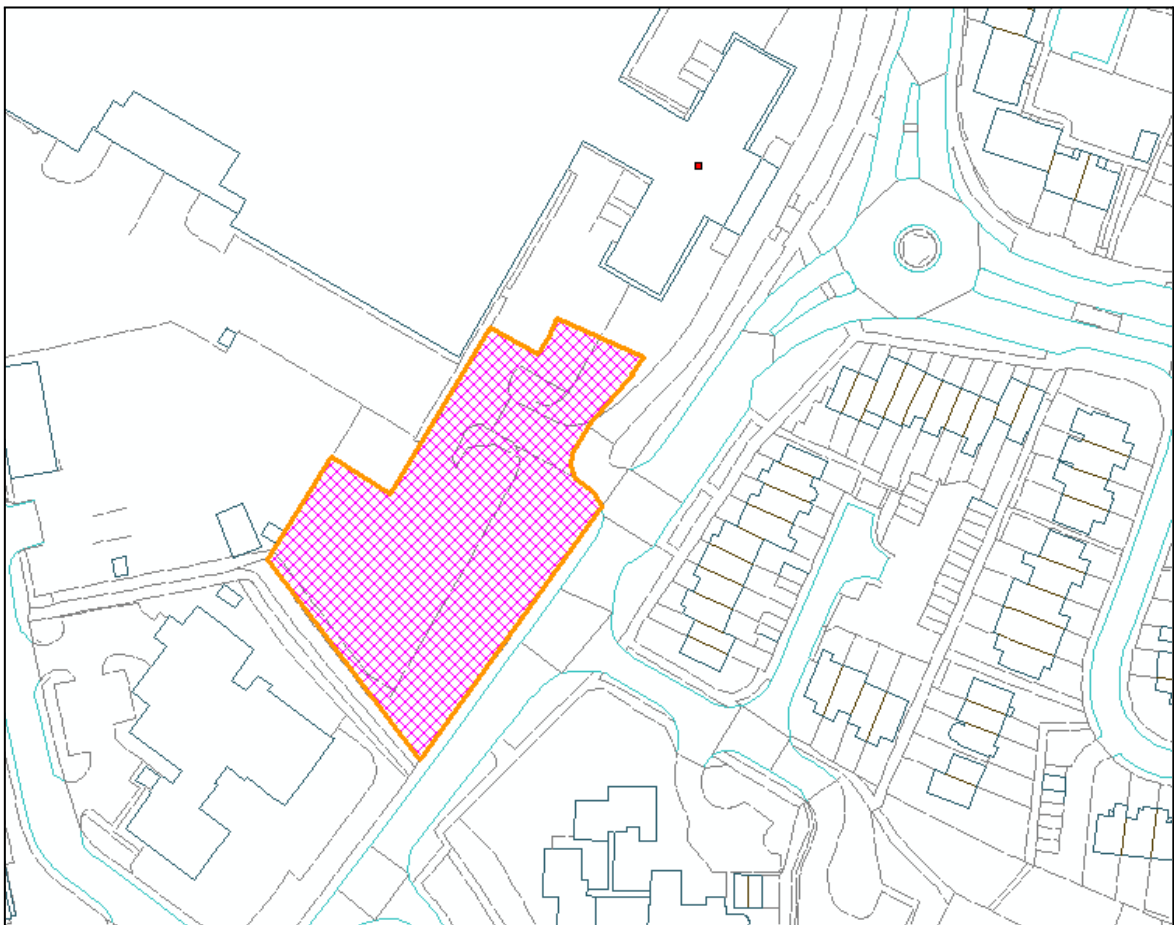
14. The development hereby approved shall not be brought into use until the acoustic enclosure to the plant at the rear of the site has been constructed in accordance with the specifications set out in the approved plans. Once it has been built it shall be retained for the lifetime of the development.

**Reason:**To provide a satisfactory standard of development and to ensure that adjacent premises are not adversely affected by noise

#### Informatives

1. The Council have dealt with the application in a positive and proactive manner.
2. Your attention is drawn to the consultation response from Sussex Police. This directs you to the website at [www.securedbydesign.com](http://www.securedbydesign.com) where the Secured by Design (SBD) Commercial Development 2015 Version 2 document can be found. This is a comprehensive document that encapsulates both commercial developments where the public have no formal access, e.g., factory or office buildings, and those where public access is integral to the commercial use such as retail premises, leisure centres and public buildings. This document will be able to provide the applicant with in depth crime prevention advice pertinent to the design and layout.
3. Your attention is drawn to the consultation response from Southern Water which sets out information about water infrastructure in close proximity to the site. You are advised to liaise with Southern Water to determine the exact location of any relevant infrastructure that may be affected by the approved works prior to carrying out the development.
4. National Highways - The CEMP required under condition 3 shall include details (text, maps, and drawings as appropriate) of the scale, timing and mitigation of all construction related aspects of the development. It will include but is not limited to: site hours of operation; numbers, frequency, routing and type of vehicles visiting the site (including measures to limit delivery journeys on the SRN during highway peak hours such as the use vehicle booking systems etc); measures to ensure that HGV loads are adequately secured, travel plan and guided access/egress and parking arrangements for site workers, visitors and deliveries; plus sheeting of loose loads and wheel washing and other facilities to prevent dust, dirt, detritus etc from entering the public highway (and means to remove if it occurs).

<b>Application Number:</b>	<b>AWDM/0711/22</b>	<b>Recommendation - APPROVE</b> subject to the completion of a <b>Planning Obligation</b> including <b>contributions towards off site affordable housing and open space provision.</b>
<b>Site:</b>	<b>Columbia House, 4 Romany Road, Worthing</b>	
<b>Proposal:</b>	<b>Erection of a new block to provide 78 residential dwellings with associated secure cycle storage provision, vehicle parking, bin storage and landscaping.</b>	
<b>Applicant:</b>	<b>Columbia House Development Limited</b>	<b>Ward: Northbrook</b>
<b>Agent:</b>	<b>Savills</b>	
<b>Case Officer:</b>	<b>Stephen Cantwell</b>	



**Not to Scale**

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## Proposal, Site and Surroundings

The 0.4ha site comprises much of the former car park which served Columbia House prior to its recent conversion from offices to flats. It lies to the south of the seven storey Columbia House and occupies a frontage of approximately 66m on the western side of Romany Road with a further 30m frontage set back behind the existing access and driveway.

The proposal is to construct a new apartment block ranging from five to seven storeys to contain 78no. flats, mainly of one bedrooms, but with eight 2-bedroom units and two 3-bedrooms. Images are shown in Figure 1 below.

The existing vehicular access at Romany Road would be shared with Columbia House and car parking would be located to the rear and each sides totalling 54 no. spaces, alongside landscaped open space to the north of the proposed building. Well established frontage trees would be removed and replaced, with newly landscaped frontages and an informal play area beneath them as shown in Figure 2.



**Fig 1: Two Images of Proposed Block B, to South of Existing Columbia House**

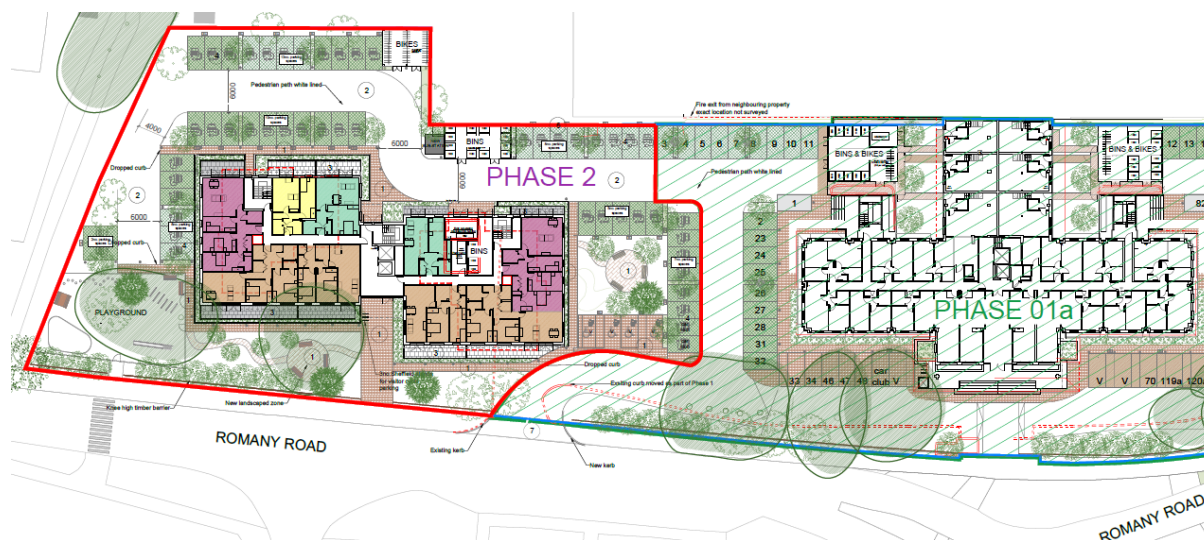
Most of the site is currently tarmac-surfaced car parking, but with some areas of shrub planting in addition to the frontage trees. The southern boundary also includes a mixture of shrubs and trees. An electricity substation is located at the rear of the site, adjacent to the 3 storey neighbouring warehouse to the rear (west).

Columbia House is around 15m to the north of the application site. It was formerly a five-storey office block with a recessed 6th floor service deck. The five floors have been converted to 104 flats under National Permitted Development Rules, which were introduced in 2015 (see Site History). Two new floors have replaced the 6th



floor deck and are partially complete. These floors were approved in 2019 (AWDM/1480/18) and will contain 10 additional flats, with a further 4no. flats approved to the rear in 2021 bringing the total to 116no.

Three additional blocks of flats also formed part of that 2019 permission but these have not been built. Their permission remains live and if implemented would provide 36no. new apartments. Two of these blocks would have occupied the site of the currently-proposed Block B; their faint red outlines can be seen in the lower part of Figure 1 (and at higher magnification in Figure 10)



**Fig 2: Proposed Layout Within Red Line** (Columbia House shown as 'Phase 1')

The surroundings comprise a mixture of employment / commercial uses and housing. Opposite the site along Romany Road and Columbia Drive to the east are numerous houses and flats, comprising a mixture of 1960s-70s styles, mainly of two storeys but with some three-storey pitched roofs notably close to and flanking to road junction with Columbia Drive with intervening grass verges. These mainly face onto Romany Road.

The large neighbouring warehouse is immediately to the west (rear) of the application site with its accesses in Romany Road the the north of Columbia House and another via Faraday Close south west of the application site. An open-surface yard area associated with the warehouse runs along most of the rear boundary of the site; this was last-used as a bus depot but is currently vacant.

To the south is The Pines Community centre, an unusual 'pyramidal' two-storey building used as a day centre. Its boundary with the application site comprises mixed trees and hedging. This is also accessed via Faraday Close.

### Relevant Planning History

**AWDM/1480/18** Construction of 3 new blocks to provide 46 flats and 226.3 sqm mixed use commercial / non-residential space (Classes A1, A2, B1, D1) including the addition of two floors to existing Columbia House to provide 10 flats and external

upgrading of Columbia House. Also associated two new pedestrian access points, parking, landscaping and amenity space. **Approved 23.05.2019**

*i.e this approval allowed 3 new blocks of flats in the grounds of Columbia House totalling 36 apartments with ground floor commercial uses. Ten new apartments were approved on the roof of Columbia House itself; construction of these 10 no. is nearing completion, although work appears to have halted for several months.*

**AWDM/1372/21** Construction of additional 3rd and 4th floors (4no. additional flats comprising 2 x 2-bed and 2 x 1-bed) at the rear of Columbia House. **Approved 29.10.2021**

**NOTICE/0018/16.** Application for permitted development for prior approval for change of use from offices (Use Class B1a) to 102 residential units (Use Class C3) (24 studios, 76 x 1 bed and 2 x 2 bed) with associated parking.  
**Approved 15.12.2016**

**NOTICE/0016/19** Application for permitted development for prior approval for change of use from offices (Use Class B1a) to 104 residential units (Use Class C3) (29 studios, 71 x 1 bed and 4 x 2 bed) with associated parking.  
**Approved 27.11.2019**

i.e. NOTICE applications are made under National Permitted Development rules which allow for conversion of offices to flats without the need for planning permission but subject to the approval 'Prior Approval' by the Local Planning Authority of a narrow range of details concerning transport, contamination and flood risks and noise from commercial sources. The second NOTICE application in 2019 was largely a renewal of the first one for 102 flats in 2016, but added 2 further flats by alternative subdivision within the building. This conversion work applied to the original floors of the office block and was completed in 2022 and these new apartments are occupied.

## **Consultations**

**County Highway Authority:** No Objection

Revised proposal provides 54no. parking spaces and 80 cycle spaces, including four wheelchair-accessible spaces giving a parking of 0.69 spaces per dwelling, which is comparable to the 0.71 rate of the existing Columbia House, and two car club spaces.

Future residents will be able to apply for on-site parking permits, which will be managed by a car parking management company. This should be required by planning conditions.

Car club membership is proposed for each household over a two year period [Officer correction : two years]. A s.106 Agreement should secure this and a travel plan with auditing fee. Planning conditions should also require provision of access and parking and a construction management plan.



***Environmental Health - Public Health:***

Satisfied with the new noise assessment. Mechanical Ventilation with Heat Recovery (MVHR) will be provided and the glazing specification is sufficient for the noise environment although windows will need to remain closed to keep out noise.

Noise from lifts and stairs will not be transferred through the partition walls, detailed design to be submitted under planning condition along with roof plant details. No concerns regarding the electricity substation following recent site visit.

All Air Quality requirements have been addressed.

Contaminated Land - Standard Planning conditions to apply for investigation and any arising need for site remediation.

Conditions also recommended for control of hours of development works and for a construction management plan to be agreed.

***Environmental Health - Private Sector Housing:*** No Objection

***Waste Services:*** No Objection

Please prevent parking on access road to allow refuse collection vehicles.

***Tree Officer:*** Awaited

***Biodiversity Consultant:*** Awaited

***Borough Engineer:***

The majority of previous drainage comments have been addressed, however there appears to be a number of trees adjacent to the attenuation tank; they should have root barriers to avoid root intrusion into the tank

***Environment Agency:*** No Objection

Recommends use of planning conditions concerning: contamination survey and any ensuing remediation; approval of any surface water sustainable drainage; control of piling to avoid risk to groundwater .

***County Lead Local Flood Authority :*** Objection

Object in the absence of an acceptable Flood Risk Assessment (FRA), Proportionate Drainage Strategy missing supporting information relating to:

- Potential for surface water and groundwater flooding impacts
- More information is required to satisfy the LLFA that the development is complying with current National and local policies by ensuring the satisfactory management of local flood risk, surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the SuDS proposed operates as designed for the lifetime of the development.

**Southern Water:** No Objection

Southern Water can facilitate foul and surface water drainage. Management arrangements should be made for any on-site sustainable surface water drainage.

**Health and Safety Executive (Fire Safety):** Satisfied

Original Plans: Fire main outlets should be at each storey level. Windows to protected stairways should be moved away from windows of proposed flats. HSE comments on the amended plans are awaited.

**County Fire and Rescue Service :** Further Information Requested

Evidence that all flats are within a 45 metre hose-line distance or sprinklers will be required.

**Sussex Police:** Comments

- Recommends detailed crime risk reduction measures including:
- Use of standard Secure By Design advice for entrances and windows
- Controlled access-entry
- Controlled access within buildings
- Use of external lighting
- Design of double-lockable cycle-rack frames
- Play area to have natural surveillance

**Representations**

Amended Plans - One letter objects (up to 3rd July)

- On-street parking close to Columbia House is now used by people who appear to be Columbia House residents since its conversion. Sometimes cars are left for several days. Original residents are displaced with no other parking available and some now park further away (Durrington Lane environs). For example, this affects a late night shift worker and their safety.
- Unauthorised parking in disabled blue-badge bay.
- Dropping off shopping is affected. Residents also refrain from using their cars due to loss of parking space on their return
- Also affecting School Coaches which disembark in Columbia Drive
- Concern that increased on-street parking could hinder emergency service access.
- Not all parking spaces in Columbia House appear to be used.
- Delivery drivers are parking on-street, including on roundabout outside front entrance door
- Concern at loud interactions of visitors who park outside at night, sounding intimidating.

Original Plans - Two letters object (May 2022)

- Overdevelopment

- Adds to 100+ dwellings already approved
- Serious effect on daylight
- Overlooking of lounge and bedrooms
- Large travelodge-type building will spoil neighborhood
- Another tall structure is not required
- Additional noise
- Parking and traffic congestion: Parking in Columbia Drive environs is a problem, including commercial vehicles overnight, additional housing will worsen this and add to danger especially near Hawthorns School and Stanhope Lodge Care Home.
- Overstretched local amenities
- Removal of trees has also affected privacy and visual amenity
- Concern at further building works, noise, dust and disturbance following a long period of development works at the site, six-seven days a week up to 8.30pm

### **Relevant Planning Policies and Guidance**

Worthing Local Plan 2020 - 2036. Policies include:

SP1 Spatial Strategy; DM1 Housing Mix; DM2 Density; DM3 Affordable Housing; DM5 Quality of the Built Environment; DM7 Open Space, Recreation and Leisure; DM9 Delivering Infrastructure; DM15 Sustainable Transport and Travel; DM16 Sustainable Design; DM17 Energy; DM18 Biodiversity; DM19 Green Infrastructure; DM20 Flood Risk and Sustainable Drainage; DM22 Pollution

Supplementary Planning Document 'Space Standards' (WBC 2012)  
 'Infrastructure Delivery Plan' (WBC 2010)  
 Guidance on Parking at New Developments (WSCC, 2019)  
 Open Space, Recreation & Leisure Guidance Note (WBC 2021).

