



# WORTHING BOROUGH COUNCIL

15 August 2023

<b>Worthing Planning Committee</b>	
<b>Date:</b>	<b>23 August 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, Samuel Theodoridi and Rosey Whorlow

**NOTE:**

Anyone wishing to speak at this meeting on a planning application before the Committee should register by telephone (01903 221006) or e-mail [democratic.services@adur-worthing.gov.uk](mailto:democratic.services@adur-worthing.gov.uk) before **midday** on **Tuesday 22 August 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 18 August 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 18 August 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 12 July and 26 July 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 - 34)**

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

### **8. Appeals Update (Pages 35 - 62)**

An update on appeal decisions, attached as item 8.

## **Part B - Not for publication - Exempt Information Reports**

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

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Planning Committee  
23 August 2023

Agenda Item 7

Ward: ALL

Key Decision: Yes / No



WORTHING BOROUGH  
C O U N C I L

## Report by the Director for Economy

### Planning Applications

**1**

**Application Number: AWDM/1664/22      Recommendation – APPROVE**

**Site:            Chatsmore House, Goring Street, Worthing**

**Proposal:      Installation of a hydraulic lift to both buildings as well as alterations to the site with 12 parking spaces, a new bin store and new bike stores.**

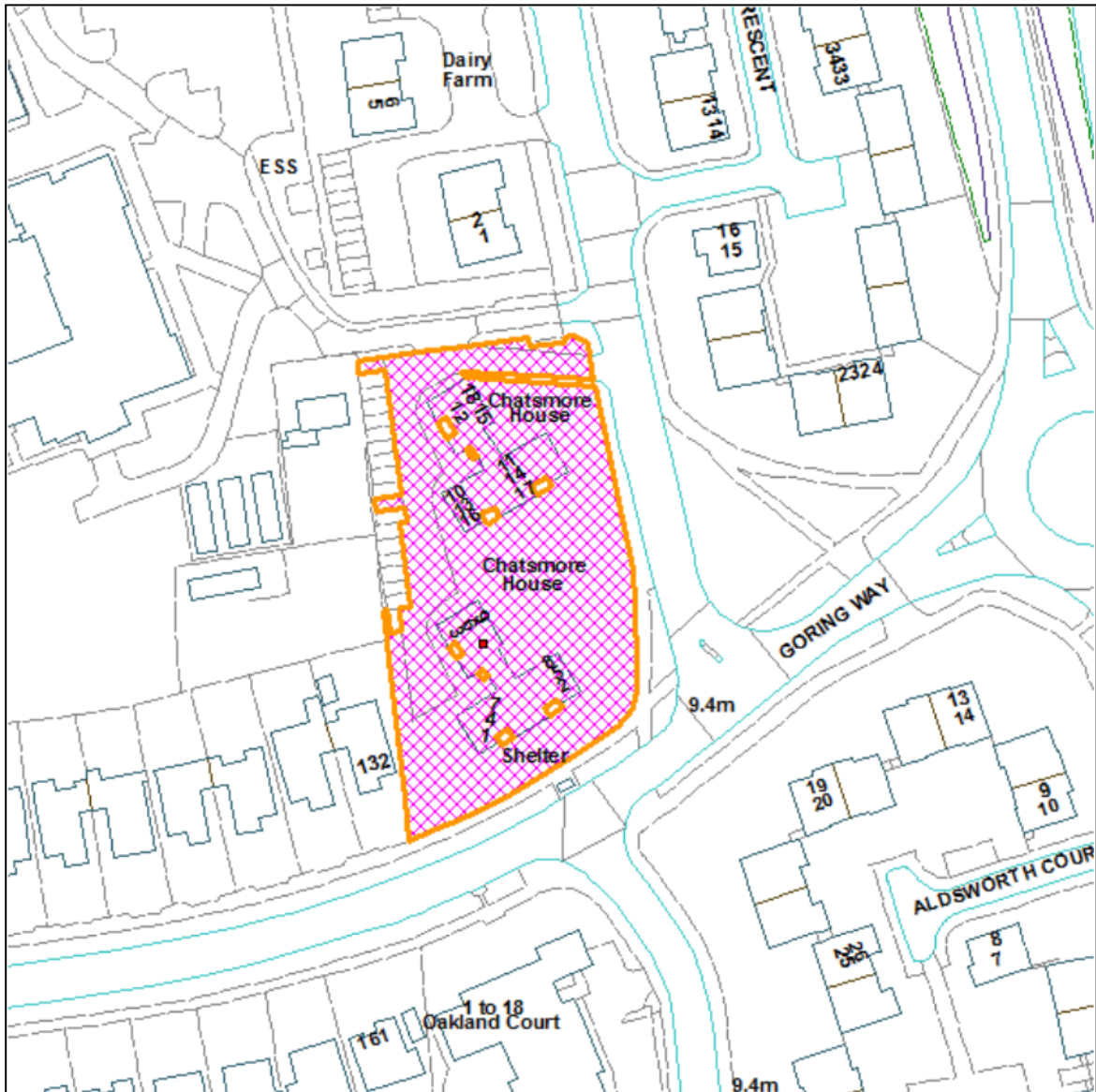
**2**

**Application Number: AWDM/0732/23      Recommendation – APPROVE**

**Site:            100 - 108 Montague Street, Worthing, West Sussex, BN11 3HG**

**Proposal:      Proposed extension to accommodate new dwelling with mansard roof with flat roof dormers and glass balustrade**

Application Number:	AWDM/1664/22	Recommendation - APPROVE
Site:	Chatsmore House, Goring Street, Worthing	
Proposal:	Installation of a hydraulic lift to both buildings as well as alterations to the site with 12 parking spaces, a new bin store and new bike stores.	
Applicant:	Mr Martin Nathan	Ward:Goring
Agent:	Mr Ian Knight, Knight Architectural Design	
Case Officer:	Rebekah Hincke	



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***This application has been brought to the Planning Committee at the request of Councillor Kevin Jenkins.***

## **Proposal, Site and Surroundings**

The application site is located on the corner of Goring Street at its junction on the north side of Goring Way and contains two 3-storey purpose built blocks of 9 flats. The buildings are set well back from the street frontages on both sides and have a T-shaped footprint, with communal gardens of lawns, shrubs and mature trees around the edges of the site that provide an attractive landscaped setting. There is a vehicular access onto Goring Street at the northern end of the site which leads to a block of garages and a bin store adjacent to the west boundary, and with some limited informal car parking. There is a pedestrian access close to the south west corner of the site onto Goring Way. Tree Preservation Order No.4 of 1977 applies to the site.

This is a predominantly residential area comprising of a mix of dwelling types and designs. To the north in Goring Street and opposite the site there are other flats purposefully arranged in regular two storey blocks, set back from the street frontage and with hedges and trees contributing to the character of this part of the street. St Oscar Romero Catholic School is to the north west with its entrance to the immediate north of the application site and includes a caretakers flat to the immediate west of the site boundary. Goring By Sea Train Station lies further to the north in Goring Street. To the west of the site, fronting Goring Way there are detached bungalows and other two storey flats opposite.

Permission is sought for the installation of passenger lifts to each of the flat blocks as a three storey extension to the east side of both buildings which would be finished in white render. The proposals also include three new car parking areas which would formalise the parking arrangements and extend to form three new areas of hard surfacing to form a total of 12 parking spaces, 2 of which would include electric vehicle charging points and a new pedestrian walkway to link to the existing pedestrian entrance to the site. The proposals have been revised during the course of the application, essentially reducing the initial proposals from 16 spaces to 12. The parking areas would be formed with gravel grids and with the access/manoeuvring areas in tarmac to match the existing surfaces. Soft landscaping is now proposed to the edges of the parking areas.

A replacement bin store is proposed as a 3.6m by 3.6m slatted timber enclosure to accommodate a minimum of 4 x 1100L Eurobins to replace the existing bin store building adjacent to the west boundary.

Two cycle shelters would be installed adjacent to the car parking to accommodate one bicycle per flat.

The application has been supported by a Tree Survey and Arboricultural Impact Assessment Plan, Tree Protection Plan and Arboricultural Method Statement.

## Consultations

**West Sussex County Council:** The Highway Authority has confirmed no objection and has commented as follows:

*'The two new lifts will be installed to the side elevation of the two blocks. There are currently 4 nos. car parking spaces for visitors within unmarked bays. As part of the development proposal a total of 16 car parking spaces will be provided within marked bays, in addition to the 18 garages. Safe and secure cycle parking for 18 flats at a ratio of one space per flat is provided within two bike stores on the grass bank. A new bin store provision is made adjacent to the garages, to the south of the site.*

*The Local Highway Authority (LHA) does not consider the proposed development would give rise to any highway safety or capacity concerns; therefore, there are no transport grounds to refuse this proposal.'*

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

The **Environmental Health** Officer requested additional information from the applicant to determine whether the lift installation would cause any loss of residential amenity. The applicant's agent has clarified with lift specifications and construction, floor plans of the existing flats and confirmed there would be no plant room. On the basis that the lifts would not be adjacent to habitable rooms of existing flats, and would be constructed adjacent to the outer external walls and with the lift doors within the new construction to limit transfer to any receptors, the Environmental Health Officer has confirmed that the proposals will provide suitable mitigation against any impact from the lifts on the residents.

The **Private Sector Housing** team has confirmed no comments.

**Waste Services** - no comments received

## Representations

Thirty two representations have been received in total, from residents or known owners of 14 of the flats, and two other Worthing residents that don't disclose whether they are owners, objecting to the proposals for the reasons summarised below:

- The application is not transparent in mentioning proposals for two further storeys to be added and is misleading
- Existing parking and traffic congestion in the streets will not be improved. Congestion from neighbouring school. Many existing residents park on-street as the garages are small and will not accommodate larger cars. Car parking problems will be exacerbated with future proposals. The proposed parking would be insufficient for the additional flats in future proposals.
- Future proposals would be an overdevelopment and out of character
- Visual impact of parking proposals detrimental



- Safety concerns over turning space for vehicles in new spaces at the existing entrance
- Loss of pedestrian access/safety concerns
- Noise, dust and disruption from works
- Noise, vibration and disturbance from lifts and users to existing occupiers
- Noise and pollution from vehicles manoeuvring and parking close to flats
- Loss of privacy due to position of lift close to front doors
- Loss of light from parking close to flats
- Loss of green space/introduction of hardstandings and vehicles, detrimental to residential amenity and impact on landscape character
- Impact on protected trees
- Loss of privacy from position of parking spaces and bicycle stores near to flat windows
- Negative impact on wildlife in the hedgerow
- Increase in light pollution from vehicles
- Proposals for car parking will encourage vehicle ownership/sustainability concerns

One representation has been received from Councillor Kevin Jenkins reiterating the call-in request as residents believe this is a step towards over development of the site, with additional floors to be added at a later stage and with concerns over breaches to their leases.

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

Worthing Local Plan 2020-2036 (WBC 2023):

DM5 (Quality of the Built Environment)

DM15 (Sustainable Transport and Active Travel)

DM16 (Sustainable Design)

DM18 (Biodiversity)

DM19 (Green Infrastructure)

DM20 (Flood Risk and Sustainable Drainage)

DM22 (Pollution)

National Planning Policy Framework (HCLG 2021)

National Planning Practice Guidance

### **Relevant Legislation**

The Committee should consider the planning application in accordance with:

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 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.

## **Planning Assessment**

### ***Background and Principle***

The applicant's Design and Access Statement does not put forward any future intentions for the site but during the course of the application the applicant's agent has clarified that the works proposed in the current planning application are intended as a precursor to future proposals for Prior Approval under Part 20 of the GPDO as an upward extension of the apartment buildings. However, no such application has been received at the time of writing and the current proposals should nevertheless be assessed on their own individual merits as a stand alone application as submitted.

There is no objection in principle to extensions and alterations to existing dwellings within the built up area. The key considerations are therefore:

- Impact on the visual amenities of the site and surrounding area;
- Effects on the amenities of residential occupiers;
- Parking and highway safety considerations;
- Sustainable development.

### ***Visual amenity***

The site occupies a prominent corner position where there are open views of the site in the surrounding streetscene. The existing trees and vegetation within the site contribute both to the landscape character of the site and to the surrounding streetscene.

The proposals to install lifts would involve an extension to each building to their east wall. Whilst this would infill part of the existing staggered east elevation, the proposed extensions would be relatively small in their footprint, each to measure approximately 3.9 metres by 1.7 metres aligning with the existing side wall, and would appear reasonably sympathetic, retaining a small recess to its south side, and with a flat roof proposed to match the recipient building. The agent has also confirmed that there would be no protrusion above the roof by the lift or any other equipment. Although a render finish is proposed, the existing panels within the recess have a similar finish and this would add a similarly contrasting vertical element against the existing brickwork which would have a satisfactory appearance. Therefore it is considered that the proposed lift additions would not cause any significant harm to visual amenity.

Residents have raised concerns about the lack of need for the lifts and the potential for additional maintenance costs to be incurred by leaseholders. Unfortunately these are private legal matters between freeholders and leaseholders and cannot be grounds for resisting the application. However, this case highlights the problems that occur between leaseholders and freeholders which have been exacerbated by the permitted development rights for upward extensions of flat developments.

As originally submitted the proposal included 16 car parking spaces, with four of those in the south west corner of the site positioned closely to several of the

protected trees and sited forward of the existing building. Five spaces between the two buildings were proposed to be less than 0.4 metres from the building, and in the north east corner seven spaces were originally proposed positioned approximately 2.8 metres from the site frontage and less than 0.4 metres from the building.

Negotiations with the applicant have taken place over several months in order for the applicant to respond to concerns over the impact on protected trees and on the landscape character and setting of the buildings as well as amenity concerns.