### **Relevant Legislation**

The Committee should consider the planning application in accordance with Section 70 of the Town and Country Planning Act 1990 (as amended). This 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 requires the decision to be made in accordance with the development plan unless material considerations indicate otherwise.

### **Planning Assessment**

#### ***Principle***

The Local Plan Spatial Strategy Policy SS1 states that development will be permitted within its defined Built-Up Area Boundary, (which includes suburban areas such as Northbrook Ward), subject to compliance with other Local Plan policies.

The Local Plan also identifies the site as within the Faraday Close Employment Area, in which Policy DM11 states that non-employment uses will only be allowed in exceptional circumstances and must not negatively impact upon the functioning of other employment uses in that area.

In consideration of policy DM11 it is noted that the approved, partly implemented development of 2019 included a modest 226 sqm. of flexible commercial or employment space, divided between the ground floors of the three approved unbuilt blocks of flats in the grounds of Columbia House. This would have retained some element of employment use on the site, albeit including retail and small scale public uses. Approval of the current proposal would effectively extinguish this potential use, leaving the application site and wider Columbia House site in wholly residential use.

Whilst the applicant's explanation for this departure has been sought it is relevant that the implemented residential conversion of the original office block under permitted development rights has effectively taken this land out of employment use. Whilst the 2019 approval included a small element of commercial use, it is not considered that the Council could insist on any employment use being retained on what is now effectively residential curtilage to the residential use of Columbia House. As such it is not considered that there is any departure from Policy DM11 in this instance.

However it is important that the current proposal should not have a negative impact upon other employment to the rear. To this extent it is significant that the Environmental Health Officer is satisfied with proposed arrangements for noise control, which include mechanical ventilation for occasions when windows to the proposed flats may need to be closed against external commercial noise, although this is currently of lesser probability since the temporary bus depot use has vacated from the commercial yard to the rear.

It is also noted that risk of noise from the neighbouring warehouse operation is of lesser significance in the current proposal, compared with that of the approved scheme for three blocks of flats, one of which was close to the commercial access and extract ventilator beyond the northern end of Columbia House. The now-proposed single block to the south of Columbia House is well away from this.

Other development principles, such as policies for the mix and density of housing and sustainability attributes, are considered in separate sections below.

### ***Sustainability***

Sustainable Design and Energy are subject of Policies DM16 and DM17, which require that CO2 emissions for new housing should be 20% below the Building Regulations baseline dated 2013. At least ten percent of predicted energy demand should be met by renewable energy technologies, with a preference for communal systems or district heating connections and designs should minimise risk of summer overheating.

The applicant's proposals propose the following energy and CO2 reduction measures:

- Enhanced thermal efficiency through use of thermally efficient materials and air tightness
- Solar PV panels (122 sqm on the roof)
- Air Source Heat Pumps (ASHP) - a communal system
- Use of passive ventilation, including balconies, with mechanical ventilation and heat recovery in areas of noise risk

The results of these measures is a CO2 reduction of 43.1% (36.1 tonnes per annum) against a Part L 2013 baseline, well in excess of policy requirements. Confirmation has been sought that the ASHP and Solar PV component will produce more than 10% of predicted energy demand. Information upon the location of ASHP, communal distribution and management has also been sought. Subject to this information, verification of these CO2 savings can be required by a planning condition for submission shortly after occupation of the development.

Information has also been sought upon the attainment of efficient water use with the target 110 litres per person per day required by Policy DM21, using efficient water systems and fittings. Subject to receipt of this information, verification can also be required by condition.

Sustainable approaches to transport are described later in this report, including provision of car club vehicles, to augment that already provided for the converted Columbia House; also a travel plan to promote use of public and non-car journeys. These support a car parking rate of 0.69 space per dwelling, which is close to the 0.71 rate used in the 2019 permission.

For biodiversity at least a 10% gain in biodiversity is required where possible on site by policy DM18. This is described under the Biodiversity heading of this report.

### ***Housing***

With the adoption of the Worthing Local Plan in March 2023, local planning policies are up to date. These include the allocation of a range of new major housing sites under the Strategic Policy SS2 of the Plan which contribute to the supply of housing for the sixteen year plan period 2020 - 2036. This strategy also assumes that the approved 36 no apartments at the application site will be constructed and that a range of 'windfall sites' will also come forward; the windfall sites providing approximately 871 new homes during the plan period, which equates to an average 55 windfall units per year.

Although the total amount of housing expected under this stated strategy is significantly less than estimated housing demand, the approach is consistent with the NPPF (para 60). In this respect the Local Plan Inspector recognised that the Council had proactively looked at all opportunities to deliver additional housing but had appropriately balanced housing need with the impact on the environment. As Members are aware even if all greenfield sites had been allocated for development

there would have still been a significant shortfall in meeting the town's future housing needs.

As a windfall site, the proposal for 78 additional homes can contribute to this strategy, by providing 42 additional new-build apartments over and above the previous 36 apartments approved in 2019.

#### Density

The Strategic Policy SS1 states that development densities should make efficient use of land but should also relate well to the surrounding area. According to Policy DM2 flatted developments should achieve in excess of 100 dwellings per hectare (dpha). Dwellings should also meet Nationally Described Space standards for internal space and the Council's Local Space Standards for Open Space.

The current proposal equates to 195 dwellings/ha, which is relatively high by comparison with the minimum 100 dpha of Policy SS1, but is similar to the 196 dpha of Columbia House, which was achieved largely by the Permitted Development conversion.

This density shows consistency between the proposal and Columbia House site in contrast with the lower density of the wider suburban surroundings, which largely comprises houses with localised clusters of three storey flats in Shelby Road to the north west. This is considered further in the Design, Scale and Appearance section of this report.

#### Mix

Policy DM1 requires that housing proposals should provide a mix of homes which is based upon evidence of current needs. All homes should be 'Accessible and Adaptable' as defined by Building Regulations (M4 (2)) , which allow for adaptation to meet needs of an aging population. New flats on previously developed sites should provide 20 percent as affordable homes.

The proposed housing mix is summarised in Table 1 below. This compares the proposal against the size-needs information of the Council's Strategic Housing Market Assessment (SHMA) 2020.

**Table 1: Proposed Size Mix and Need**

Size	Proposed	Need	Differences
1 bed	58 (74%)	5-15%	+59% / +69%
2 Bed	8 (13%)	40 - 45%	-32% / -37%
3 Bed	2 (3%)	35 - 40%	-33% / -37%

The proposals contain a substantial proportion of one-bedroom homes, well above Borough-wide needs, while the proportion of two bedroom homes is well below.. The

applicant has explained that this approach is in response to the high local demand for units of this size, as evidenced in the recent sales of the converted Columbia House, 86% of which comprised 1-bedroom units.

In support of this mix the applicant's marketing agent observes that recent sales at Columbia House were particularly fast, with the large majority of flats being reserved within 4-8 weeks of release. The president of the Worthing & District Estate Agents Association, responsible for sales of Columbia House comments:

*'the 1-bedroom flats (while they had the highest portion) were the most popular and I think that is because there is a real need for housing that is affordable for the 'single person'. His summary continues...*

*'while Block B will be slightly more expensive than Block A, the pricing is still well within the affordability for first time buyers, and the size of the internal square footage is larger than Block A as well. Plus, it's a new build whereas Block B was mostly a PD Scheme'.*

He reports that 75% of sales were to first time buyers and 80% were local residents (the term 'local' is not defined). In his opinion this reflects the relative affordability of Columbia House, by comparison with other recent flatted developments in the town.

In consideration of these points, it is unclear whether market demand for a greater proportion of two bedroom homes would have been equally strong. Furthermore the information provided does not consider the effect on sales of the National Help to Buy Scheme, which was in force during this time and was targeted on first time buyers.

However, there is some merit in the argument that whilst the Council's data regarding need is Borough-wide, the provision of smaller homes may serve unmet needs in this suburban location, much of which comprises existing family-size housing. The site is also close to Durrington local centre and bus routes, where a relatively modest concentration of small units may be regarded as consistent with objectives for sustainable transport and access, although the railway station is somewhat further, approximately 20-30 mins on foot.

The applicant confirms that all apartments would meet requirements for Accessible and Adaptable homes, confirmation has been sought including access into the building, thresholds, lifts and circulation spaces.

### ***Affordable Housing and Viability***

Policy DM3 requires the provision of twenty percent (16no.) of new flats to be provided as affordable homes, comprising a mix of tenures i.e 75% affordable or social rented and 25% shared ownership. This should be provided on-site. In cases where development costs are exceptional, an exemption may be made to this requirement, subject to a robust financial assessment with evidence, which in turn is independently assessed by the Council's appointed consultants.

The Council's Developer Contributions SPD (2015) states that,

*'in exceptional circumstances, for some larger schemes the Council may agree that a financial contribution will be accepted if it can be shown through evidence that both on-site and off-site provision of affordable housing is inappropriate. In these rare occasions the rates set out in the 30% column will be used:*

<b>Dwelling Type</b>	<b>10%</b>	<b>20%</b>	<b>30%</b>
Studio flat	£2,976	£5,952	£8,928
1 bed flat	£7,956	£15,912	£23,868
2 bed flat	£8,085	£16,170	£24,255
3 bed flat	£10,511	£21,021	£31,532
2 bed house	£8,439	£16,878	£25,318
3 bed house	£11,913	£23,827	£35,740
4 bed house	£14,024	£28,048	£42,238

Following the adoption of the Local Plan the 2015 SPD is currently being reviewed but at the present time the above figures (30%) column would be used to calculate any off site contribution.

The applicant's position is set out in a viability assessment, which concludes that the predicted costs of development against sales values produces an overall deficit in value, assuming a developer profit of 20 percent and as such the development could not provide the required on-site affordable housing.

The Council's consultant has reviewed this assessment and their final report is awaited. Indicatively they have suggested that borrowing costs, professional fees appear high, as does the assumed 20% profit margin, where a lesser rate above 15% might be considered reasonable. Conversely, the assumed sale values may be somewhat low, although build costs remain to be reviewed. The initial response from the Council's Consultant is that the applicant could still make a £200k contribution towards affordable housing without materially affecting scheme viability.

The applicant has agreed that a financial contribution of £200,000 could be made towards the off-site delivery of affordable homes. This would equate to 8.4 affordable off site dwellings if one bed apartments were provided (50% of the normal requirement for a development of this size).

As Members are aware the provision of an off site contribution should only be considered in exceptional circumstances. NPPF states that local authorities should consider the viability of different forms of development through the Local Plan process. As a result developments that come forward should meet all policy requirements of an up to date plan. However, NPPF also accepts that there are circumstances where schemes may not be viable particularly where,



*'Such circumstances could include, for example where development is proposed on unallocated sites of a wholly different type to those used in viability assessment that informed the plan; where further information on infrastructure or site costs is required; where particular types of development are proposed which may significantly vary from standard models of development for sale (for example build to rent or housing for older people); or where a recession or similar significant economic changes have occurred since the plan was brought into force.'*

In this case the development is a brownfield site where the viability of such sites was tested through the Local Plan process and indeed supported a reduction in affordable housing requirements to 20% (and to reduce the CIL requirement for flatted developments on brownfield sites). Nevertheless, the viability undertaken the Local Plan was prepared prior to the Covid period and Members will be very aware of the current economic circumstances with significant increases in build costs and considerable uncertainty about future house prices. The fact that the applicant considers that the approved scheme is not viable has also forced a re-think in terms of the development potential of the site.

Subject to the receipt of the Council's final viability appraisal, in principle, your Officers are prepared to accept an off site contribution. The final amount is still being negotiated and Members will be updated at the meeting.

On the basis that an exception to normal policies of on site provision is being made it would be appropriate to also require a review mechanism within the planning obligation. The viability review would assess actual development costs and a degree of sales have been realised, for instance within months of the completion and occupation of the development. This would identify whether any increased contribution could be made post development. This is often called a clawback of any additional development profit over and above what is an agreed percentage amount.

### ***Design, Scale and Appearance***

Local Plan Policy DM5 requires respect for and enhancement of the prevailing character of the area with consideration of a range of factors, including size, form, context, massing, density, layout and landscaping. High architectural and design quality is sought, which makes a positive contribution to the sense of place and local distinctiveness. This policy links to Policy SS1, that whilst development densities should make efficient use of land, they should also relate well to the surrounding area.





**Fig. 3: Current Proposal (upper) Compared With Approved Scheme (lower)**

Figure 3 above shows the current proposal for a single block alongside the converted and extended Columbia House. The lower of the two images shows the 2019 approved scheme for three independent blocks, flanking Columbia House. These three blocks are also depicted as red outlines on the image of the current proposal

A principle of the current proposal is to create a more efficient development, which amalgamates the previous approved buildings to the south (left hand side) of Columbia House and no longer constructs the approved flatted building to the north. This eliminates the need for individual entrance halls and circulation space and produces improved capacity and economy in construction. This single-building approach allows for an overall slightly smaller built footprint and the higher density development of 78no. flats / 195 dwellings/ha in place of the approved 36 no. approx.90 dwelling/ha).

As can be seen, in order to achieve this, the proposed Block B is also one storey taller than the highest part of the approved blocks but remains around 4m lower than and subsidiary to Columbia House.

The proposed building is asymmetrical in form, its southern end being one floor lower than the northern / right-hand side. This is intended to make a transition of scale between the one and a half storey 'Pines' day centre building to the south and the seven storey Columbia House to the north. The upper floors are also inset by approximately 3m along the frontage and the northern end and by 7m at the southern end.

These recessed upper floors provide a sense of vertical tapering in the size of the building. Its footprint is also staggered or 'stepped' so that the southern half of the building facade is set back approximately 5.5 metres from the northern end.

In between the northern and southern ends is the glass-fronted stairwell, which has been introduced by the amended plans (Figure 4 below). This rises through the centre of the building up to roof level. It is designed to maintain some of the lightness of the air space which previously separated the two separate blocks of the 2019 approval as shown in Figure 3.

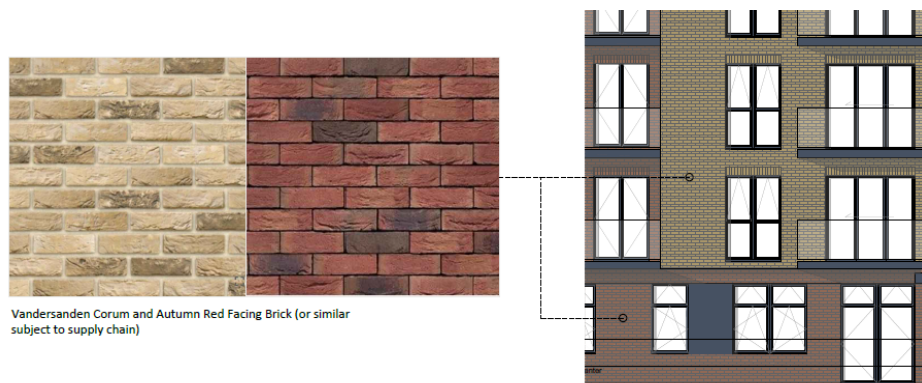
The stepped footprint and facade are intended to echo the arrangement of the 2019 buildings which were progressively stepped back from the road and which each had stepped facades (Figure 8 is an example of an approved block).



**Fig. 4: Proposal As Amended (Front)**



**Fig. 5: Proposal As Submitted (Front)**



**Fig. 6: Proposed Materials**

The detailed design of the amended proposal is influenced by that of Columbia House in terms of using vertical columns of windows and centrally placed doorway along with recessed panel-clad top floors and overhanging brise-soleil pelmet roof.

However it differs in the use of a stepped footprint, which moves away from the slab-like design of the converted office building. The columns of windows and balconies are also varied in width, some are slightly recessed; there are French doors at ground floor, all of which creates a more domestic character. This is accentuated by use of brickwork for most of the building with a red-brick base and paler main brick above. The precise colour and quality of main materials would be vital to ensure high quality, including grey aluminum window, door frames & copings.



**Fig. 7: Proposed Side and Rear Elevations**

Therefore the proposals brings together elements of the form of Columbia House with the materials and some of the domestic details of neighbouring housing. This serves as a design transition between the two.



Overall this different approach from that of the 2019 scheme creates a slightly less built up frontage at ground level along Romany Road. However, unlike that scheme the current proposal creates a singular mass, which although it is tapered and staggered, will have greater visual impact than the series of smaller tapered blocks, as seen in the example at Figure 8.



**Fig. 8: Example of Previously Approved Blocks, 2019**



The front elevation is likely to appear more sheer in some places than the approved, particularly at its taller northern end, although the horizontal series of proposed balconies will help in softening this.

The three images at Figure 9 below illustrate how the building might appear in the wider streetscene. It makes a pronounced addition to the western side of Romany Road and its scale is more closely related to that of Columbia House than the two-street storey houses and flats on the eastern side and Columbia Drive environs.

In consideration of Policies DM5 and SS1, this single-building approach achieves a consistent density with Columbia House and accordingly its scale is similar to that existing building. This reinforces the distinctiveness of the Columbia House site, although the roadside of the proposal setting lacks some of the spaciousness of Columbia House, which occupies the head of a vista in Columbia Drive.

Given the singular nature of the Columbia House site, its partial setting against the backdrop of the substantial warehouse building and the existing planning permission for blocks of up to six storeys, it is considered that the proposal accords with policies for buildings which are appropriate to their context, but it is vital that a high standard of construction and materials is attained, with use of suitable planning conditions.



**Fig. 9: Streetscene Images of Proposal**



## Accessibility and Parking

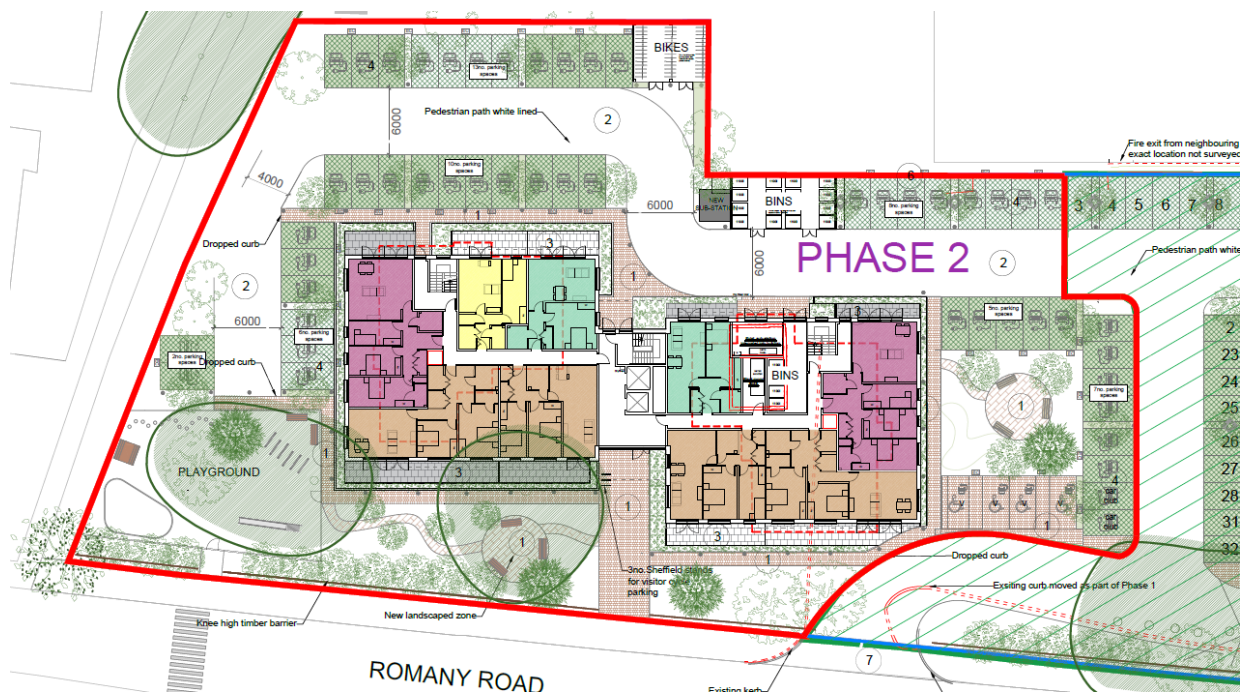
Vehicular access, shown in Figure 10, would be via the existing entrance driveway from Romany Road approximately 70 m from the southern boundary of the site and slightly north of the junction of Poplar Road opposite the site, which serves Hawthorns School. A pelican crossing in Romany Road is close to the southern boundary and a pedestrian access to the site is proposed to the north of this.

The County Highway Authority is satisfied with the predicted traffic increase of 23 AM and 23 PM peak hour two-way vehicular trips without need for junction improvements but with the requirement to introduce yellow lining along the west side of Romany Road, between the Poplar Road junction and the splitter lane just south of the Columbia Drive/Romany Road roundabout junction.

Internal accessibility for emergency and refuse-collection vehicles have been demonstrated by review of plans and agreed by the Highway Authority and Waste Management officer. This will require the prevention of parking alongside the internal driveway by use of planning conditions.

As in the 2019 approval a narrow part of the Columbia House site frontage would be reserved for future pavement widening by the County Council to allow for a shared pedestrian-cycle path. This does not require removal of trees in front of Columbia House. A financial contribution of £16k applied in 2019 would be updated and reapplied.

Within the site, white line denotations would be used to identify pedestrian routes along the shared internal access drive.



**Fig. 10: Proposed Layout**  
(Shared access with Columbia House to north / right hand side of plan)

## Parking, Car Club and Travel Plan

Parking for 54 no. vehicles would include 48no. spaces for future residents and four vehicle spaces for visitors, giving a ratio of 0.69 spaces per dwelling. This is slightly below the 0.71 spaces ratio of the converted and extended Columbia House and is acceptable to the Highway Authority.

The applicant's Transport Assessment states that spaces will not be allocated to individual residents and four spaces would be designated for wheelchair access. Two parking spaces of the 54no. would be allocated for Car Club vehicles, with the first vehicle provided early in the occupation of the new building. Uptake and demand would be monitored which would inform the timing of the provision of a second vehicle.

This would add to the existing car club vehicle already required when the additional ten flats are completed at the roof of the converted Columbia House, giving a potential of 3no Car Club vehicles for the overall Columbia House site. Paid membership would be provided for 2 years and £50 car club drive credit per household. This would be secured by legal agreement.

A secure cycle store would be constructed to the rear of the site with space for 82 cycles. A travel plan would promote use of cycling and walking routes and public transport, with a £150 public transport travel voucher per household. This would be submitted by requirement of a planning condition and monitored for a five year period in liaison with the County Highway Authority, for which an auditing & monitoring payment and management arrangements would be made under legal agreement.

The applicant has confirmed that access into and around the building would comply with requirements for wheelchair users. A planning condition can ensure that details are provided and adhered to. Fencing at the site boundary would be required to provide for safety, particularly in respect of the areas for play near the site frontage, details can also be required to also ensure suitable visual quality.

In summary, access and parking aspects of the proposal are considered to accord with Policy DM15 requirements to reduce reliance on journeys made by private car. Management of parking, including its prevention at the site access drive and to minimise the risk of under-usage, which is a factor referred to in the neighbour response, can be required as part of wider site management under a legal agreement.

In accordance with County Parking Guidance, 2019, at least 41 percent of spaces are required to have active electric vehicle (EV) charging for developments approved in 2023. This has increased from 37 percent in 2022, when the application was submitted. Provision would be required by planning condition, although recent regulatory changes may require a greater amount through the separate Building Regulation Approval process.



### ***Residential amenity – proposed dwellings***

In accordance with Policy DM2, the applicant has demonstrated that all dwellings will meet Nationally Described Space Standards. The smallest are studio flats of 41sqm, approx 4 sqm beyond the minimum, the largest are the three-bed and some two-bed homes of 91-98 sqm, which are also around 4sqm - 12sqm beyond the respective minima.

Many of the proposed apartments are dual or multi-aspect, with a range of outlooks, including proposed landscaped areas between the building, parking and or street. Whilst 34no. are single-aspect homes, these tend to be on the east or west sides, which receive either morning or afternoon sunlight. Five of the 1-bed units are north facing, although these are above ground level and face onto some of the larger proposed balconies, which provides some compensation.

The Environmental Health officer is satisfied that apartments with noise-sensitive facades towards the road and rear towards the Faraday Road employment area and yard, can be addressed by use of acoustic glazing and mechanical ventilation. Given that only part of the site faces towards the neighbouring yard, around 15m away, there is reasonable likelihood that windows could be opened for periods of purge ventilation here.

### **External Space**

The applicant states that each apartment would have a balcony running from 4-11 sqm in size, although a correction of drawings is needed, where some appear to be missing from the rear. Each of the nine ground floor units would have a small terrace fringed by varying degrees of planting.

Other components are communal garden areas around the building to the north, south and east, including an informal children's play area to the south east corner of



**Fig. 11: Play Area**

the site, similar to the 2019 scheme.

These total approximately 467 sqm with some areas of roof terrace, although these may be reduced in size due to the need to concentrate their use away from the roof edge of the site frontage where views down towards neighbours opposite may be undesirable. The total amount of outdoor space, including balconies is close to the 20 sqm per dwelling, which is sought by the Council's Space Standards SPD.

Shade testing of proposed amenity spaces confirms that these also meet recommendations of the Building Research Establishment 'BRE' for Sunlight and Daylight with the exception of 10 percent of the amenity space to the north of the proposed building. This minor shortfall is considered acceptable given the extent of the area which conforms.

In accordance with the Council's Open Space, Recreation & Leisure Guidance Note, access to other types of outdoor recreation facilities have been considered. Northbrook Ward is relatively well provided with parks and open space, the nearest of these is Longcroft Park 100m from the site, via the pelican crossing in Romany Road. This provides sports pitches and both formal and informal play areas.

There is a local shortfall in respect of play spaces for older childrens/youths, therefore, according to the calculation method of the Council's Guidance note, the proposal would generate the need for a financial contribution of £66,600 towards future provision and maintenance contribution of youth facilities. This would be secured through a legal agreement.

### ***Residential amenity – existing dwellings***

The nearest neighbouring buildings are the stepped-terrace of 2-storey houses on the east side of Romany Road, opposite the site, also Stanhope Lodge Care Home at the corner of Poplar Road. The stepped facade of the proposed building and its proposed front and side balconies would be between 34m and 45m from these frontages, with the top floor set back 3m further.

This relationship compares with separation distances between the facades of two-storey houses in the area, which are typically around 21m-27m, for instance in side-streets such as Willow Crescent to the east; although there are a small number of houses facing one another at distances of 40-45m apart. across Columbia Drive.

In consideration of neighbouring outlook under Policy DM5, the proposed separation across a relatively wide street with roadside verges to the east and replacement tree planting along the site frontage, is considered fair in this case, although the building is overall wider and one storey taller than the two separate blocks which were previously approved in this location.

In common with the approved scheme, it is considered reasonable that a planning condition be used to control the extent of use of the proposed roof terrace at the southern end of the building, so that users are not close to the roof edge where the most extensive views towards neighbours would otherwise be possible.

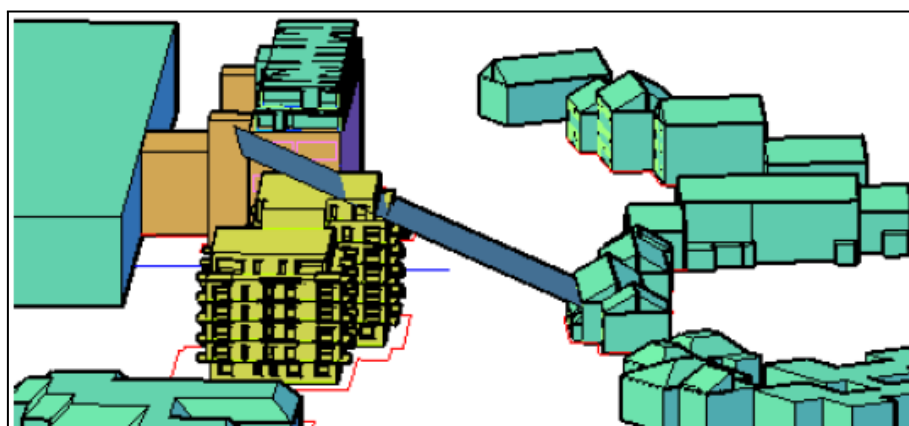
To the south a distance of around 30-31m between the five storey end of the building and the side of the Pines Day Centre, filtered by boundary vegetation, is also considered reasonable. A similar distance would be retained to the north with flats at the southern end of the converted Columbia House.

### Sunlight and Daylight.

In accordance with Policies DM5 & DM22 and National Guidance for the assessment of sunlight and daylight impacts (Building Research Establishment. BRE), a sequence of tests have been applied to neighbouring windows facing the site to the north, east and south in Romany Road and the converted Columbia House.

The daylight tests consider first whether the new development would intersect with a 25 degree angle measured from each neighbouring window. Of the 130no. windows 97 no. met this test. Then 27 of the remainder passed a second stage 'Vertical Sky Component 'VSC' test, which means that a dual target of either 27 percent of daylight falling upon these windows or 80 percent of their current VSC value was met.

This leaves 6 windows where the daylight impact is greatest i.e. the ground floor front windows of nos. 11, 15, 17 & 19 Romany Road and ground and first floor of no.21. Most of these are shown in Figure 12 below, which illustrates the first stage 25 degree test.



**Fig. 12: Daylight Impact - 25 degree test at Romany Road**

The assessment reports that these windows receive VSC levels of 21 - 26 percent, which it comments, is considered to be acceptable in an urban environment, given the acknowledgement in BRE guidance that acceptable impacts vary according to the density and character of an area, also the guidance in National Planning Policy (NPPF, 2021), para 125 c) of which states:

*'when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).'*

Sunlight tests were undertaken for neighbouring windows facing the site within 90 degrees of due south. This showed that sunlight levels reaching the southern end of the converted Columbia House were within BRE criteria in all but one instance. The affected window was dual aspect, receiving sufficient sunlight from other windows.

Noise.

Risk of noise, (other than from the interior of flats at times when windows are open), is also relevant under Policies DM5 & DM22. This risk is considered to be from two potential sources: the proposed southern roof terrace, and secondly the children's play area.

On the first point, confirmation has been sought as to how many residents may be permitted to use this roof space. If, as anticipated, it is communal an hours-limitation could limit its use after a particular hour; in the 2019 scheme, the Environmental Health officer concurred with 9pm for this purpose. The use of a legal agreement can require this to be included in all leases and enforced by a management company. This would be preferable to the use of a planning condition, which would be hard to monitor.

The children's play area would comprise the southern part of the proposed amenity space and is close to The Pines and visible from houses in Romany Road opposite. This play area frontage would be fenced for road safety purposes. As in the 2019 scheme the use of this area could be required to cease after a reasonable evening time, for instance 7pm/8pm. Suitable perimeter fencing for the play area (approx 1.2m height) and signage could assist in future management as part of a legal agreement, the enforcement of which would be for a management company.

### ***Drainage and Flood Risk***

The site is within Flood Zone 1, an area of low risk from river flooding. This is confirmed in a Flood Risk Assessment (FRA) submitted with the application and agreed by the Environment Agency. It is noted that in 2019 part of the site was previously identified as within an area of medium risk but since then this has been reclassified as low risk following remodeling of the Ferring Rife catchment area by the Environment Agency.

The FRA identifies no greater or significant risks from other sources, including sewer and groundwater. In accordance with Local Plan Policy DM20 some elements of sustainable surface water drainage techniques are proposed. These would comprise areas of porous pavements combined with below-ground water storage tanks. These are designed to collect and release rainwater into off-site sewers at a controlled rate, which improves upon the drainage characteristics of the existing site.

Recent additional drainage information has been accepted by the Council's Drainage Engineer. Detailed drainage plans and future management can be required by planning conditions and ongoing management responsibility secured under legal agreement. Mindful of the County Lead Local Flood Authority concerns, details of measures to manage any excess surface water in high magnitude rainfall events (greater than 1:100 year severity), have also been requested. The tree

officer's comment has been requested concerning the engineer's request for root barriers for drainage near trees.

### ***Trees and Biodiversity***

The application would necessitate the removal of five conifer trees at the site frontage, a loss which appears to be somewhat greater than that of the approved scheme in which space may have allowed for retention of some of these. Whilst the comments of the tree officer are awaited it is noted that the form of many of these trees is compromised by perhaps over-dense planting in the past; crowns appear misshapen with notable die-back at the sides and rear, albeit less-so towards the road.

The proposals would retain deciduous trees at the southern corner, the foremost of these being at the corner frontage, which has a more evenly formed crown than the conifers.

A biodiversity assessment submitted with the application identifies the existing conifer trees as poor in ecological terms. Other vegetation the site is described as sparse and much being non-native. The proposals include new tree planting with areas of new planting in place of some of the existing hard surfacing.

According to the ecologist's assessment, by use of a Landscape Ecological Management Plan (LEMP), including native planting, hedges, wildcrass/wildflower planting and measures such as bird and bat boxes, can result in a net gain of 1.83 habitat units and a net gain of 0.01 hedgerow units, giving a net percentage change of +78.23%, which is in accordance with Policy DM18. Planning conditions and legal agreement requirements can secure appropriate detailed plans and ongoing management.

### ***Contaminated land***

An initial site assessment has been undertaken and agreed by the Council's Environmental Health Officer, who recommends a standard approach to further site investigation and agreement of any arising detailed site remediation. Planning conditions would be applied for submission and approval of details.