The initial submission omitted to include an arboricultural survey or report and the Council's Senior Tree and Landscaping Officer had concerns over the new access and proposed grasscrete parking in the south west corner of the site which would require excavations within the Root Protection Areas of protected trees. The applicant has since provided a Tree Survey and Arboricultural Impact Assessment Plan, Tree Protection Plan and Arboricultural Method Statement and has revised the position and extent of parking areas. The revised proposals have set back the south west corner parking further into the site away from protected trees and further amendments have been sought to reduce the number of spaces in this corner. Three spaces are now proposed to the south west corner, setting the parking further away from the boundary with the neighbouring dwelling to the west which would allow for a planted verge to soften the edges of the parking and existing boundary fences.

Initial concerns were also raised over the proximity of the parking areas to the flat buildings creating visual 'pinch points' and the overall effect resulting in the detrimental impact to the landscape setting of the buildings. The applicant has attempted to address this by further reducing the number of proposed parking spaces with three spaces now proposed between the two buildings (2 deleted) and six spaces to the north east corner of the site (1 deleted). This has the effect of providing a reasonable separation between the parking bays and the buildings and although the cycle shelters would be introduced at the edges of the parking bays this would be in conjunction with soft landscaping which would provide a reasonable screen to soften their appearance as well as to the parking bays were planting is proposed at their edges.

The arboricultural reports and plan includes a no dig methodology and tree protection measures with particular attention to the widening of the access and formation of parking spaces within the RPA of T13 and T10 during the works, to ensure that the trees are adequately protected. Furthermore, the use of gravel grids for the parking bays has been confirmed which would minimise excavations and subject to a non-contrasting gravel would have a satisfactory appearance.

The bin storage enclosure would replace the existing structure and the Arboricultural Assessment confirms that although this is entirely in the RPA of T13, any resurfacing required for the bin store can be laid within the depth of the existing surfaces without any disturbance to the underlying soils, and timber support would require very minor excavations which would be highly unlikely to have any impact on the tree.

One tree, a hawthorn, T9 has been identified as having extensive basal decay and not suitable for retention and the applicant has indicated a replacement tree to be

planted within the western landscape verge, details of which can be agreed by condition if approved.

The Council's Tree and Landscaping Officer has confirmed that the revised plans and supporting information have addressed initial concerns over the proximity to trees for hardstandings in the south west corner of the site and has no further concerns regarding trees. A condition is recommended for the works to be carried out in accordance with the arboricultural reports and recommendations if approved.

The revised proposals would provide reasonable separation to the buildings and site frontages and with the addition of planting to their edges it is considered that there would be no significant harm to the landscape character or visual amenities of the site and surrounding area.

### ***Residential amenity***

The main impact arising from the development would be to the occupiers of the existing flats in Chatsmore House, and to the occupiers of neighbouring properties to the west at No.132 and 134 Goring Way and the Caretakers Flat within the adjacent school site. Other dwellings to the north and on the opposite side of Goring Street and opposite in Goring Way would be sufficiently separated from the proposals to avoid any significant impact.

The proposed additions to provide lifts would enclose one window to each floor that serves the stairwells but a larger window on the west elevation would be unaffected and would provide adequate natural lighting to this communal area. The extension would be brought closer to the windows of the adjacent flats to the south on each floor but the closest affected windows serve a bathroom and wc to each flat and given the limited depth of the proposed extension the proposals would not cause any significant loss of amenity. In terms of noise and disturbance arising from the use of the lifts, the Environmental Health Officer is satisfied that on the basis of the construction of the lift shaft proposed to be adjacent to non-habitable rooms and against the outer external wall with lift doors within the new structure, this would be sufficient to mitigate against noise and disturbance. The occupier of a neighbouring flat has raised concerns over loss of privacy where the new access to the lift would be close to the front door of this and other flats which contain glazed elements. Whilst those concerns are acknowledged, given that this is already a communal space it is considered that the proposed introduction of a lift entrance would not give rise to any significant loss of amenity.

The points raised in representations are noted and the addition of further parking areas would introduce some additional vehicular movements to/from and within the site, and with parking and manoeuvring areas and cycle stores and associated movements proposed in relatively close proximity to the windows of the existing flats at Chatsmore House where some residents currently enjoy a direct outlook over communal garden space. The applicant has sought to address concerns over the close proximity of parking to the buildings by reducing the number of spaces as described in the section above, which would allow a greater degree of separation than originally submitted for the central and north-east parking areas, and with the introduction of planting to the edges to soften their appearance and provide some

screening. Any additional vehicular movements would be largely focussed within the existing access areas which already serve the parking and garages and the effects of the use of the new parking bays have been limited by the increased separation now proposed. To the south west corner parking, the proposals have been set further back into the site to address visual amenity concerns which has brought the proposed eastern parking bay and pedestrian access close to the corner of flat 1 in this block. However the existing parking area and entrance already generates movements in this vicinity and the proposed parking and pedestrian walkway has been designed to be angled away from the building which would limit the impact from passing pedestrians in terms of privacy, and given the open communal nature of this space at present it is considered that it would not pose any significant harm to residential amenity in this context.

Cycle parking has been deleted from the western boundary adjacent to the protected trees and neighbouring dwelling at No.132, and instead initial revised proposals were to install cycle shelters at the entrances of the buildings. However this would have been directly in front of windows of flat 1 and 10 at this point. The applicant proposes a further revised positioning adjacent to the existing parking areas but these would be in front of windows to two of the ground floor flats. For the northern block, the cycle shelter would be at a distance of approximately 0.9 metres at its closest point but angled away in relation to the affected ground floor window which serves the kitchen. Whilst this arrangement is not ideal, this is not a habitable room and benefits from the outlook from a second window in the north elevation for this room, and has been set back in this position to allow the pedestrian route from Goring Street to be retained. Planting has been indicated to its perimeter which can provide a reasonable screen and soften its appearance. The cycle shelter between the two buildings would be sited relatively closely to flat 3 but at its corner where the view would be less direct and with the addition of planting to its perimeter which would also provide some screening here. Having regard to the relationship with neighbouring flats and weighed against the benefit of providing cycle parking, on balance this arrangement is considered acceptable.

The initial proposals included a new pedestrian path in the south west corner of the site that would be brought closer to the boundary with the neighbouring property at No. 132 raising concerns over the impact on privacy to this occupier. This has now been amended and a new path is proposed at the eastern edge of the parking spaces that links the flat entrance to the existing pedestrian opening onto Goring Way. The reduction in the parking area in this corner would now allow for 2.8 metre separation distance between the parking and the boundary with this neighbour which would be reasonable in the context of the existing parking areas and with further planting to be introduced at this edge.

It is acknowledged that there would be some loss of amenity particularly where residents currently enjoy outlook over the garden space although this is not a private amenity space and whilst an increase in noise and disturbance may be possible from the use of the parking and cycle areas, in the context of the existing vehicular access, garages and parking areas and in light of the amendments proposed, on balance it is considered that the proposals would not cause any significant harm to residential amenity.