A geo-textile membrane is likely to be required for any areas of permeable paving, if there is risk of any residual contaminants, if present, passing into surface water drainage.

### ***Other issues***

#### **Fire Safety**

In accordance with National requirements for fire safety in tall buildings, the applicant has provided a detailed fire statement, which has been considered by the Health and Safety Executive (HSE). The HSE response requested amendments to upper glazing, which have been incorporated in the amended plans. Their response

to further consultation on these amended plans is awaited and can be received under Officer's delegated authority.

#### Air Quality

In accordance with Policy DM22 and West Sussex Air Quality Management Policy, an air quality assessment has been submitted and evaluated by the Environmental Health (EH) officer. This identifies the need to manage risk of dust and particulates during the construction phase. The EH officer agrees that a Construction Management Plan (CEMP) would be required for this purpose, and a planning condition can be applied.

Predicted traffic combined with electric vehicle charging and the use of air source heat pumps for heating are found to have insignificant impacts on nitrogen gas and particulates, which are well below air quality objective levels.

#### Crime risk

As recommended by the Police Design advisor, matters such as external lighting and secure cycle storage can be required by planning conditions. Recommendations for secure entry systems can be included as informative text to any grant of planning permission, with provision that any externally visible changes arising from this, if significant, can be dealt with under a planning condition.

#### ***Infrastructure and s106 Legal Agreement provisions***

In accordance with policy DM9, new development should make provision for facilities and infrastructure made necessary by it. A community Infrastructure Levy (CIL) payment will be required under the Council's adopted CIL Charging Schedule to cover infrastructure such as education, health and libraries.

In terms of other facilities and infrastructure, the scheme approved in 2018 for a lesser number of new homes is accompanied by a Legal Agreement which requires provision of a strip of frontage land for a future cycle path and up to £16,000 contribution; a car club vehicle with paid membership and travel plan implementation, also site management of matters such as parking, car club, noise and common areas.

This 2019 approval is partly implemented by the construction of the 10 new apartments on the roof of Columbia House and is bound by the existing s.106 Legal Agreement in common with the 36no. flats. A new planning obligation would be required to ensure that:

- 1) the 36no flats of the 2019 Blocks B, C & D can no longer be constructed,
- 2) parts of the 2019 Legal Agreement which remain relevant remain in force,
- 3) parts of the 2019 Legal Agreement are no longer relevant are rescinded,
- 4) the affordable housing requirement to be updated to reflect the current offer of £200,000 which would cover both the partly implemented 10no. flats and the proposed 78no, and include a future post development viability review.

Table 3 below sets out the terms of the legal agreement now required. As can be seen the Car Club requirement for Block A has already been triggered and would either remain in place or be repeated. The cycle path contribution of up to £16,000 would need to be recalculated with the Highway Authority and site management relating to previously approved *commercial* uses would no longer apply.

**Table 3: s106 Obligations Heads of terms**

Issue	Obligation	Sum
<b>Affordable Housing</b>	<p>Replacement of the 2019 obligation</p> <p>Contribution for off-site affordable Housing</p> <p>This covers both the current proposal for 78 new dwellings and the extant consent (vertical extension) for 10 units at Columbia House</p> <p>Payment is to be staged to reflect the occupation of the 10 units at Columbia House and then 78 units in Block B</p> <p>Viability review within [x] months of occupation of the new Block B</p>	£200,000
<b>Open Space</b>	<p>Contribution towards Play Space (Youth).</p> <p>Maintenance sum (to cover 15 year period)</p>	<p>£30,186.60</p> <p>£36,471.60</p>
<b>Transport</b>	<p><b>for Block A</b></p> <p>Car Club. Continued provision of at least 1 car club vehicle with 2 years paid membership and £50 car club drive credit per household</p> <p><b>for Block B</b></p> <p>Car Club. Provision of at least 1 vehicle (on top of existing one already agreed at Block A) with 2 years paid Membership.</p> <p>£50 car club drive credit per household and £150 public transport travel voucher per household</p> <p>Review of Car Club and subject to outcome and liaison with Council provision of 1 further vehicle within 5 years of occupation of Block B</p>	<p>Already triggered</p> <p>£48,000</p> <p>£15,600</p> <p>£3,500</p>

	<p>Implementation and Monitoring of Travel Plan with auditing / monitoring payment to County Highway Authority</p> <p>Traffic Road Order for yellow lining on the west side of Romany Road near site access.</p>	TBC
<b>Site Management</b>	<p>To update the 2019 site management requirements <i>below</i> to include:</p> <p>Parking Restrictions Landscape and Ecological Management</p> <p>[2019 requirements cover:</p> <ul style="list-style-type: none"> <li>- Operation of Car Club</li> <li>- Travel plan Implementation &amp; Monitoring</li> <li>- Parking Management</li> <li>- Common Areas</li> <li>- Roof Area</li> <li>- Drairage ]</li> </ul> <p>Site management of commercial areas to be rescinded</p>	
<b>'2019 Permission' AWDM/1480/18</b>	Not to implement the construction of 36 apartments in Blocks B, C & D approved under AWDM/1480/18.	
<b>Total</b>		<b>£343,357.60</b>
<b>Cycle Path</b>	<p>Existing obligations to remain in force but £ amount to be updated i.e:</p> <ul style="list-style-type: none"> <li>- provision of a strip of frontage land for a future cycle path and</li> <li>- up to £16,000 contribution*</li> </ul> <p>*cycle path contribution value to be updated</p>	<b>TBC</b>

### **Summary**

Use of the former Columbia House land for residential development has been well established by the conversion and occupation of the existing building in the past two years. Whilst the now-proposed wholly residential scheme, without the small commercial-employment spaces of the 2019 approved scheme may be regarded as contrary to Policy DM11, the large scale of the existing residential use balanced against the small scale of the approved commercial component provides no firm justification for refusal of the current proposal. The development serves to augment



the previously approved 36no. apartments, which already form part of the assumed housing supply under strategic Local Plan Policies SS1 & SS2.

Whilst the increased density is high for this locale and in terms of Policy DM1, it is almost identical to that of the converted Columbia House. The emphasis upon one bedroom homes is based upon the apparent success of that conversion in providing small and relatively affordable homes in an area which is otherwise largely characterised by family-sized housing.

However despite this increase, predicted development costs and sales values appear unlikely to yield sufficient profit to enable provision of 20% (16no.) affordable homes which would normally be required. This was already the case in the 2019 approval and the position has intensified since then. Subject to the final outcome of the Council's Consultant, it is considered that the proposed £200,000 contribution, would facilitate up to 8.4 affordable off site dwellings. A review mechanism can verify whether this amount could be increased when development is completed.

There are both positive and negative consequences to the increased development density by comparison with the three separate blocks of the 2019 approval. It retains a slightly greater amount of unbuilt frontage across the Columbia House site as a whole, it is a more efficient means of construction and is set to achieve high CO2 reduction values. But is also one storey taller and more singular in mass, which will make for a more prominent new roadside building, which does not enjoy the spacious vista which characterises the setting of Columbia House. There is also greater demand for outdoor space, albeit that this can be compensated by a payment in accordance with the Council's adopted approach.

The predicted impact on the outlook from neighbours and their privacy is tempered by the intervening distance and replacement planting. Impacts on light are substantially in accordance with national guidance and the small number which fall marginally below this are localised; the flexibility recommended in NPPF Para 125 indicates that this can be accepted.

In terms of parking, the 0.69 ratio of cars to homes is close to that of the converted building at 0.71. Policy DM16 and neighbour concerns indicate that the additional car club provision and travel plan will be important in fostering lower levels of private car dependence. Ongoing management of parking would be a vital part of a s.106 agreement.

Biodiversity improvements can be achieved by both the proposed and previously approved schemes, in this context the removal of existing trees, whilst a dramatic change, provides an opportunity for a more considered roadside planting scheme for the medium to longer term.

A high standard of materials and design details would be important in ensuring high quality and distinctiveness, for which planning conditions would be applied. Ongoing management of the site, along with financial contributions described in this report would also be required by a legal agreement, which would serve as an update and variation to the agreement of the 2019 scheme.

Therefore, in terms of overall planning balance, the benefits of the increased number of new homes and sustainability development of this proposal in terms of re-using previously developed land, when set alongside the impacts of the larger and more intensive form of development, are considered to support an on-balance approval of the application.

**Recommendation:**

**It is recommended that planning permission be GRANTED to be delegated to the Head of Planning to issue the decision subject to a s.106 Agreement, as summarised in the Draft Heads of Terms Table 3 in this report, and subject to satisfactory comments from outstanding and subject to the following conditions:**

**Conditions:-**

1. The development hereby permitted shall be carried out in accordance with the following approved plans unless specified otherwise in a subsequent condition imposed on this decision notice.

*[drawings to be added]*

**Reason:** *For the avoidance of doubt and in the interests of proper planning.*

2. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

**Reason:** *To comply with Section 91 of the Town and Country Planning Act 1990.*

3. Design Details

The following external details shall not be implemented until large scale drawings (typically 1:20 scale or larger) and cross sections where necessary of the following have been submitted to an approved in writing by the Local Planning Authority in accordance with condition 3 ii) of this permission.

- a) windows and doors,
- b) balconies and balustrades / rails,
- c) roof intersections, soffits, eaves and brise soleil,
- d) rainwater goods

*[ any others to be added ].*

**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 2020 - 2036.*

#### 4. Materials

Notwithstanding the information contained in the current application, no development shall be carried out above slab level, unless and until a schedule and samples of materials and finishes to be used for the external walls (including bricks, cladding, windows, doors, rainwater goods, roofing and brise soleil, and any safety rails and balustrades and their supports and any frame) have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed in accordance with the approved schedule and samples.

**Reason:** *In the interests of visual amenity, to ensure an appropriate standard of development and to comply with policy DM5 of the Worthing Local Plan 2020-2036.*

#### 5. Boundary treatments / Means of Enclosure and Limitation

- i) Prior to any development above slab level details of all fencing including the safety fencing for the Children's Play Area shall first be submitted to and approved in writing by the Local Planning Authority and shall be implemented prior to the occupation of the development hereby permitted.
- ii) No other or additional means of enclosure which is visible from outside the site shall be erected without the prior written approval of the Local Planning Authority and this condition shall apply notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any Order revoking or re-enacting that Order.

**Reason:** *To ensure a good quality environment, safety and visual amenity in accordance with Policies DM5 & DM7 of the Worthing Local Plan 2020-2036.*

#### 6. Landscape Recreation & Biodiversity

- i) Prior to any development above slab level details of all hard and soft landscaping and a timetable of landscaping works and aftercare shall be submitted to and approved in writing by the Local Planning Authority The details of all hard and soft landscaping, works and aftercare to be implemented in accordance with that timetable shall include:
  - a) landscape planting, including species, size and number or planting densities,
  - b) Landscape and Ecological Management Plan (LEMP) to demonstrate how any areas of habitat or features of biodiversity importance are to be provided and established
  - c) planting medium/backfilling material,
  - d) ground surfacing materials: type, colour, texture and finish,

- e) details of outdoor and recreation spaces, play equipment benches and fences
  - f) a maintenance plan to ensure establishment and aftercare of this detailed scheme of landscaping.
- ii) The details and timetable at i) above shall be adhered to throughout the course of development works. All planting, seeding, turfing and ground surfacing comprised in the approved details of landscaping, shall be carried out in accordance with the timetable thereby approved and any vegetation or surfacing 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 type, size & species.

**Reason:** *To safeguard and enhance the character and appearance of the site and its biodiversity value in accordance with policies DM5, DM7, DM18 & DM19 of the Worthing Local Plan 2020-2036.*

#### 7. Vehicular Access, Parking and Manoeuvring Areas & Timetable

No development above slab level shall take place until such time as a timetable covering the construction of the vehicular and non-vehicular accesses serving the development has been submitted to and approved in writing by the Local Planning Authority. The accesses shall thereafter be constructed and brought into use prior to the occupation of the development hereby approved, in accordance with the approved timetable and details shown on the drawing titled Access Plan

and numbered [ 10964/2100 Rev P2 - *check version* ] .

**Reason:** *In the interests of highway safety and amenity and to ensure the retention of delivery and service access for vehicles in accordance with policy DM15 of the Worthing Local Plan 2020 - 2036 and paras 92 & 110 of the NPPF, 2021*

#### 8. Vehicular Access, Parking and manoeuvring

No dwelling shall be occupied until:

- i) all parking spaces and manoeuvring areas have been completed in accordance with the approved plans and shall be retained and kept free for that purpose.
- ii) a parking, delivery and servicing management plan has been submitted to and approved in writing by the Local Planning Authority. This shall be permanently adhered to unless the Local Planning Authority gives prior written approval for any variation

**Reason:** *In the interests of highway safety and amenity and to ensure the efficient use and retention of delivery and service access for vehicles in*

*accordance with policy DM15 of the Worthing Local Plan 2020 - 2036 and paras 92 & 110 of the NPPF, 2021*

9. Vehicular Access, Parking and Obstructions

No dwelling shall be occupied until road markings and signage have been implemented on site, in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority to prevent parking and obstructions along the site access roads/driveway. These details shall be permanently retained and maintained in good condition and visibility so that the roads/driveway are kept permanently clear of parking and obstructions.

**Reason:** *In the interests of road safety and amenity and to ensure adequate unobstructed access in accordance with Policies DM9 & DM15 of the Worthing Local Plan 2020 - 2036.*

10. Cycle Stores and Bin Stores

No dwelling shall be occupied until secure cycle parking stores and bin stores have been provided in accordance with the approved plans, These shall be then kept permanently available and maintained for these purposes.

**Reason:** *In the interests of sustainable transport and amenity in accordance with DM9 of the Worthing Local Plan 2020 - 2036.*

11. Travel Plan

No part of the development shall be first occupied until such time as a Travel Plan Statement has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan Statement shall be completed in accordance with the latest guidance and good practice documentation as published by the Department for Transport or as advised by the Highway Authority.

**Reason:** *In the interests of sustainable transport and amenity in accordance with DM9 of the Worthing Local Plan 2020 - 2036*

12. Sustainable Construction & Energy

i) The development hereby approved shall (unless alternatives are agreed in writing by the Local Planning Authority), incorporate the following sustainable energy and heat management measures, in accordance with the details in the Energy and Sustainability Report [*reference*] submitted with the current application:

i) Energy efficient building fabric and ventilation

- ii) Air-source heat pump boiler system (or other such system incorporating renewable energy to achieve a similar outcome as shall first be approved in writing by the Local Planning Authority),
  - iii) LED internal & external lighting,
  - iv) Efficient water goods and fixtures to achieve <110L/Person usage/day.
  - v) Operational waste management,
- ii) Written confirmation, including independent professional verification, shall be submitted to and approved in writing by the Local Planning Authority, within 3 months of the first occupation of the development, (or such other time as shall first be agreed in writing by the Local Planning Authority), to confirm that these measures have achieved the target CO2 reduction contained in the [reference] Report below the baseline model including renewable energy, and confirming the installation of water goods and fixtures to achieve a target of <110L/Person usage/day.

The verification document shall include any proposed and timetabled remedial measures if these targets have not been met, in which event the remedial measures thereby approved shall then be implemented in accordance with that timetable.

**Reason:** *To ensure CO2 reduction through sustainable construction, renewable energy and to ensure water efficiency provision in accordance with policies 17 & 18 of the Worthing Borough Council Core Strategy 2011 and paras 152-158 of the NPPF, 2021.*

#### 13. Accessible & Adaptable Homes

All dwellings hereby approved shall be constructed as Accessible & Adaptable Homes in accordance with Category M4 (2) of the Building Regulations Approved Document Part M.

**Reason:** *To accord with the current application and ensure that dwellings are sufficiently accessible and adaptable to meet housing needs in accordance with policy DM1 of the Worthing Local Plan 2020-2036.*

#### 14. Sustainable Surface Water Drainage

Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA/ No part of the extended building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the

details so agreed shall be maintained in good working order in perpetuity. Details shall be supported by an assessment of the risks to controlled waters and any required tree root barrier details. The scheme shall be implemented as approved and in accordance with any timetable/phasing agreed as part of the approved scheme.

**Reason:** *To ensure adequate surface water drainage, including sustainable drainage and to ensure that drainage is adequate for the design lifetime and does not increase flood risk elsewhere in accordance with policy DM20 of the Worthing Local Plan 2020 - 2036 and paras 167, 169 & 174 of the NPPF 2021.*

#### 15. Drainage Maintenance

No dwelling shall not be occupied until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

**Reason:** *To ensure adequate surface water drainage, including sustainable drainage and its maintenance, is adequate for the design lifetime and does not increase flood risk elsewhere, in accordance with policy DM20 of the Worthing Local Plan 2020 - 2036 and paras 167, 169 & 174 of the NPPF 2021.*

#### 16. Drainage Verification

Immediately following implementation of the approved surface water drainage system and prior to occupation of any dwelling, the developer/applicant shall provide the Local Planning Authority with as-built drawings of the implemented scheme together with a completion report prepared by an appropriate qualified engineer that confirms that the scheme was built in accordance with the approved drawing/s and is fit for purpose. The scheme shall thereafter be maintained in perpetuity.

**Reason:** *To ensure an accurate record of drainage in accordance with policy DM20 of the Worthing Local Plan 2020 - 2036 & NPPF paras 167, 169 & 174.*

#### 17. Foul Water Drainage

No development shall take place until details of foul drainage have been submitted to and approved in writing by the local planning authority in liaison with Southern Water. No dwelling associated shall be occupied until the drainage works have been carried out in accordance with the approved details.

**Reason:** *To ensure appropriate foul drainage, in accordance with policy DM9*

18. Remediation of Contaminated Land

Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

(1) A site investigation scheme, based on the Phase I Geo-Environmental Site Assessment (ref. A11816/1.1 April 2022) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

(2) The site investigation results and the detailed risk assessment (1) 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.

(3) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (2) 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 express consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to commencement of any construction work (or such other date or stage in development as may be agreed in writing with the Local Planning Authority).

**Reason:** *To minimise and manage any risks associated with any historic land contamination, and protection of groundwater, in accordance with policies DM21 & DM22 of the Worthing Local Plan 2020- 2036*

19. A Verification Report demonstrating completion of the works set out in the approved remediation strategy under [*condition x above*] 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. It shall also include any plan (a 'long-term monitoring and maintenance plan') for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

**Reason:** *To minimise and manage any risks associated with any historic land contamination, and protection of groundwater, in accordance with policies DM21 & DM22 of the Worthing Local Plan 2020- 2036*

20. If during development, any visible contaminated or odorous material, (for example, asbestos containing material, stained soil, petrol/diesel/solvent odour, underground tanks or associated pipework) not previously identified, is found



to be present at the site, no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until it has been investigated by the developer. The Local Planning Authority must be informed immediately of the nature and degree of the contamination present and a method statement detailing how the unsuspected contamination shall be dealt with must be prepared and submitted to the Local Planning Authority for approval in writing before being implemented. If no such contaminated material is identified during the development, a statement to this effect must be submitted in writing to the Local Planning Authority.

**Reason:** *To minimise and manage any risks associated with any historic land contamination, and protection of groundwater, in accordance with policies DM21 & DM22 of the Worthing Local Plan 2020- 2036*

21. Safeguarding of Groundwater/ Approval of Piling

No piling work shall be undertaken unless details (including groundwater investigation) and measures to be undertaken to protect groundwater have been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water. Thereafter the development shall only be carried out in accordance with such approved measures.

**Reason:** *To minimise and manage any risks associated with any historic land contamination, and protection of groundwater, in accordance with policies DM21 & DM22 of the Worthing Local Plan 2020- 2036*

22. Levels

Development shall not commence (with the exception of any demolition or stripping out), until a survey and plan of existing and proposed site and slab levels, including a freeboard of at least 150mm and provision of access for people with disabilities has been submitted to and approved in writing by the Local Planning Authority. Development shall accord with the details thereby approved and thereafter no other raising of levels shall be carried without the prior written approval of the Local Planning Authority.

**Reason:** *In the interests of clarity and drainage and accessibility and because changes in levels may materially affect the impact of the development.*

23. Noise Insulation and Acoustic Glazing

Prior to commencement of any works above slab level, details of acoustic glazing and ventilation shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented and permanently retained.

**Reason:** *To safeguard neighbouring amenities in accordance with policies DM5 and DM22 of the Worthing Local Plan 2020-2036.*

#### 24. Noise Mitigation and Ventilation - Verification

No development shall be occupied until all noise mitigation and ventilation approved under condition [x above] has been completed and details of the post implementation independent verification have been submitted to an approved in writing by the Local Planning Authority to demonstrate that the mitigation and ventilation measures undertaken are effective and protect noise sensitive development from noise & vibration. Any remedial actions arising from this verification testing which are then required by the Local Planning Authority shall also be implemented and permanently retained and maintained thereafter.

**Reason:** *To safeguard residential amenities in accordance with policies DM5 and DM22 of the Worthing Local Plan 2020-2036.*

#### 25. Noise - Lift Shaft Insulation

Prior to commencement of any works above slab level, a detailed scheme for protecting habitable rooms from noise from the adjacent lift shaft has been submitted to and approved by the Local Planning Authority. All works, which form part of the scheme, shall be completed before any part of the noise sensitive development of each phase of development is occupied. The scheme shall achieve a minimum airborne sound insulation value of 48dB (DnTw + Ctr dB) for walls. Before the residential units in each phase are occupied a test shall be undertaken while the lift is in operation to demonstrate the indoor ambient noise levels within BS8233:2014 and the WHO community noise guidelines are achieved in the adjacent habitable rooms, and shall be permanently maintained as such thereafter.

**Reason:** *To protect residents from noise and vibration in accordance with policy DM22 of the Worthing Local Plan 2020 - 2036*

#### 26. External Plant & Air Source Heat Pumps

No external fixed plant, or mechanical vent or duct, including any air source heat pump or similar apparatus shall be installed until details including acoustic performance, vibration damping and where relevant, odour management, have first been submitted to and approved in writing by the Local Planning Authority. All plant shall be maintained in accordance with manufacturer's guidance to ensure the levels contained in the aforementioned Acoustic Assessment are not exceeded and any future plant shall also meet the specified levels within the approved scheme.

**Reason:** *To safeguard neighbouring amenities in accordance with policies DM5 and DM22 of the Worthing Local Plan 2020-2036.*

#### 27. Rooftop Area

Notwithstanding the information contained in the current application, amended details, showing the position, design and means of securing a rail or barrier to

limit access to roof edges of the rooftop communal amenity space shall be submitted to and approved in writing by the Local Planning Authority. These rails and/or barriers shall be erected prior to the first occupation of the building in the locations thereby approved and shall thereafter be retained and maintained at all times.

**Reason:** *To limit access to the roof area in order to safeguard the privacy of neighbouring residents and in the interests of design and visual amenity in accordance with policies DM5 & DM22 of the Worthing Local Plan 2020 - 2036*

## 28. External Lighting – Provision and Limitation

Prior to occupation of the development a scheme of external lighting shall be implemented in accordance with details, including position, type and luminance of lighting, which shall first be submitted to and approved in writing by the Local Planning Authority to provide for site security but minimise risk of light pollution.. No additional external lighting which is visible from outside the site, shall be installed unless details, including design, position and luminance, have first been submitted to and approved in writing by the Local Planning Authority.

**Reason:** *In order to provide lighting as part of safe accessible development and to balance lighting needs with the interests of the appearance and character of the area, neighbouring amenities and highway safety in accordance with policies DM5, DM15 & DM22 of the Worthing Local Plan 2020 - 2036.*

## 29. Electric Vehicle Charging Points

No development above slab level shall take place until details of electric vehicle charging points and ducting, including number, location, power rating and charge rate, have first been submitted to and approved in writing by the Local Planning Authority and implemented.

**Reason:** *In the interests of sustainable transport and air quality, in accordance with NPPF Paras 102 - 105, 170 & 181 and policies DM15 & DM22 19 of the Worthing Local Plan 2020-2036.*

## 30. Aerials

Prior to the occupation of the building hereby approved, details of any external aerial/antenna and / or satellite dish (if any) for that building, shall first be submitted to and approved by the Local Planning Authority. Thereafter no other external aerial/antenna or satellite dish shall be installed on any building unless details have first been submitted to and approved by the Local Planning Authority.

**Reason:** *To avoid multiple aerial/antenna and / or satellite dishes, to ensure an appropriate standard of development and to comply with policy DM5 of the Worthing Local Plan 2020-2036.*

### 31. Construction Management Plan

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

- i) the anticipated number, frequency and types of vehicles used during construction - HGV construction traffic routings shall be designed to minimise journey distance through the Air Quality Monitoring Areas.
- ii) the method of access and routing of vehicles during construction,
- iii) the parking of vehicles by site operatives and visitors,
- iv) the loading and unloading of plant, materials and waste,
- v) the storage of plant and materials used in construction of the development,
- vi) the erection and maintenance of security hoarding,
- vii) a commitment to no burning on site,
- viii) 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),
- ix) details of public engagement and notification both prior to and during construction works,
- x) methods to control dust from the site.
- xi) details of hoardings, including information about and images of the development

**Reason:** *In the interests of highway safety and the amenities of the area in accordance with policies DM5, DM15 & DM22 of the Worthing Local Plan 2020- 2036.*

### 32. Hours of Construction

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

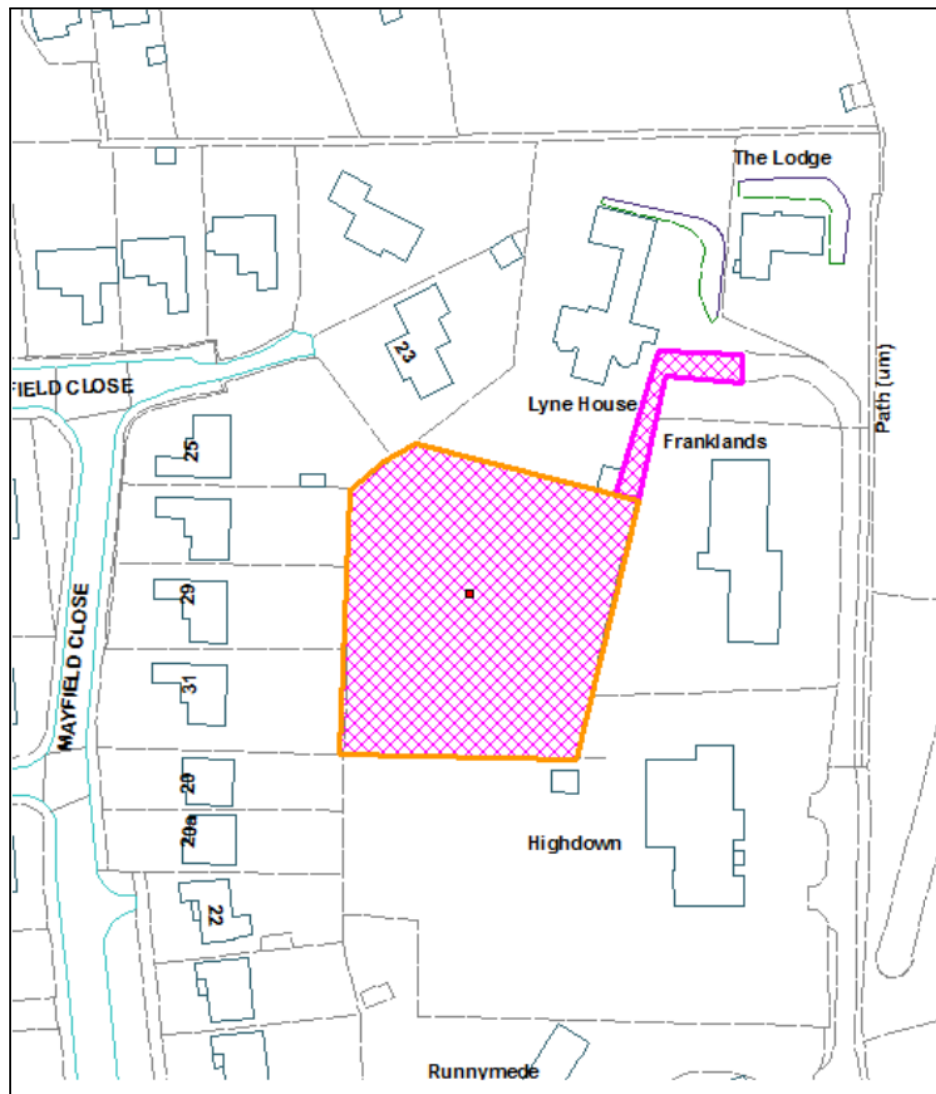
Sundays and Bank Holidays no work permitted

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:** To balance the needs of development works with the amenities of neighbouring occupiers, in accordance with *policies DM5 & DM22 of the Worthing Local Plan 2020-2036.*

33. Adherence to tree protection details during development works
34. Any other appropriate conditions

<b>Application Number:</b>	<b>AWDM/0821/22</b>	<b>Recommendation - APPROVE</b>
<b>Site:</b>	<b>Land South Of Lyne House, 20 Links Road, Worthing</b>	
<b>Proposal:</b>	<b>Outline planning application for 2 no. new detached dwelling houses (access only with all other matters reserved).</b>	
<b>Applicant:</b>	<b>Mr Nick Hyam</b>	<b>Ward: Offington</b>
<b>Agent:</b>	<b>Mr Tim Rodway, Rodway Planning Consultancy Limited</b>	
<b>Case Officer:</b>	<b>Gary Peck</b>	



**Not to Scale**

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## **Proposal, Site and Surroundings**

This application seeks outline permission for the erection of 2 detached houses to the south west of a large existing property, Lyne House, The outline application is submitted with all matters reserved for a subsequent Reserved Matters application except access. A Tree Report and Ecology appraisal accompany the application.

The application site is situated at the northerly end of Links Road. As well as the dwelling itself, Lyne House consists of a swimming pool to its south side, with an associated pool building. The proposed buildings are shown indicatively to the south of the swimming pool and shown as 250 square metres. The land is sloping, with the topography falling away to the south. There are a number of trees to the boundaries of the site, some of which are understood to be covered by a Tree Preservation Order. The application was subject of a meeting with the Council's Arboricultural Officer prior to the application being submitted. The application site is given as just over 0.2. hectares.

The application site is within the built-up area as defined by the Local Plan. The boundary to the National Park is a short distance to the east across Links Road.

Links Road is a private road and a notable feature of the road is its limited width which does not allow 2 cars to pass each other along its length. The road is at its narrowest (just over 3 metres) at its northern end where the application site is located. The general character of the area can be described as low density and semi rural.

The development is liable for the Community Infrastructure Levy with the amount payable calculated at the Reserved Matters stage.

## **Relevant Planning History**

90/05346/FULL: The Lodge Lyne House Proposed two-storey single dwelling house – Refused 17th October 1990.

## **Consultations**

### **West Sussex County Council**

#### **Initial comments:**

##### Summary

This proposal is an outline planning application for two detached dwellings with all matters reserved except for access. The site is located on Links Road, a privately maintained road; as such, these comments are for your advice only. Following an inspection of the application documents, WSCC in its role as Local Highway Authority (LHA) raises no highway safety concerns for this application.

## Access and Visibility

The applicant proposes a new vehicular access adjoining the existing access drive which serves Lyne House. As Links Road is privately maintained, the applicant should contact the proprietor of the road to obtain formal approval for the proposed access works.

The proposed access road measures approximately 3.5m in width, which is too narrow for two cars to pass another when using the access road. For two cars to pass one another, the proposed access road should be widened to at least 4.2m. However, the LHA acknowledges that the access will serve only two dwellings, so the chances of vehicular conflict are low. In addition, there is space within the site for a vehicle to wait whilst the access road is being used and allow a car to pass.

Regarding the access to the maintained highway network, Warren Road (A27) is maintained by National Highways (*Officer note: comments from National Highways are awaited*), and therefore comments should be sought from them regarding access and visibility on to the A27. Notwithstanding this, the LHA does not anticipate that the proposed development would give rise to a significant material intensification of movements to or from the site.

## Parking and Turning

Whilst layout is a reserved matter, the applicant has submitted an indicative site plan showing a potential parking layout. The plan demonstrates a parking area with provision for four cars and space for on-site turning. The WSCC Car Parking Demand Calculator indicates that a development of this size and location would require at least six car parking spaces – therefore, the LHA would expect to see this being provided at reserved matters stage.

Parking spaces should be provided at 2.4m x 4.8m. If garages are proposed, single-bay garages should have internal dimensions of 3m x 6m and double-bay garages 6m x 6m.

In the interests of sustainability and as a result of the Government's 'Road to Zero' strategy for at least 50% of new car sales to be ultra-low emission by 2030, electric vehicle (EV) charging points should be provided for all new homes. Active EV charging points should be provided for the development in accordance with current EV sales rates within West Sussex (Appendix B of WSCC Guidance on Parking at New Developments). Ducting should be provided to all remaining parking spaces to provide 'passive' provision for these to be upgraded in future.

Cycling is a viable option in the area and the LHA would expect secure cycle parking provision to be provided at reserved matters stage. At least two cycle parking spaces per dwelling should be provided in accordance with WSCC Parking Standards. This should be demonstrated in the form of covered and lockable cycle storage.

**Sustainability** The site is situated within a sustainable location within walking/cycle distance of local services and amenities. There are also options for sustainable



travel, with bus stops on Warren Road and Offington Lane within walking distance, providing links into Worthing, as well as Crawley and Midhurst.

## 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.

## **2nd comments:**

This proposal is an outline planning application for two detached dwellings with all matters reserved except for access. The site is located on Links Road, a privately maintained road; as such, these comments are for your advice only.

WSCC in its role as Local Highway Authority (LHA) previously provided comments pertaining to highway matters for this application, dated 07/06/2022, raising no highway safety concerns for this application.