## **Parking and Highway Safety**

The site is in a sustainable location, close to Goring-By-Sea Train Station and with bus services in Goring Way providing connections to the town and wider area. However, the proposals would provide twelve new car parking spaces which would be positioned to allow for turning and manoeuvring within the site. This provision would replace the existing informal parking that currently accommodates at least three vehicles. There is garaging present on site for use by existing residents although it is acknowledged that this may be used as storage and the size of garage would also limit its use for parking of some larger vehicles. The proposals also incorporate EV charging points to two of the proposed spaces which will encourage the use of electric vehicles. The Highway Authority has raised no objection to the proposals on highway safety grounds with no highway grounds to resist the proposals.

Given that some residents have indicated that there is a current overspill of parking it could be argued that the current proposal would benefit existing residents. However, as indicated by the Agent this application is not designed to benefit the existing residents but to serve new flats potentially created under permitted development rights. Any application for prior approval would have to be considered on its merits but Members would not be able to object to the principle of an upward extension and consideration would be limited to:

**AD.2.—(1)** *Where any development under Class AD is proposed, development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for prior approval of the authority as to —*

- (a) *transport and highways impacts of the development;*
- (b) *air traffic and defence asset impacts of the development;*
- (c) *contamination risks in relation to the building;*
- (d) *flooding risks in relation to the building;*
- (e) *the external appearance of the building, including -*
  - (i) *the design and architectural features of -*
    - (aa) *the principal elevation; and*
    - (bb) *any side elevation that fronts a highway; and*
  - (ii) *including the impact of any works under paragraph AD(2)(b) or (c);*
- (f) *the provision of adequate natural light in all habitable rooms of the new dwellinghouses;*
- (g) *impact on the amenity of the neighbouring premises including overlooking, privacy and the loss of light;*
- (h) *whether, because of the siting of the building, the development will impact on a protected view identified in the Directions Relating to Protected Vistas dated 15th March 2012 (14) issued by the Secretary of State,*

This is a difficult case and highlights some of the difficulties of the current extended permitted development rights where often investment companies (as freeholders) try and address some of these considerations before submitting a prior approval. The objections to the development are therefore understandable.

Whilst, there is no highway objection it does not appear as if the Highway Authority has given any consideration to any oversupply of parking on this development and it could be argued that providing additional parking would discourage more sustainable modes of transport to and from the site. Given the residents comments about the unsuitability of the existing garages this would be a difficult case to argue at an appeal.

Cycle storage would be provided in covered shelters adjacent to the new car parking areas which would equate to 18 bicycle spaces which would help to encourage the use of alternative modes of transport.

### ***Sustainability***

As indicated above, the creation of additional car parking spaces in this sustainable location close to Goring station could not be seen to encourage more sustainable modes of transport. However the proposal also provides electric vehicle charging points which would help to encourage the use of electric vehicles and cycle parking would be introduced which would help reduce reliance on the private car. The proposed parking areas would use gravel grids which would be permeable and permeable paving is also proposed for the new pedestrian walkway, details of which would be agreed by condition as part of the landscaping proposals.

The loss of green space could be a concern given the adoption of the Local Plan now requiring a 10% net gain. The applicant has not demonstrated that this could be secured but there is scope for additional tree planting within the grounds and this matter could be covered by planning conditions.

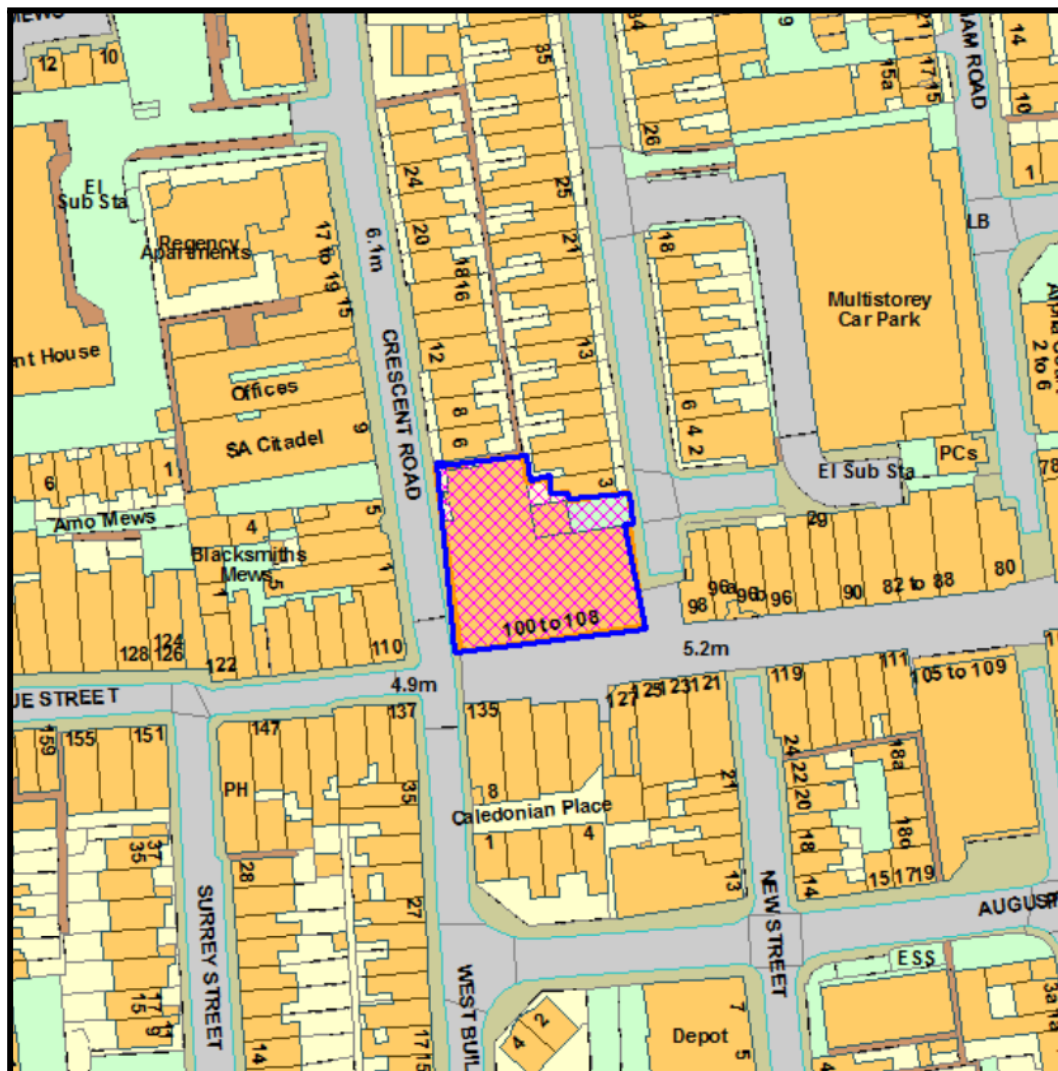
### **Recommendation**

#### **APPROVE**

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

1. Approved Plans
2. Standard time limit
3. Hours of construction
4. Works to be carried out in accordance with Tree Survey and Arboricultural Impact Assessment Plan, Tree Protection Plan, and Arboricultural Method Statement.
5. External walls of the extension to be finished in white render as indicated and with roofing materials to be completed to match the existing building.
6. Hard and soft landscaping details to be submitted and agreed, to include one replacement tree planting as indicated on the approved plan.
7. Details of a non-contrasting gravel and grid to be agreed prior to installation.
8. Precise details of cycle store to be agreed and installed prior to car parking being brought into use.
9. Provision of a 10% net gain within the site with an Ecological Management Plan required prior to commencement of development demonstrating how the net gain can be secured and appropriate monitoring to ensure post development provision and ongoing management.