The applicant has submitted updated plans, which include an indicative vehicle tracking plan. The plan demonstrates that a refuse vehicle can turn on-site to the satisfaction of the LHA. No other proposed changes affect the LHAs previous comments. Therefore, the LHA is advised to refer to the LHAs previous consultation response, dated 07/06/2022, for relevant comments

## **3rd comments:**

This proposal is an outline planning application for two detached dwellings with all matters reserved except for access. The site is located on Links Road, a privately maintained road; as such, these comments are for your advice only.

WSCC in its role as Local Highway Authority (LHA) previously provided comments pertaining to highway matters for this application, dated 07/06/2022 and 12/08/2022, raising no highway safety concerns for this application.

The applicant has submitted amended plans and as such the LHA has been reconsulted. However, the amended plans demonstrate minor changes to what is proposed, and do not affect the LHAs previous comments. Therefore, the LPA is advised to refer to the LHAs previous consultation responses, dated 07/06/2022 and 12/08/2022, for relevant comments.

## **Ecology (independent Consultant appointed by the Council to assess the application).**

Outline planning permission for two new detached houses (full application for access only with all other matters reserved).

Review of submission documents: Preliminary Ecological Appraisal – Land South of Lyne House, Worthing (The Ecology Co-op, July 2022) Reptile and Great Crested Newt Survey Report – Land South of Lyne House, Worthing (The Ecology Co-op, September 2022) Arboricultural Impact Assessment & Method Statement – Lyne House, Links Road, Worthing, BN14 9QY (Arbortrack Systems Ltd, May 2022) Proposed Site Layout – Lyne House, LTRO Lyne House, Links Road, Worthing (JDRM Architectural Design LLP, August 2022)

Designated sites The application site is located within 50m of the South Downs National Park and Worthing and Hill Barn Golf Courses LWS. We question the statement in Section 4.1 of the Preliminary Ecological Appraisal that: 'During the construction phase, there is likely to be significant amounts of noise and dust created. However, as the site is enclosed by gardens and tall hedgerows, this should be greatly reduced away from the site boundary. To the east, the direction of the South Downs National Park, a golf course will increase the distance between the site and any high value habitat the park has to offer. For these reasons, noise and dust pollution is not thought to be mechanisms for impact on the national park.'

The golf course referenced in this statement is Worthing and Hill Barn Golf Courses LWS and subsequently mitigation measures need to be implemented to protect the LWS. However, subject to standard mitigation measures (relating to dust, noise, water, lighting etc) protection of these features is considered possible, and such measures could be included in an Ecological Protection and Mitigation Plan to be provided under a condition of planning consent.

#### Habitats

The site is currently dominated by amenity grassland, with more biodiverse habitats including hedgerows, trees and scrub associated with the site boundaries. The Arboricultural Impact Assessment & Method Statement and Proposed Site Layout indicates that the majority of mature trees within the site will be retained.

In order to quantify the biodiversity loss/gain as a result of the proposed development, prior to determination of the application, a Biodiversity Impact Assessment calculation (Defra Metric 3.1) should be provided. This calculation should be carried out to demonstrate biodiversity net gain in accordance with Paragraph 174 of the NPPF.

#### Protected and notable species

##### Badgers

Although no evidence of Badger activity has been recorded to date, this is a mobile species and subsequent may colonise the site in a short period of time. It is subsequently recommended that measures to protect Badgers through the course of construction should be detailed within an Ecological Protection and Mitigation Plan.

##### Reptiles

A good population of Slow-worms has been recorded within the site and the Reptile and Great Crested Newt Survey Report provides outline measures for their

protection, including the recommendation that an off-site receptor site is identified for Slow-worms to be translocated to. It is subsequently recommended that measures to protect reptiles through the course of construction should be detailed within an Ecological Protection and Mitigation Plan, which will include identification of the proposed receptor site and agreement for the associated landowner of the proposed approach.

## Birds

Although the site is highly unlikely to support a significant assemblage of birds, there is potential for nesting birds to be present within the March-September bird breeding season. Measures to protect nesting birds through the course of construction should be detailed within an Ecological Protection and Mitigation Plan.

### Advice:

- A Biodiversity Impact Assessment calculation to demonstrate that the proposed development will achieve a net gain for biodiversity should be provided in advance of the application being determined.
- The information provided to date is otherwise considered sufficient to support this outline planning permission (full application for access only with all other matters reserved) in relation to ecology.
- To support any reserved matters applications for the site the following information should be provided:

An Ecological Protection and Mitigation Plan to demonstrate how sensitive on-site and offsite habitats and species, including the Worthing and Hill Barn Golf Courses LWS, scrub, trees, hedgerows, off-site pond, grassland, bats, Badgers, reptiles and nesting birds, will be protected throughout development. The Ecological Protection and Mitigation Plan should also include details of establishment and long-term maintenance of new habitats and ecological features proposed as part of the development.

A wildlife friendly lighting scheme following standard guidelines should be submitted to identify the environmentally sensitive zones within the site and demonstrate how light spillage into these zones will be avoided by the proposed lighting scheme.

This above information should be made available prior to determination of any reserved matters application. Provision of this information could be subject of conditions of planning consent.

## Summary

In summary, the submitted information which has been subject to review is generally sufficient for this stage of the planning process. A Biodiversity Impact Assessment calculation to demonstrate that the proposed development will achieve a net gain for biodiversity should be provided in advance of the application being determined.

We also recommend that the further information identified above is provided to support any reserved matter applications for the site to allow full assessment of the

likely ecological effects of the proposed development. This could be secured via condition(s) of any planning consent granted.

### **WSCC Fire and Rescue Service**

Please find attached a planning condition for application no. AWDM/0821/22 for the requirement of an additional fire hydrant. Currently the nearest Hydrant to these proposed properties is 240 metres away. The supply of water for firefighting for domestic premises should be within 175 metres.

Evidence will also be required that Fire Service vehicle access meets with the requirements identified in Approved Document B Volume 1 2019 Edition: B5 Section 13, including Table 13.1 and diagram 13.1.

### **Southern Water**

No objection

### **Technical Services**

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

Comments:

Flood risk - The application is within flood zone 1, and is not shown to be at risk from surface water flooding. We therefore have no objection on flood risk grounds.

Surface water drainage- the application includes a drainage drawing, please do not list this as approved. The application is within a source protection area. It is important that surface water drainage is appropriately designed to not pollute the aquifer and ensure that it does not increase flood risk.

### **South Downs National Park Authority**

The SDNPA makes no comment on the principle of the development.

The South Downs National Park is a designated International Dark Sky Reserve and dark skies and tranquility are a special quality of the National Park which need to be protected. Paragraph 185(c) of the NPPF 2021 outlines that development should limit the impact of light pollution on intrinsically dark landscapes and nature conservation. Although the site is located some distance from the National Park boundary, the SDNPA would encourage a sensitive approach to lighting which conforms the Institute of Lighting Professionals for lighting in environmental zones, and tries to achieve zero upwards light spill in all respects

### **Waste Services**

The application has been the subject of a number of discussions with the Waste Services section as well as 2 site meetings.

It was originally noted that the nearest a waste vehicle can get to the application is Highdown (a house on the first part of the road) all current and any new properties will need to bring their bins to this location as any refuse vehicle will not go any further unless changes are made to the road width etc. It was also noted that the current waste collection area was provided by a resident and this may be withdrawn if permission is granted for the development. If that is the case, then the Waste Services Manager noted that residents may have to take their waste much further for collection, if such a new collection point could be agreed.

The possibility of the operatives walking up the narrower portion of the road to the application site to collect the refuse was also discussed but the Waste Services Manager commented: *On the grounds of health and safety we operate vehicles to waste not waste to vehicles. We have to consider the conditions and amount to be moved at all times. This collecting and pulling the bins out could mean multiple walks with overloaded bins putting the operatives at risk.*

During the determination of the application, a tracking diagram has been provided demonstrating that refuse vehicles can turn within the application site itself. The Waste Services Manager commented that as the refuse vehicles are 2.5 metres in width, the access to the application site should be 3.5 metres wide to allow 0.5 metres clearance on either side of the vehicle but if the refuse vehicle is able to turn within the application site itself then a width of 3 metres will be acceptable.

## **Representations**

8 letters of objection (some residents have submitted more than 1 representation during the determination of the application) have been received on the following grounds:

- the amount of heavy large lorries' that will be moving up Links road will cause damage to the over-hanging trees, the verges and be a danger to the house holders in the lower part of this section of Links Road
- the increased movement of traffic on this single carriage road will create more of a danger and damage the grass verges on either side of the road. There are two small road humps in the vicinity of my property but not large enough to completely slow the traffic flow properly.
- The road between numbers 18 and 21 is private and is solely maintained by the owners so we would be very concerned about damage to the surface during the building process and who would pay for any damage.
- The lane between number 18 Links Road and number 21 Links Road is very narrow and much narrower than the rest of the road (photograph attached).
- There is a large historic beech hedge to one side of the lane and a property hedge on the other side (number 19)
- The road here is so narrow only a car or small delivery van can access it. Larger delivery vehicles, lorries, removal trucks and even the council's own refuse collection vehicle will not navigate it and have to park further down the road, to the south of number 19, and walk up to numbers 19, 20 and 21 to make deliveries and collect the refuse bins. The owner of number 19 has permitted a dedicated space on his land by his fence to put out refuse bins for collection but this is only large enough for numbers 18, 19, 20 and 21 to use.

- There would be a detrimental effect on the beech hedge running across from number 19 (owned by number 19) The roadway after number 19 turns sharply into number 20 and 21, it is narrow and there is no line of sight - again this is not big enough for large lorries or plant to access. (Photograph attached)
- There are no passing places or parking between numbers 18 and 21. The disturbance and possible noise to properties 18, 19, 20 and 21 would be excessive.
- Lastly the small section of land at the end of property number 19 and in front of number 21 is jointly owned by number 20 and 21 and all traffic going to number 20 has to cross it (we can send a copy of land registry but you should be able to view that on line) whilst we fully understand number 20 has to have reasonable access to and from the property this does not include continued use of heavy lorries or heavy building equipment for an extended period of time.
- Refuse vehicles do not proceed beyond Highdown
- As the road is a dead end, residents' driveways have been used by drivers to turn when they have realised they cannot turn around
- The hedge to the right hand side of the road is maintained by Franklands and provides a natural barrier to the golf course beyond. Any new traffic would be detrimental to the hedge
- I am concerned about the access during the construction phase. I feel the road at the top of Links Road is not equipped to handle the volume of traffic and type of traffic that this would involve. With the road being so narrow up there I find it hard to see how HGV's will be able to access the site smoothly, without causing an unreasonable amount of disruption to us. Living on Links Road we've seen how hard it is for HGV's to navigate the road at times, so I'd be worried this could lead to an unsafe environment for road users and pedestrians - particularly children that ride their bikes to and from school - and/or result in us being blocked in/out for long periods of time. I believe that delivery lorries and the refuse collection lorries will not go up there at all due to the narrow width of the road.
- The lane is already at over capacity and the road narrows to 3 to 3.8 metres at the northern end of the road
- There is no room on the provided hardstanding area for any further bins
- Many of the existing driveways have blind spots and therefore any increase in traffic will adversely affect highway safety
- Consent should have been obtained from the Golf Club as they own the freehold of Links Road
- 10 Links Road is situated at the 'junction' of the main, two lane part of Links Rd and single lane part of Links Rd. The Junction outside 10 Links Rd is the only turning point on the residential part of Links Rd that lorries and large vans are able to use and they do so on most days. Drivers usually stop directly outside the entrance to 10 Links Rd causing highway danger
- WSCC Highways made an error in their original comments and should be reconsider their comments

Photographs have also been received of vehicles blocking the lane.

1 letter of comment has been received:

- At the south west corner of the site are several mature slow growing indigenous trees and a row of evergreen Leylandii trees along the western boundary. The Leylandii trees have not been managed since planting and now block light to the mature trees and overhang the boundary. As part of any proposed works, I would request that a comprehensive arboricultural proposal be included to remove the Leylandii and preserve the mature indigenous trees. This proposal should include root structure protection during and from any approved works. There is too much water demand from these excessively high trees and a loss of tree habitat is already a real risk; this proposal is an opportunity to improve the situation.

## **Relevant Planning Policies and Guidance**

Worthing Local Plan 2023 (adopted):

DM1 Housing Mix, DM2 Density; DM5 Quality of the Built Environment, DM8 Delivering Infrastructure, DM15 Sustainable Transport & Active Travel, DM16 Sustainable Design, DM18 Biodiversity, DM19 Green Infrastructure, DM20 Flood Risk and Sustainable Drainage

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

## **Planning Assessment**

The main issues in the determination of the application are the adequacy of the access to the site, and the effect of the proposal upon the visual character of the area and the amenities of neighbouring properties.

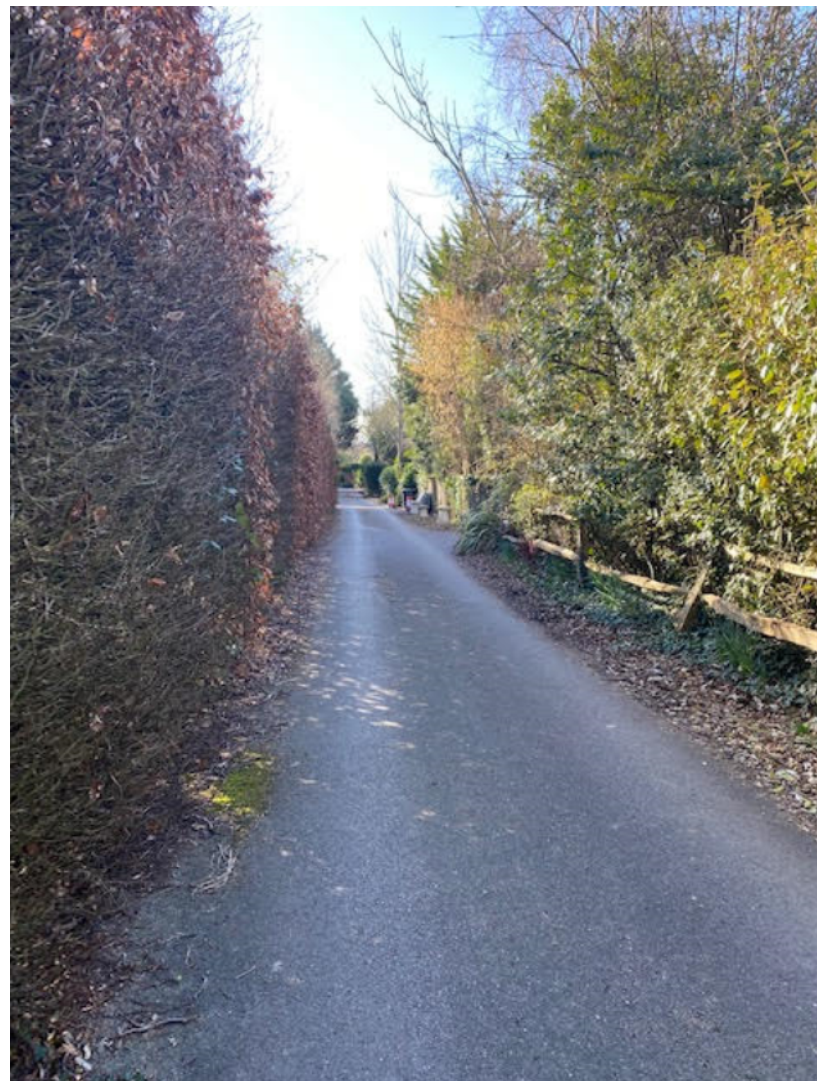
The application site is at the northern end of Links Road, a private road accessed directly from the A27. Its southern half is also the access to Worthing Golf Club before the road splits and the western portion continues to serve residential properties. From where the road splits, the road is narrow and 2 cars cannot pass each other and the road narrows still further to its northern end. The photographs below demonstrate the limitation of the access:



**Looking north towards the application site:**



**Looking south from the application site entrance:**





The access to the site has been subject of detailed discussion during the determination of the application which was submitted in May 2022. As was advised by a number of local residents, the Council's Waste Services vehicles have not travelled beyond the area in the first photograph area for some years, due to the narrow nature of the road beyond, and therefore bins have had to be placed in an area provided by a local resident for collection. After collection the vehicle then reverses down the rest of the road. It has been indicated that, should permission be granted, the availability of this bin storage area may be withdrawn and therefore a new location for the siting of bins for the two properties to the north of the road narrowing would have to be found.

The applicant's agent has provided a tracking diagram demonstrating that refuse vehicles would be able to access the application site and turn with it, allowing the refuse vehicles to enter and exit the site in forward gear. Compared to the existing situation, where vehicles reverse, this represents a potential improvement over the existing arrangement.

Irrespective of the turning area within the site, the narrow nature of the access at the northern end means that further consideration needs to be given to how the site itself is accessed along this part of the road. As can be seen by the lower photograph above, a beech hedge is immediately adjacent to the eastern boundary of the road and provides an attractive feature within the streetscene contributing to its semi rural character. The hedge is partly located over the surfaced area of the road which is understood to be between 3 and 3.8 metres in width depending on the depth of the hedge and if the hedge were not maintained, then the road would effectively be even narrower.

Following discussions with the Waste Services Manager, he considers that he would be prepared to accept a minimum width of 3 metres (and maintained at this width) to allow vehicles to access the site safely. The Waste Services is also concerned about the poor condition of the unadopted Lane and would prefer improvements to its construction to take the weight of refuse vehicles.

The Fire Brigade refers to the Building Regulation requirements for Fire Safety in particular Table 13.1 of Approved Document B which requires a minimum road width of 3.7 metres and a minimum width of 3.1 metres for gateway widths. The Fire Brigade also requires the provision of a fire hydrant.

It would be difficult to achieve the width of 3.7 metres mentioned in Approved Document B and the Councils Building Control Manager recognises that this is not achievable for the existing dwellings served by the private road. As Approved Document B also refers to a width of 3.1 metres for gateways the Building Control Manager indicates that this would be reasonable, particularly as the provision of a turning head would be an improvement in fire safety terms. In this respect he indicates that Approved Document B also indicates that dead end access routes longer than 20 metres require turning facilities.

The agent has indicated that although his client does not own the access road he has a right of way over the private road serving his property and therefore he has the right to maintain a certain width of road. In the circumstances, it is considered a

'Grampian' style condition that prevents the commencement of a development until the access road is improved in width to a minimum of 3.1 metres and maintained at this width would be reasonable. Generally Grampian style conditions should only be imposed where there is a reasonable prospect of the condition being complied with. It is less clear whether the applicant would have the ability to improve the surface of the access and your Officers have requested the Agent to clarify whether the applicant's right of way would extend to making improvements.

The County Council as Highway Authority note that while the road is not wide enough to allow 2 cars pass, the traffic generation from 2 new dwellings is anticipated to be low and therefore no highway objection is raised.

Concern has also been raised in respect of the construction of any dwellings permitted. It is usual to require a Construction Management Plan by condition to demonstrate in detail how the site will be accessed and by which vehicles for example. This again demonstrates the importance of ensuring that the access can be maintained at a suitable width.

Your Officers do appreciate the concerns of local residents regarding the access to the development and it is evident that this is one of the primary reasons for objecting to the development. However, where planning conditions can be imposed that will adequately mitigate the adverse impacts of a development, then government guidance is planning permission should be granted. In this instance, it is considered that the imposition of planning conditions can provide such mitigation and with the requirement to provide and maintain a turn on site within the application site itself, some betterment will be provided as a result of the development.

The application site is within the built-up area as defined by the Local Plan and therefore there is no objection to the principle of development. The garden area represents a good sized area of land where housing provision should be actively considered given the overall lack of housing supply in the Borough. Moreover, the site is well landscaped to its boundaries, including by trees that are the subject of a Tree Preservation Order, and accordingly the development of the site could be achieved with little visual impact upon the character of the area or the amenities of neighbouring residential properties. The nearest residential properties in Mayfield Close, to the west, have rear gardens, largely screened from the application site of about 20 metres in length.

Within Links Road, Franklands is directly to the east of the application site and has a rear garden of around 14 metres in depth at its closest point, but again is screened, although it would be important to ensure that this screening is maintained and enhanced where necessary in any Reserved Matters submission. Highdown is to the south east of the application site, at a relatively oblique angle and again well screened. It is therefore considered that the application proposal can be adequately accommodated without adversely affecting nearby residential properties. Similarly, the extent of screening around the site, added to the beech hedge along the access itself, means that the site is well screened from the National Park to the east and hence the development would not materially affect the setting of the Park.

Policy DM18 of the Local Plan outlines the Biodiversity requirements of any development stating:

*New developments...should provide a minimum of 10% net gain for biodiversity - where possible this should be onsite. Where it is required/necessary to deliver biodiversity net gain offsite this should be part of a strategic ecological network having regard to Green Infrastructure and Local Nature Recovery strategies. Where it is achievable, a 20%+ onsite net gain is encouraged and is required for development on previously developed sites...Where appropriate, the Council will use planning conditions or obligations to provide appropriate enhancement and site management measures, and where impacts are unavoidable, mitigation or compensatory measures.*

As the application is on a garden site, the necessity to provide biodiversity net gain is an important consideration in the determination of the application hence an ecology report was submitted as part of the application which your Officers requested to be independently assessed by a Consultant. Given the application is at outline stage, with the vast majority of details to still be agreed, there is to some extent a limit to the information that can be provided at this point, but equally as the majority of conditions relating to the development are imposed at the outline stage, it is necessary to make clear the Council's requirements if and when a reserved matters application is submitted.

The Council's Ecologist has stated that a Biodiversity Impact Assessment calculation should be submitted to demonstrate that the proposed development will achieve a net gain for biodiversity in advance of the application being determined. This has been requested and Members will be updated at the meeting. In addition the Council's Consultant has recommended conditions requiring an Ecological Protection and Mitigation Plan and conditions can also cover other matters such as tree protection and new landscaping.

## **Conclusion**

This is a difficult site due to the constraints of access and a degree of compromise is required because of the length, width and unadopted nature of the road. Following negotiations over a period of time, it is considered that conditions can be imposed to adequately mitigate the impact of development and accordingly it is recommended that permission be granted.

## **Recommendation**

**Delegate to the Head of Planning & Development to APPROVE subject to satisfactory comments from National Highways and the receipt of additional information regarding biodiversity net gain.**

### **Subject to Conditions:-**

1. Approved Plans
2. Outline Permission
3. Prior to the commencement of the development details showing the proposed location of a fire hydrant or stored water supply (in accordance with the West

Sussex Fire and Rescue Guidance Notes) 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.

4. Prior to the first occupation of any dwelling forming part of the proposed development that they will at their own expense install the fire hydrant (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.
5. Submission of an Ecological Protection and Mitigation Plan
6. Submission of lighting scheme
7. Development shall not commence, other than works of site survey and investigation, until full details of the proposed surface water drainage scheme have been submitted to and approved in writing by the Local Planning Authority. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter infiltration testing to BRE DG365, or similar approved, will be required to support the design of any Infiltration drainage. No building / No part of the extended building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.
8. Width of road north of Highdown to be maintained at least 3 metres in width at all times
9. Turn on site to accommodate refuse vehicles to be maintained at all times
10. Construction Management Plan
11. Landscaping and Tree Protection Plan
12. Provision of car parking spaces as per WSCC dimensions
13. Provision of EV charging points
14. Approval of Materials
15. Finished Floor Levels to be approved
16. Hours of Working (8-6 Mon-Fri, 8-1 Sat, no working Sundays, Bank/Public Holidays)

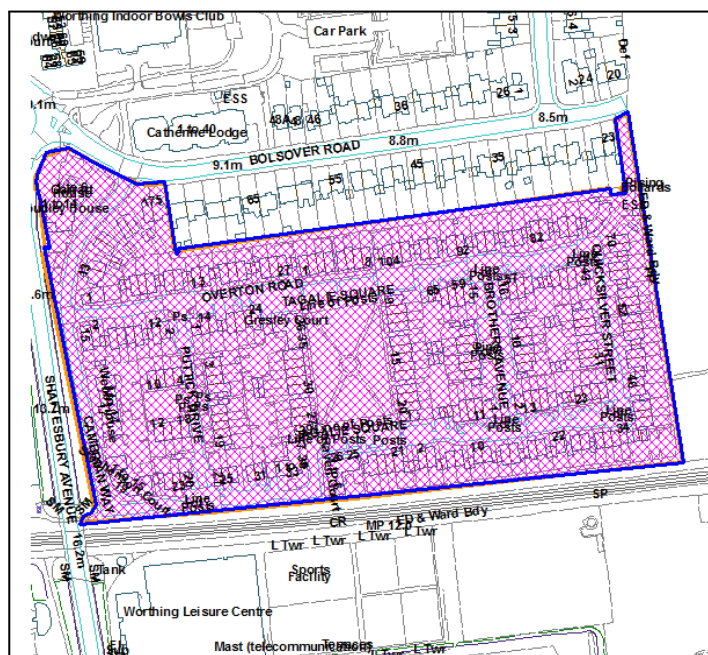
### **Informative**

Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The infiltration tests must be carried out in accordance with BRE365, CIRIA R156 or a similar approved method. All design storms must include a climate change allowance, as per

<https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>, on stored volumes or rainfall intensity. Infiltration structures must cater for the critical 1 in 10 year storm event, (plus40%) between the invert of the entry pipe to the soakaway and the base of the structure. All surface water drainage design must also have provision to ensure there is capacity in the system to contain the critical 1 in 100 year storm event (plus 45%). Adequate freeboard must be provided between the

base of the soakaway structure and the highest recorded annual groundwater level identified in that location. Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest groundwater table in support of the design. The applicant is advised to discuss the extent of ground water monitoring with the Council's engineers.

<b>Application Number:</b>	<b>AWDM/1680/22</b>	<b>Recommendation - APPROVE</b>
<b>Site:</b>	<b>Former Worthing College, Bolsover Road, Worthing, West Sussex, BN13 1NS</b>	
<b>Proposal:</b>	<p><b>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.]</b></p>	
<b>Applicant:</b>	<b>Cissbury Chase (Worthing) Management Company Ltd</b>	<b>Ward: Castle</b>
<b>Agent:</b>	<b>Cissbury Chase (Worthing) Management Company Ltd</b>	
<b>Case Officer:</b>	<b>Jo Morin</b>	



**Not to Scale**

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This application was reported to Committee on 19 April 2023 where it was resolved to delegate approval to the Head of Planning to grant permission subject to a Deed of Variation to the original s106 and subject to the recommended conditions.

*The last 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.

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. Following discussions the application was amended to relate only to the Southern landscaped buffer.

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.

The amended proposal considered by the Committee in April proposed to extend the residential curtilages of Nos 2-32 Quicksilver Street and 21-24 (cons) Tagalie Square up to the existing acoustic fence. The existing close-boarded fencing to the private gardens would be reused to separate the new extended side boundaries of the participating dwelling plots, with the existing acoustic fence in effect becoming the new rear boundary for those dwelling curtilages.

## **Amended Proposal**

Since the Committee meeting in April the Applicant has advised that a number of residents at the far western end of the southern buffer strip have dropped out of the

scheme and a revised plan has been submitted showing the private gardens to be enlarged as now comprising 4-34 Quicksilver Street (which also includes the land to the rear of the easternmost end-of-terrace house not previously included). The full extent of the southern landscape buffer (and acoustic fence within it) as existing would be retained at the far western end (i.e. to the rear of 2 Quicksilver Street and 21-24 Tagalie Square).

Since the meeting further consideration has also been given to the requirement to vary the original s106 legal agreement, and whether concerns discussed at the last Committee meeting about a fragmented or 'piecemeal' approach to implementation could be dealt with by imposing a condition instead.

Legal advice has confirmed that a planning condition would be feasible providing it meets the normal tests for imposing planning conditions set out in national guidance. It has, therefore, been suggested to the Applicant that a new condition be imposed that requires all the repositioned fencing to be in place within 6 months of the date of the decision on this application. The Management Company has agreed to this timescale, but would prefer a longer period if possible.

It is worth pointing out in connection with implementation that the submitted Biodiversity Enhancement Strategy submitted with the initial application sets out 'Reasonable Avoidance Measures' (RAMs) for reptiles and amphibians as requiring vegetation to be left undisturbed during suitable reptile conditions (9-18°C between 0800-1800 from April-September) and fencing to any eastern and western aspects to be removed manually during this time to allow for dispersal to suitable habitat should any reptiles or amphibians be disturbed (para 2.4.1). Therefore a slightly longer period of 9 months would allow for the fencing-moving works to be completed by April 2024 and also adhere to the above-mentioned RAMs.

Taking into consideration the above points the recommendation is revised as set out below.

## **Recommendation**

### **APPROVE Subject to Conditions:-**

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

1. Discharged condition AWDM/0363/11 (time limit)
2. **Approved Plans (v15.2)**
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 (v15.2)** 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 (v15.2) shall be retained in situ at all times unless otherwise approved in writing by the Local Planning Authority.**
28. **The fencing works necessary to implement the transfer of land shown on plan v15.2 from the southern landscape buffer strip to private residential curtilages shall be undertaken and completed not later than 9 months from the date of this decision.**

**Local Government Act 1972  
Background Papers:**

As referred to in individual application reports

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## **Schedule of other matters**

### **1.0 Council Priority**

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

### **2.0 Specific Action Plans**

- 2.1 As referred to in individual application reports.

### **3.0 Sustainability Issues**

- 3.1 As referred to in individual application reports.

### **4.0 Equality Issues**

- 4.1 As referred to in individual application reports.

### **5.0 Community Safety Issues (Section 17)**

- 5.1 As referred to in individual application reports.

### **6.0 Human Rights Issues**

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

### **7.0 Reputation**

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

## **8.0 Consultations**

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

## **9.0 Risk Assessment**

9.1 As referred to in individual application reports.

## **10.0 Health & Safety Issues**

10.1 As referred to in individual application reports.

## **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

## **12.0 Partnership Working**

12.1 Matter considered and no issues identified.

## **13.0 Legal**

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

## **14.0 Financial implications**

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

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## Appeal Decision

Site visit made on 25 April 2023

**by Lynne Evans BA MA MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 May 2023**

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**Appeal Ref: APP/M3835/D/23/3316761**

**1 Anscombe Road, Worthing BN11 5EN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr John Bayley against the decision of Worthing Borough Council.
  - The application Ref: AWDM/0966/22 dated 6 June 2022, was refused by notice dated 24 November 2022.
  - The development proposed is to demolish side garage and living/conservatory above including rear conservatory. New two storey side extension with new rear ground floor extension.
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application plans were amended during the application process and I have based my decision on the plans determined by the Council.
3. Since the application was determined and the appeal submitted, the Worthing Local Plan 2020 – 2036 has been adopted (March 2023) (Local Plan). I am advised that the new Local Plan supersedes both the Worthing Core Strategy and the Local Plan 2003, both of which are referenced in the reasons for refusal. I shall no longer refer to these policies.
4. I am required to determine the appeal on the basis of the development plan at the time of my decision, which is now the new Local Plan. In the determination of the application the Council referenced Policy DM5 of the Submission Draft Local Plan and provided a copy of the policy at that stage. I have now been provided with a copy of the adopted Plan. There are very limited changes to the policy in the adopted version of the Plan. As the Council relied on the draft version in its decision notice, which the Appellant has also referenced, I am satisfied that there is no need to seek the further views of the Appellant or the Council following the adoption of the Local Plan which I shall refer to in my decision.

### Main Issues

5. The main issues in this appeal:
  - a) The effect of the proposal on the character and appearance of the existing property and of the local area, and

- b) The effect of the proposal on the living conditions of surrounding neighbours, with particular regard to outlook, overlooking and loss of privacy.

## **Reasons**

### ***Issue a) Character and Appearance***

6. The appeal property is a detached property at the southern end and on the western side of Anscombe Road in a predominantly residential area set back from the coast road, by the West Parade open space. The southern elevation of the property is therefore particularly visible in street scene views.
7. As existing, the property has had a number of extensions and alterations, including to the side and to the rear as well as a roof dormer in the south facing elevation. The proposal would seek to replace these existing side and rear extensions with a two storey side extension and single storey rear extension, with a terrace at first floor, along the side and part of the rear with steps down to the rear garden. A privacy screen would be erected to the northern elevation of the terrace.
8. There is no objection to the principle of extending the property and I agree with the Appellant that the opportunity to replace the existing extensions with a bespoke solution has merit. However, I have concerns with the design and appearance of the two storey side extension which would be particularly prominent in street scene views. Although I agree that there is no particular merit to the existing side extensions, the design of the proposed extension with its flat roof and window design would not reflect and be in keeping with the design and proportions of the existing building. The height of the flat roof and its junction with the main house so that it would meet the main roof above eaves level would be a particularly jarring element which would be visually obtrusive with regard to both the character and appearance of the existing property and in street scene views. I understand the reasons for seeking the increased eaves level for the internal living arrangements, but these reasons do not outweigh the harm that would arise from the awkward junction between the existing roof and eaves line and the new proposal.
9. I do not agree with the Council that the provision of a two storey side addition together with terrace and stairs down to the rear garden would be overly dominant in relation to the scale and massing of the existing property but this does not overcome the harm I have concluded from the particular design of the proposal before me.
10. I therefore find that the proposal, and in particular the design and form of the two storey side extension, would not respect the character and appearance of the existing property or of the local area. This would conflict with Policy DM5 of the Local Plan and the National Planning Policy Framework, and in particular Section 12, all of which, amongst other matters, seek a high quality of design which respects the local context.

### ***Issue b) Living Conditions***

11. There are existing views from windows at the rear of the property over parts of the rear garden of the adjacent property to the north at No 3 Anscombe Road. The amended plans have reduced the length of the rear terrace and introduced a privacy screen along the northern edge. I am satisfied and agree with the



Council that the combination of these two revisions would protect the neighbours to the north from overlooking and loss of privacy as a result of the proposed development.