Application Number:	AWDM/0732/23	Recommendation - APPROVE
Site:	100 - 108 Montague Street, Worthing, West Sussex, BN11 3HG	
Proposal:	Proposed extension to accommodate new dwelling with mansard roof with flat roof dormers and glass balustrade	
Applicant:	Mr Tom Collingwood	Ward: Central
Agent:	SAACT Ltd	
Case Officer:	Jacqueline Fox	



**Not to Scale**

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## **Introduction**

A previous outline application AWDM/0964/22 (now withdrawn) for a proposed 1 bedroom flat within a new mansard roof on the current site had been requested to come before the committee by a former member of the Committee. As the current full application has followed on from the withdrawn application, it was considered that the current full application should also be reported to the committee for determination.

## **Site and Surroundings**

Montague Street at this point is within the secondary frontage of the town centre as defined in the Worthing Local Plan and is pedestrianised to the southern side, with Crescent Road frontage to the western elevation. This prominent corner with an imposing three storey Victorian building is within the Montague Street conservation area.

The site is currently undergoing development from a previous permission particularly to the northern side and along Crescent Road. The cream coloured building comprises a traditional glazed shop front to Montague Street and part of the Crescent Road and Graham Road frontages. At ground floor facing Crescent Road the former blocked frontage of a former chapel building and warehouse/store for the shop has been opened up with long glazed windows. Facing Graham Road is the rear entrance and service yard.

The overall building is three storeys with two building types with the corner building portraying large deep windows and detailing to the masonry and a flat roof. The attached building to the east has smaller window openings and a part pitched roof. To the rear there are a range of attached additions, part single, part two storey and part three storey some under redevelopment

To the north of the site is a Victorian terrace along Crescent Road. This comprises 3 storeys above a semi basement and most have added a full mansard to the roof, though No 6 which adjoins the site does not. The bulk are in residential use converted to flats. The facing southern flank of the terrace is windowless.

To the north east the buildings are two storey Victorian terraced houses in Graham Road which feature uniform outriggers, excepting No 3 which is shorter by approx. two metres. 3 and 5 Graham Road gardens directly abut the site. The gardens are bounded by tall (2m plus ) walls. Only the ground floor of No 5 incorporates windows in its west facing outrigger at this level. In common with the rest of the terrace, Nos 3, 5, 7 and 9 include west facing first floor windows in their outriggers.

To the east and south are a range of two storey buildings with retail primarily on the ground floor and store/residential at first floor. The properties on the south side of the pedestrianised street are two storey and much smaller in scale than 100-108 Montague Street.

On the opposite site of Crescent Road there is a continuation of two and three storey buildings with commercial at ground floor and mixed uses above.

## **Proposal**

The application which is now substantially retrospective is for an additional dwelling above part of the Crescent Road frontage.

The application is for a one bedroom flat within a new tiled slate mansard roof above the existing and recently approved flat roof over the warehouse and store to the northern portion of the site. The mansard would add an additional maximum height of approx 3.2m to the building.

The proposed flat would have small windows to the front facing Crescent Road to light the bedroom and stairwell. At the rear (east facing) are larger french windows which light the main living space. The windows open out onto a proposed balcony with a depth of approx 1.7m. The balcony would be screened by a 1.7m high obscure glass screen. The balcony would be set back approx 2.7m from the rear of the approved flat roof extension.

The proposed dwelling would be accessed from Crescent Road via a new entrance within an approved glazing panel. The stairwell would be in the north west of the existing building.

The one bedroom flat would be 69sqm. The roof terrace would be 16.5sqm in area.

Bin stores are shown to the northside of the building with cycle parking within the stairwell.

### **Relevant Planning History:**

AWDM/0052/15 - Infill central part of first floor to extend showroom and extend forwards and subdivide existing enclosed flat roofed area for deliveries by Graham Road-Approved

AWDM/0449/16 - Demolish existing redundant warehouse storage rooms attached to existing retail premises, replace with a pair of three storey two bedroom semi-detached dwellings with gardens and access from Crescent Road. APPROVED- Not implemented

PREAPP/0153/20 - Create 8 flats in part of the upper floors to this property including alterations to the north eastern side, create one flat on the roof, alter the frontage and change the use of a building currently used as the warehouse to the north west side of the building and to extend the first floor of the warehouse to the east.(see PREAPP/0581/19)

AWDM/1752/20 - Change of use of part of the first and second floors from retail to residential use, demolition of part of the northern elevation and extension to this elevation, extension at first floor level to the warehouse, installation of a new floor in the warehouse to match the level of the retail showroom first floor, alterations to the Crescent Road frontage to the warehouse, creation of a new access to the proposed flats from Graham Road, creation of 8 flats including a roof top flat and conversion

and extension of part of the sales area, provision of cycle and bin storage and ancillary works. APPROVED

AWDM/0908/22 - Approval of Details Reserved by Conditions: Condition 3 (Materials); Condition 4 (Railing, Hard & Soft Landscape); Condition 5 (Ventilation); Condition 6 (Contamination Risk Assessment Details); Condition 7 (Construction Management Plan) and Condition 10 (Working Hour Details) of approved application AWDM/1752/20 Subject to discussion with Environmental Health officers.

AWDM/0964/22 - Outline application for proposed 1no. x 1 bed flat within new mansard roof at second floor, associated bin and cycle storage- WITHDRAWN

AWDM/1377/22 - The Non- Material amendment to approved application AWDM/1752/20 for new windows, gate, bin and cycle store. APPROVED

### **Consultations:**

#### **WSCC Highways**

This proposal is for an extension to provide 1x1 bedroom dwelling. The site is located on the corner plot between Montague Street (E class road) and Prospect Place which is an unclassified road subject to 30mph speed limit.

There are no access or parking arrangements associated with the site. An inspection of data supplied to WSCC by Sussex Police over a period of the past five years reveals that there have been no recorded injury accidents within the vicinity of the site. Therefore, there is no evidence to suggest that the proposal would exacerbate an existing safety concern.

This proposal is not anticipated to result in material intensification of use onto Prospect Place or the wider road network.