12. Again, there are existing views from the rear of the property towards the rear of properties in Anscombe Close, and those properties on the southern side of the Close have different arrangements of glass conservatories and terraces at the rear. However, the introduction of the proposed terrace at first floor level, as a result of height, extent and proximity, would materially exacerbate the extent of views towards and over the rear of neighbouring properties in Anscombe Close and their gardens, which would materially harm the living conditions of neighbours in these properties.
13. I therefore conclude that the proposed extensions and alterations would materially harm the living conditions of the neighbours in Anscombe Close. This would conflict with Policy DM5 of the Local Plan and the National Planning Policy Framework and in particular paragraph 130, all of which amongst other matters, seek a high quality of design which respects the amenities of existing and future occupiers.
14. Were no other matters of concern and planning permission were to be granted, it might be possible to devise a privacy screen to protect the living conditions of the neighbours. However, in view of the harm I have already concluded under my first issue, I shall not address this further.

### **Other Considerations**

15. I understand that the site lies at the edge of Flood Zones 2 and 3, with parts of the garden and building falling within these zones. The proposals would not substantially increase the footprint of the building but would propose to accommodate bedrooms at ground floor level. Whilst it would be preferable to address as part of the application, I agree with the Council that were no other matters of concern and planning permission were to be granted, flood risk considerations could be addressed by condition.
16. The Appellant has drawn my attention to other extensions permitted in the immediate local area. Each proposal must be considered on its individual merits but in so far as the information has been made available to me, I have taken them into account. However, they do not persuade me to a different conclusion on either of my main issues, given the harm I have concluded under both issues.

### **Conclusion**

17. For the reasons given above and having regard to all other matters raised, I conclude that this appeal should be dismissed.

*L J Evans*

INSPECTOR



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## Appeal Decision

Site visit made on 25 April 2023

**by Lynne Evans BA MA MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 June 2023**

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### **Appeal Ref: APP/M3835/W/22/3299096**

### **Land west of 2 Lansdowne Road, Worthing BN11 4LY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Slipstream Developments Ltd against the decision of Worthing Borough Council.
  - The application Ref: AWDM/1790/21 dated 24 September 2021, was refused by notice dated 13 January 2022.
  - The development proposed is detached 4 bedroom dwelling house with new access, parking space, bicycle store and bin area.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for detached 4 bedroom dwelling house with new access, parking space, bicycle store and bin area on land west of 2 Lansdowne Road, Worthing BN11 4LY in accordance with the terms of the application Ref: AWDM/1790/21 dated 24 September 2021, subject to the conditions set out in the schedule at the end of this decision letter.

### **Preliminary Matters**

2. The application plans were amended during the application process and I have determined the appeal on the basis of the scheme plans determined by the Council.
3. The application forms referred to 2 Lansdowne Road, whereas the Council's decision notice referred to land west of 2 Lansdowne Road. I consider the latter address to be a more accurate description given my understanding that the land the subject of this appeal is now in separate ownership to No 2 Lansdowne Road. A similar description has been used by the Appellant in a number of the supporting documents.
4. Since the application was determined and the appeal submitted, the Worthing Local Plan 2020 – 2036 has been adopted (March 2023) (Local Plan). I am advised that the new Local Plan supersedes both the Worthing Core Strategy (2011) and the Local Plan 2003, both of which are referenced in the reasons for refusal. I shall no longer refer to these policies.
5. I am required to determine the appeal on the basis of the development plan at the time of my decision, which is now the new Local Plan. In the determination of the application the Council referenced Policies DM5 and DM24 of the Submission Draft Local Plan and provided a copy of the policies at that stage. I

have now been provided with a copy of the adopted Plan. There are very limited changes to these policies in the adopted version of the Plan. As the Council relied on the draft version in its decision notice, which the Appellant has also referenced, I am satisfied that there is no need to seek the further views of the Appellant or the Council following the adoption of the Local Plan which I shall refer to in my decision.

### **Main Issues**

6. The main issues in this appeal are:
  - a) The effect of the proposal on the character and appearance of the Heene Conservation Area, including on the setting of No 2 Lansdowne Road, and
  - b) The effect of the proposal on the living conditions of the occupiers of No 2 Lansdowne Road, with particular regard to overlooking and loss of outlook as well as loss of light and noise disturbance.

### **Reasons**

#### ***Issue a) Character and Appearance***

7. The appeal site relates to part of the former garden to No 2 Lansdowne Road (No 2), which is a large Victorian, detached property on the corner of Lansdowne Road and Heene Road within a predominantly residential area. I am advised that the main house and later extensions have been divided into some 15 flats.
8. The site lies within the Heene Conservation Area and the existing building at No 2 is identified as a Local Interest Building. There are several mature trees along the southern and eastern boundaries of No 2 protected by a Tree Preservation Order (TPO 16/1993).
9. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Policy DM24 of the Local Plan confirms that Buildings of Local Interest are regarded as non-designated heritage assets and will be a material consideration when determining planning applications. The policy goes on to indicate that they have been identified for their contribution to the character of the area and that development proposals should respect, support and where possible, positively contribute to the essential character of these heritage assets. Paragraph 203 of the National Planning Policy Framework (Framework) also indicates that the effect of a proposal on the significance of a non-designated heritage asset should be taken into account in determining an application.
10. No 2 appears to be one of the original substantial Victorian villas in the local area and there are a number of other large Victorian villas but a number of these, like No 2, have been extended and altered, and they are now very much intermingled with replacement and infill development. Whilst I agree with the Council that where still remaining, the sizeable Victorian Villas, such as No 2, contribute to the significance of the Conservation Area, the size of individual dwellings and the spacing between dwellings across the Conservation Area is noticeably mixed, particularly as a result of later replacement and infill development. As a result, the pattern of development and spacings between buildings, which now characterises the local area, is very varied. Nonetheless

there remains a verdant appearance to individual properties which together with the many mature trees contributes to the attractive and leafy appearance of the local area and to the significance of the Conservation Area. Boundary walls, many of flint, are also an attractive and unifying feature to the individual street scenes.

11. The proposal would introduce a new detached dwelling into part of the former garden to No 2, fronting Lansdowne Road. It would be set broadly in line with the front of No 2, facing Lansdowne Road, and would be three storeys with windows facing primarily to the front and to the rear. The proposed design would be traditional in form and appearance and would be primarily of brick under a tile hung pitched roof and with tile hanging to the front bay. Although it would be set on a narrower plot to No 2, there would remain a clear spacing with No 2 and a generous open gap to the property to the west (Heene Rectory).
12. Whilst I appreciate that there would be the loss of some of the former garden area to No 2, I am satisfied that there would remain adequate spacing around the building and between the existing building and the proposed new dwelling which would reflect the varied pattern of development and spacings between individual buildings in the local area. Indeed, it is my view that the spacing would be more generous than in many other examples in the vicinity. As a result, I do not agree with the Council that the new development would appear as a cramped or 'crammed' form of development.
13. Similarly, there would remain adequate spacing around the existing building at No 2 so that its presence in the street scene would not be diminished. I also do not consider that in street scene views along Lansdowne Road the new proposal would detract from the existing building, given the spacing and smaller scale of the new dwelling. Moreover, I am satisfied that it would fit in comfortably with the wide range of spacings now found and form part of the prevalent pattern of development throughout the Conservation Area.
14. Part of the existing boundary wall would be removed to allow for a vehicular access but the submitted images indicate that the rest would be retained or rebuilt to continue the boundary wall which is a feature in the Conservation Area. In terms of trees and planting, there would be scope to add new planting to the existing to be retained to maintain the verdant character and appearance of the street scene and of the Conservation Area. From the information provided to me, the protected trees under the TPO appear all to relate to that part of the site which remains as part of the curtilage to No 2.
15. I am therefore satisfied that the proposed new dwelling would respect the significance of and the setting of the Local Interest Building at No 2 and the significance of the Heene Conservation Area. It would therefore preserve the character and appearance of the Heene Conservation Area. There would be no conflict with Policies DM5 and DM24 of the Local Plan and the Framework with particular reference to Sections 12 and 16, all of which amongst other things seek a high quality of design which respects the local context and the significance of both designated and non-designated heritage assets.

***b) Living Conditions***

16. The existing original building at No 2 has windows in the side elevation facing towards the appeal site over three floors, and the two storey extension towards

the rear has windows facing to the side and to the south towards the appeal site. I have been provided with no detailed information to confirm the rooms which the windows serve or the number of flats to which they relate.

17. I am satisfied that would be no overlooking or loss of privacy for the occupants within the original dwelling as there would be no windows in the side elevation at first floor level or above (except for two roof lights) facing towards No 2. Moreover, and taking into account the distance between the windows in the existing side elevation of the original part of No 2 and the new proposed dwelling, with the garden area in between, I do not consider that the outlook from these existing windows would be materially harmed.
18. Although there would be windows in the rear elevation of the proposed dwelling at first and second floor levels, and there are windows facing south and to the west in the extension to No 2, any overlooking would be at a very oblique angle which I do not consider would lead to a material loss of privacy. Furthermore, the window at first floor level in the proposed dwelling closest to No 2 would serve a bathroom, and a condition would be imposed to ensure that this was in obscure glazing.
19. The Council has raised in its second reason for refusal that the proposed dwelling would overshadow the neighbouring property at No 2. Neither the Council nor the Appellant has provided any technical evidence in this regard. However, given the distance between the proposed and the existing main house at No 2 I consider that any overshadowing of windows would be very limited. Although the remaining communal garden to No 2 would be south facing, there would potentially be some overshadowing of part of the garden area during late afternoon / early evening during the summer months. However, I do not consider that this in itself would justify withholding planning permission.
20. In terms of noise and disturbance, this is an existing residential area and there is no basis to consider that the addition of one house would lead to a material increase in noise and disturbance to the residents of No 2, particularly taking into account that the existing property is divided into some fifteen flats.
21. I therefore conclude that the proposed development would not materially harm the living conditions of existing and future occupants, with particular regard to overlooking and loss of privacy, overshadowing and loss of light and loss of outlook. There would be no conflict with Policy DM5 of the Local Plan, the Council's Guide to Residential Development SPD 2013 and the Framework with particular reference to paragraph 130, all of which amongst other matters seek to respect the living conditions of existing and future occupiers.
22. I have also had regard to concerns raised by neighbouring residents about overlooking and loss of privacy as a result of the proposed new dwelling. However, given the distances to other surrounding residential properties, I am satisfied that the living conditions, with particular regard to overlooking and loss of privacy would not be materially affected.

### **Other Considerations**

23. I agree that the proposed dwelling would be in a generally accessible location and within an existing residential area. It would also make a contribution, albeit

very modest, to the Council's housing land supply figures with attendant socio-economic benefits.

### **Conditions**

24. In terms of conditions, I agree that further details of materials, hard and soft landscaping including boundary treatments need to be provided in the interests of protecting the character and appearance of the Conservation Area and the setting of No 2. I consider that none of these require to be pre-commencement conditions but can be required to be approved prior to any works above slab level, or later in the construction period.
25. I agree that to protect the character and appearance of the local area, existing trees to be retained require to be protected but this can be addressed by requiring the scheme to be undertaken in accordance with the submission and plans by Lizard Landscape Design and Ecology, rather than requiring further details to be submitted.
26. Provision of the access and parking spaces require to be in place in accordance the approved plans prior to first occupation in the interests of highway safety. Further details of an electric charging point and covered cycle store require to be approved and implemented prior to first occupation to ensure alternative sustainable transport options are available from the outset of occupation.
27. Given the scale of the scheme for one dwelling, with access direct from Lansdowne Road, I do not consider it necessary to require a construction management plan over and above the requested condition relating to hours of construction, to respect the amenities of nearby residents.
28. I agree that a condition should be imposed to prevent further windows being added to the side elevations without specific consent, to protect the living conditions of neighbouring residents. For the reasons already set out I shall impose a condition to require the bathroom windows in the rear first floor to be in obscure glazing and fixed shut below 1.7m above floor level. However, given the size of the plot and relationship with surrounding development, I do not consider that there is any planning reason to withdraw all permitted development rights as requested by the Council; it would not meet the tests set out under paragraph 56 of the Framework.
29. The Council has proposed a condition requiring a range of sustainability measures to be approved but the condition is very loosely worded and some of the measures referenced are already covered by other conditions, and some may be required under legislation. Whilst the objective is to be commended, there is insufficient detail before me to justify its imposition. There is however, very limited information provided on surface water drainage and further details are required to be approved and implemented prior to first occupation to ensure a satisfactory development in terms of drainage that incorporates sustainable drainage measures. In addition, details of the storage for refuse and recycling requires to be submitted and approved prior to first occupation, to ensure a satisfactory development.
30. I shall list the approved plans for the avoidance of doubt and in the interests of sound planning. I have sought to remove areas of repetition and have amended some of the wording to reflect latest guidance.



## **Conclusion**

31. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*L J Evans*

INSPECTOR

## **Schedule of Conditions (Conditions 1 – 14 inclusive)**

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development shall be undertaken in accordance with the following approved plans: 1272/01; 1272/03 Rev A; 1272/02 Rev B; 1272/04 Rev A; 1272/05 Rev A; 1272/06 Rev A; 1272/07 Rev A; 1272/08 Rev A; LLD2402-ARB-DWG-001 and LLD2402-ARB-DWG-002.
3. No development hereby permitted shall be carried out above slab level until a schedule and samples of materials and finishes to be used for the external walls (including windows, rooflights and doors) and roof of the proposed building have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed in accordance with the approved schedule.
4. The development hereby permitted shall be undertaken in strict accordance with the Arboricultural Impact Assessment and Method Statement by Lizard Landscape Design and Ecology (reference LLD2402-ARB-REP-001 dated December 2021) together with LLD2402-ARB-DWG-001 – Tree Constraints Plan, LLD2402-ARB-SCH-001 – Existing Tree Schedule and LLD2402-ARB-DWG-002 – Tree Retention and Protection Plan.
5. The development hereby permitted shall not be first occupied until there has been submitted to and approved in writing by the Local Planning Authority a scheme of hard and soft landscaping. The soft landscaping scheme shall include planting plans; written specifications; schedules of plants stating species, sizes and numbers/densities; and the implementation programme. Hard landscaping scheme shall include hard surfacing materials, all boundary treatments including the details of the retained or reconstructed wall to Lansdown Road, finished levels and location and details of biodiversity measures. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out within the first planting and seeding seasons following the first occupation of the building. 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 first occupation of the development hereby permitted.

6. The proposed first floor windows in the rear elevation of the development hereby permitted serving en-suite bathrooms shall be glazed with obscure glass and fixed shut to a height of 1.7 metres above the finished floor level of the room in which the window is installed and thereafter so retained.
7. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 2015 (or any order amending, revoking and re-enacting that Order with or without modification), no additional window or any other opening shall be inserted into any side wall of the dwelling hereby permitted (other than as hereby approved).
8. The development hereby permitted shall not be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be first submitted to and approved by the Local Planning Authority.
  
9. The development hereby permitted shall not be first occupied until such time as the vehicular access has been constructed in accordance with the approved site plan.
  
10. The development hereby permitted shall not be first occupied until facilities for storing refuse and waste, including for waste that can be recycled, have been provided in accordance with plans and details to be first submitted to and approved by the Local Planning Authority. Such facilities as provided shall thereafter be retained and used only for the storage of refuse and recycling waste.
  
11. The development hereby permitted shall not be first occupied until the car parking has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.
  
12. The development hereby permitted shall not be first occupied until an electric vehicle charging spaces has been provided in accordance with plans and details to be first submitted to and approved by the Local Planning Authority.
  
13. No work for the implementation of the development hereby permitted shall be undertaken on the site except between the hours of 08.00 and 18.00 on Monday to Friday and between 08.00 and 13.00 hrs on Saturday. No works shall take place on Sundays or on Bank or Public Holidays.
  
14. The development hereby permitted shall not be first occupied until surface water drainage works shall have been implemented in accordance



with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non- statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. The drainage system shall be implemented in accordance with the approved details, prior to first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details.



FRIDAY 30 JUNE 2023



**IN THE COURT OF APPEAL**

ON APPEAL FROM ADMINISTRATIVE COURT AND PLANNING COURT, LONDON  
**CO/1221/2022**

**BEFORE** SIR GEOFFREY VOS, MASTER OF THE ROLLS  
SIR KEITH LINDBLOM (SENIOR PRESIDENT OF TRIBUNALS)  
LADY JUSTICE ANDREWS  
CA-2022-001665

**B E T W E E N**

ON PAPER

Application No.

CA-2022-001665

PERSIMMON HOMES (THAMES VALLEY) LIMITED

DEFENDANT /  
APPELLANT

- and -

WORTHING BOROUGH COUNCIL

DEFENDANT /  
RESPONDENT

- and -

SECRETARY OF STATE FOR LEVELLING UP, HOUSING AND COMMUNITIES

INTERESTED PARTY

**UPON HEARING** counsel for the Appellant and the Respondent

**AND UPON** reading the documents filed

**IT IS ORDERED that:**

1. The appeal is dismissed.
2. The Appellant shall pay the Respondent's costs, subject to detailed assessment if not agreed.

(The Court sat on 17<sup>th</sup> May 2023 from 10.32 to 16.11)

**BY THE COURT**

\* This order was drawn by Ann Marie Smith (Associate) to whom all enquiries regarding this order should be made. When communicating with the Court please address correspondence to The Associate, Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44456 Strand) and quote the Court of Appeal reference number. The Associate's telephone number is 0207 947 7183 and 0207 947 7856.