Nil car parking provision is proposed for the new dwelling. Whilst on-street car parking is limited in the immediate vicinity there are comprehensive parking restrictions prohibiting vehicles from parking in places that would be detrimental to highway safety. We would not consider that highway safety would be detrimentally affected through the proposed nil parking provision. The Planning Authority may wish to consider the potential impacts of this development on on-street car parking.

The site is located within a sustainable area, close to local shops and amenities. Worthing trains station is within 13min walking distance from the site. In order to promote the use of sustainable transport methods, the LHA would advise that covered and secure cycle storage is provided for the proposed flats. The proposed plans demonstrate details of this.

#### **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.

If the LPA are minded to approve this application, condition securing cycle parking should be included.

### **Southern Water**

Southern Water requires a formal application for any new connection to the public foul and surface water sewer to be made by the applicant or developer.

### **Environmental Health (PSH)**

No objections on PSH grounds

### **Environmental Health**

Awaiting comments which if received will be reported verbally at the meeting.

### **Representations:**

#### **Flat 2, 3 Graham Road**

I am writing to object to the proposed development on account of the further noise, disturbance and pollution it will generate. I live in a flat directly adjacent to the proposed development. I already experience plenty of disturbance on account of the work being carried out in the very small space at the back of the shop. Moreover, there is a great deal of traffic in what is a no-through road, and this will no doubt further increase if more property is added to this short and narrow road - creating also more pollution detrimental to the health of residents. More development within such a small area is totally inappropriate. I hope the council will ensure that the well-being of existing residents of the street will take precedence over unnecessary further development

#### **Flat 2, 5 Graham Road**

I am opposed to the above planning proposal (AWDM/0732/23) for the following reasons:

Noise disturbance and pollution: I live in the flat next to this proposed development. The works conducted under the previous work permit (AWDM/0964/22) generated a significant amount of noise. Also noise disturbance will be increased through the building of the roof terrace. Although the proposal indicates that the terrace will be made of 'glass balustrade' however, the current structure is a wooden screen with gaps in it. The last building works created a significant amount of the dust which can be detrimental to the health of neighbours. The roof terrace is likely going to be used at night, thus creating more noise.

High Access and Parking: Moreover, parking is already limited on Graham Road and it is already in the centre of the town we experience a high volume of traffic despite it being a no through road. Although, they have proposed that a cycling storage will be included. It can be argued that it's impossible that the tenants/ occupiers will not own

cars. Approving this proposal will lead to an increase in traffic from trucks which will lead to pollution in such a small area.

The impact of the loss of light as a result of having another storey has been considered. This will overshadow some of the properties on Graham Road and in addition invading privacy of some houses. The building of the terrace overlook the rear window of 7 and 9 Graham Road.

Also 5 Graham will be affected as it now have a view of a blank wall

## **7 Graham Road**

This development will cause a number of issues. The work permitted by a previous application (AWDM/1752/20) has allowed a second storey to be built right up to the boundary wall with properties on Graham Road. The result of this is that several of the properties now have a blank wall less than 2 metres from their rear windows, blocking out a significant amount of light and sky.

This, in my view, is an appalling failure on the part of the Planning department. If the original application had been properly considered and understood, it's very likely that it would have been referred to the Planning Committee and subsequently pushed back from the boundary wall. This additional storey only compounds the problem.

### Light

The additional storey further blocks light to the rear of properties on Graham Road. This isn't a matter of conjecture - it can be observed because it has already been built, without planning permission, and this application is retrospective.

### Overdevelopment

As above, the second storey already represents greedy development: taking up as much space as possible with no regard for the surrounding properties. This third storey exacerbates that issue. The original plans were incomplete/misleading, omitting the properties most affected, particularly 5 Graham Road which now has a view of a blank wall outside its rear windows.

### Noise

A roof terrace in an enclosed space like this will create a lot of noise for neighbours.

As demonstrated by the noise we have experienced during the building work, sound bounces around a great deal in this space. Even the builders' radio, at a relatively low volume, has caused a lot of disturbance. It's reasonable to assume that the terrace is likely to be used in the evening, therefore increasing the likelihood of late-night noise nuisance.

Furthermore, with two sets of double doors opening onto the terrace, it's highly likely that noise will leak out from inside, even if the terrace is not being used.

### Privacy

The terrace overlooks the rear bedroom windows of 7 and 9 Graham Road, along with others. Though the plans refer to a "glass balustrade", what has actually been built is a wooden screen with gaps in it. This will do nothing to prevent overlooking and little to contain noise. The proposed "obscured glass screen" should help with regard to privacy but not with noise as a hard surface will encourage sound to bounce around.

#### Highway access and parking

Parking availability is already strained in Graham Road, and in the town centre generally. Outside of enforcement hours (9am - 6pm, Mon - Fri) vehicles are often double parked or parked dangerously, i.e. blocking pavements. Though the development incorporates cycle storage, it's unrealistic to think that none of the residents will own cars

### **17 Graham Road**

This is a retrospective application for a 3rd storey which has already been built-including a large roof terrace.

I wish to object to this for the following reasons:

1. The terrace blocks the view from my garden. It covers up a large area of sky, where before I could see sky I now see an ugly large wooden fence. It blocks my light and peace.
2. The terrace can clearly overlook my garden, this invades my privacy. The terrace is large and multiple people can be on it at any one time
3. The apartment has french doors opening onto the terrace- this will , when habituated, cause an increase in noise and disturbance from the apartment and people who are using the large terrace. Currently there are no terraces backing onto the row of houses I live on, there is no noise or disruption from the apartments behind my house because of this.
4. This is a retrospective application;I am furious that developers think they can do what they like and ask permission afterwards. I strongly urge WBC to demand the terrace be removed.

### **Relevant Planning Policies**

National Planning Policy Framework ( 2021)  
National Planning Practice Guidance (CLG)  
Supplementary Planning Document 'Space Standards' (WBC 2012)  
Montague Street Conservation Area Appraisal (WBC 2001)

### **Worthing Local Plan 2023**

SP1 - Presumption in Favour of Sustainable Development  
SP2 - Climate Change  
SP3 - Healthy Communities

DM1 - Housing Mix  
DM2 - Density  
DM5 - Quality of the Built Environment  
DM13 - Retail and Town Centre Uses  
DM16 – Sustainable Design  
DM17 – Energy  
DM22 - Pollution  
DM 24 – The Historic Environment

### **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

For LB/CA

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

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

### **Planning Assessment**

The principle of the part conversion and extension of the building has been established under AWD/1752/20. The creation of flats is acceptable in principle in this sustainable location, the key issue is the impact of the existing additional mansard roof extension to form a dwelling on the northern portion of the building on the conservation area, the existing building, residential amenity for future residents, and the impact on neighbouring properties as assessed against the Development Plan and relevant policies within the NPPF.

The development is now substantially complete in form, the applicant's agent was advised to stop work in March 2023 when it was established that work being carried on site exceeded that in the approved scheme and was in connection with the additional flat; the subject of the current application. They were advised that all work was at their own risk and that we did not condone that work was being carried out without the relevant planning permission. The council's planning enforcement team has also been involved and sent correspondence. Initially the agent advised that work would stop and scaffolding removed however work recommenced and the shell of the building including the roof terrace has now been substantially built.

Members are advised that notwithstanding the work that has taken place the application should be assessed in full on its planning merits.

### ***Heritage and Visual Amenity***

The starting point is whether the development would preserve or enhance the established character and appearance of the Conservation Area.

The application site comprises a prominent corner three storey Victorian building within the Montague Street conservation area. The former Trinity Church hall building was incorporated into the site in 1971 and has partly been used as showroom and store and continues to be such under approved application AWDM/1752/20.

The Montague Street Conservation Area document identifies this section of Montague Street as an important part of the town centre shopping area. Wholly pedestrianised, it is a corridor type urban space enclosed by two to four storey buildings on both sides of the street. It indicates that the north side of the street especially has good townscape quality.

It indicates that architectural historic and townscape elements which should be preserved include:

- A common building line at the back of the pavement.
- Cohesive paving materials.
- A vertical emphasis to front elevations.
- Original architectural detailing on 19<sup>th</sup> century properties including string courses, parapets, slate roofs, quoins and timber sliding sash windows.
- Elevations in stucco or red brick.

The current application proposes extensions above the roof of the building on the northern side and amendments to the windows approved on the elevation facing Crescent Road.





Approved Elevation to Crescent Road (under AWDM/1377/22)



### Proposed Elevation to Crescent Road

The roof extension would introduce a mansard roof to a partly existing and partly approved flat roof two storey building. The roof extension lies between the ornate three storey building of Collingwood Batchelor and the converted chapel (also part of the shop/conversion) and a four storey block on the north side of terraced houses and flats. There is no consistent roofline or elevational treatment along this stretch of Montague Street. The new mansard roof would be lower in height than the development to the northern side and the main Collingwood Batchelor distinctive corner building. It would be similar in height to the three storey development on the opposite side of the road. There are examples of mansard roofs in Crescent Road and in the newer development to the north. The proposed extension would introduce

interest to this current flat roof and its set back position would ensure that it would not be unduly prominent in the street scene.

The six windows and extension proposed below the roof extension are in accordance with the approved scheme and the Non material amendment application under AWDM/1377/22. The windows would continue to replicate long chapel windows which were previously negotiated and would match the grey framing currently in the old chapel building on the Crescent Road frontage.

The proposed extensions are considered to be in character with the building and would retain and enhance the character of the Conservation Area and the area in general.

The development therefore complies with Policy DM5 and DM24 of the adopted Worthing Local Plan which requires development in conservation areas to be of a high standard of design and materials so as to respect, preserve and enhance the character and appearance of the area.

### **Residential Amenity**

#### **Future Occupants**

The Guide for Residential Development SPD - Living above shops and other commercial premises - indicates that the following points must be considered when assessing an application for living above shops or commercial properties:

- The amenity of residents and occupiers, or of the surrounding area.
- Sound proofing measures for the residential units.
- Design/space standards.
- Independent and safe access shall be provided to the residential unit which is separate from that of ground floor use.

In terms of size and layout the one bedroom unit is shown as 69 sqm which would comply with the National Space Standards for a one bedroom flat. The internal layout shows a one bedroom flat with a bedroom to the west side facing Crescent Road. There is an internal bathroom hall and storage area with a lounge/diner and kitchen to the eastern side with windows onto a terrace of 16.5sqm.

The 'Space Standards' SPD sets out requirements for external open space. Balconies need to be of sufficient size to accommodate a small table and sufficient chairs for each occupant. The scheme provides for communal open space on the roof enclosed by obscure glazing of approx. 16.9sqm. This would provide adequate space for outside amenity for this one bedroom flat. The site is also in the town centre, where the general principle of residential conversion is supportable given the proposal involves intensification of a brownfield site in a very sustainable town centre location.

The unit has its own separate staircase and a refuse store at ground floor is shown to be provided.

Comments are currently awaited from Environmental Health Officers on noise transmission between floors and the adequacy of windows to deal with noise and ventilation. Environmental Health Officers have been extensively involved in negotiations on this site to discharge conditions for noise and ventilation on the main building and it is expected that these would be similar to the scheme being negotiated. Further comments will be reported verbally to members as appropriate.

### ***Neighbour amenity***

The application site is within a range of commercial units with residential to Graham Road and Crescent Road.

The application proposes a roof extension which would face Crescent Road and back onto the rear of properties facing Graham Road.

The application has received objections from residents in Graham Road particularly in relation to noise and disturbance, overlooking, loss of light and visual impact.

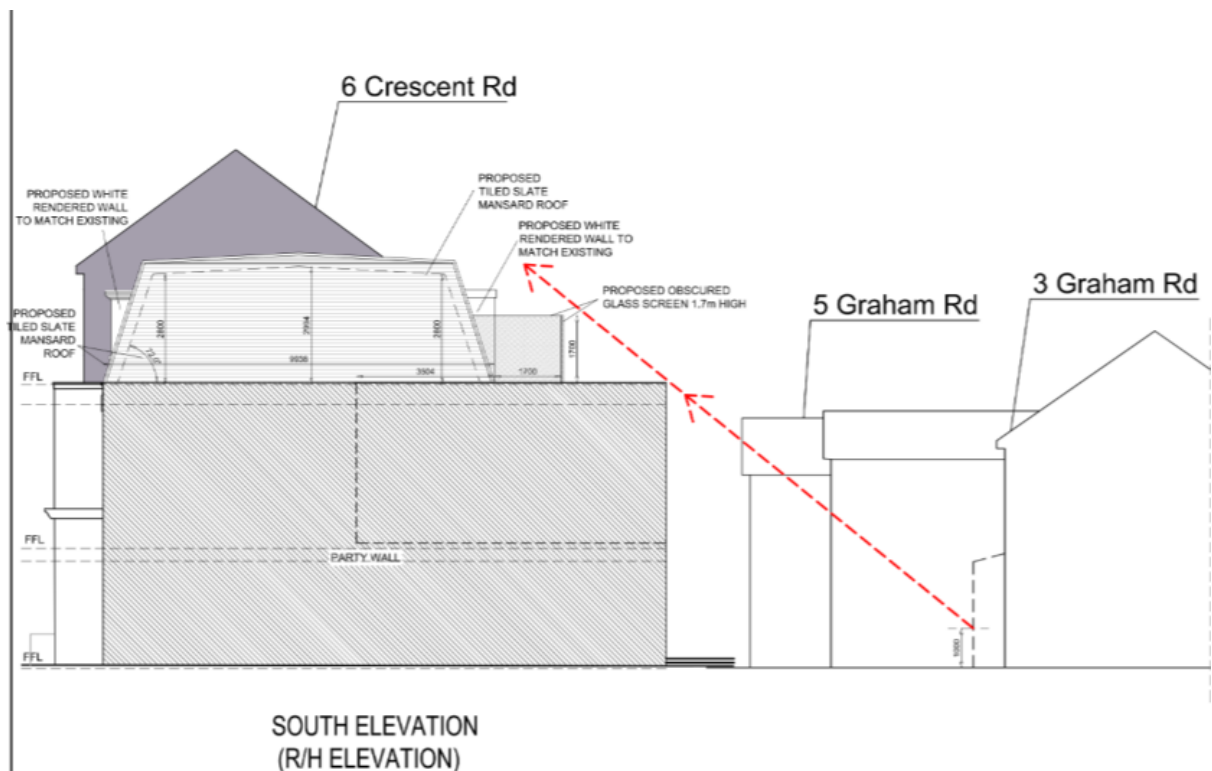
In context, planning permission has been granted for the conversion and extension of the building to provide nine flats. Part of the approved scheme included a flat roof extension above the single storey warehouse in the service yard backing onto properties in Crescent Road. The former warehouse extension (now showroom) involved extending the building at first floor and inserting high level windows to its eastern elevation.

The current proposal involves development above the existing and approved flat roof. As indicated previously the proposal is a mansard roof with windows to the east and west elevation as well as a balcony leading off the french windows in the east elevation.

This is a town centre location and the properties tend to be in close proximity with each other. The existing Collingwood Baxter building and associated warehouse and yard are within close proximity and wrap around various height residential developments.

The most affected properties are 3, 5 and 7 Graham Road and 6 Crescent Road from the current proposal.

The plan below shows the relationship to properties in Graham Road taken into account the approved extension. The plans show the set back of the mansard roof extension from the approved rear elevation.



In terms of the impact on No 3 Graham Road, this property immediately abuts the warehouse service area to its west and south. The property is in two flats. The property has no windows in the rear outrigger. The windows are to the south of the outrigger and rear of the main house. The windows in the south elevation would not be impacted by the current proposed extension. The mansard extension is above the flat roof extension and set back from the rear elevation of this wall by approx 4.2m, the roof terrace would be set back approx 2.7m. Although the roof extension as shown on the plan above is much taller than these two storey dwellings in view of the existing development, and set back of the mansard it is not considered that the development would cause any additional overshadowing, visual impact or overlooking. The occupants have raised concerns about additional noise and pollution citing the current construction works and traffic. The construction works will be temporary and the proposal is for a single one bedroom dwelling in a town centre location where there would be an expected level of noise, the balcony is not large and the property is a one bedroom flat it is not therefore considered that the application could be refused on the additional noise that could be generated from the balcony area.

In terms of the impact on No 5 Graham Road, this property has a number of windows in the rear elevation including windows in the west elevation of the outrigger. 4 windows in the rear elevation were tested for sunlight daylight under AWD/1752/20. The daylight/sunlight indicator showed that although there would be reductions in daylight and sunlight the property would still receive reasonable levels of daylight and annual sunlight for a town centre setting. The mansard extension would be above and set away from the rear two storey wall. It is not considered that it would cause additional loss of light or visual impact to this property. The occupants have raised noise, pollution, access and parking as well as loss of light and privacy. As previously indicated above the construction noise and potential pollution will be

temporary. The noise from any new occupants in this town centre location is not considered to be a reason to refuse the application. Although car parking is not provided, the property is in a highly sustainable location where other forms of transport are available. The occupant has raised that the fencing to the balcony is open and allows overlooking. This is also temporary and the application proposes obscure glazed screening to a height of 1.7m to maintain privacy between properties.

No 7 is further to the north and as a consequence is less impacted directly by the proposal. It has one window which has potential for adverse impact, as above the property is already impacted by existing development and the daylight/sunlight indicator in association with AWD/1752/20 shows that although there would be reductions in daylight and sunlight that the property would receive reasonable levels of daylight and annual sunlight for a town centre setting. The roof extension would be above and sit away from the eastern boundary. Due to the angle and relationship the extension would be visible from this property particularly from a first floor west facing window. The windows in the east facing elevation and the balcony of the proposed development would, however, be largely screened by a proposed 1.7m obscure glazed balustrade. A condition securing the erection of the obscure glazed balustrade would be appropriate to ensure that this was provided. No 7 is already overlooked from the four storey development of Crescent Road directly to the rear and as such it is not considered that it would be appropriate to refuse the application on the basis of detrimental overlooking.

Concerns raised in relation to noise pollution and traffic have been addressed above.

No 17 Graham Road is situated further to the north and although it is appreciated that the development would be visible from this property as highlighted above, with properties much closer to the scheme, it is not considered that the proposal would have a detrimental impact so as to justify refusing the application.

No 6 Crescent Road is situated to the north of the site and comprises a three storey building with outrigger, The main windows at the rear face east, There is a passageway between the properties and a high wall to the boundary. The roof extension would increase the height on the boundary by approx 3.2m for a distance of approx 9.9m in depth along the boundary with this property. However part of this would be at the side of the property where there are no windows. There are no windows proposed on the north side of the mansard. Although the mansard would be to the south side of this property in view of existing development and the height it is not considered it would cause any further detrimental loss of light or visual impact.

The site is within a tight urban context with significant buildings and structures which currently restrict light and prospect. There have been previous permissions for dwellings and extension to the warehouse as indicated in the history above which would also have had an impact if developed. The warehouse extension (already approved) and the mansard roof extension will have some impact on the surrounding properties in terms of visual impact but taking into account the the set back and location of the mansard roof and existing orientation and structures on balance the

proposal is considered to be acceptable and would not have a detrimental impact on neighbouring properties to warrant refusal on this aspect.

### ***Parking and Accessibility***

The site is situated in a sustainable location in easy walking distance of modes of transport other than the private car and local shops and facilities. No resident parking is provided and the rear yard area will be retained to service the retail unit as a showroom only.

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

The Highway Authority recommends a condition to provide cycle storage and this is proposed.

### **Sustainable Construction**

The applicant agents have indicated that they have installed Solar Panels with battery storage. The EPC (Energy Performance Certificate) as built has SAP's calculations A rated.

### **CIL**

The proposal is liable to a CIL payment for the new residential floorspace.

### **Recommendation**

**APPROVE subject to comments from Environmental Health and the following Conditions:-**

1. Approved Plans.
2. The obscure glazed balustrade to be provided prior to occupation.
3. Ventilation details.
4. Noise Assessment.
5. Bins provided.
6. Cycle storage.
7. Hours of work.

Informatives:

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of

sustainable development, as set out within the National Planning Policy Framework.

2. New Address
3. Formal application to Southern Water for connection to sewerage system
4. CIL

23 August 2023

## **Local Government Act 1972**

### **Background Papers:**

As referred to in individual application reports

### **Contact Officers:**

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## **Schedule of other matters**

### **1.0 Council Priority**

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

### **2.0 Specific Action Plans**

- 2.1 As referred to in individual application reports.

### **3.0 Sustainability Issues**

- 3.1 As referred to in individual application reports.

### **4.0 Equality Issues**

- 4.1 As referred to in individual application reports.

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

- 5.1 As referred to in individual application reports.

### **6.0 Human Rights Issues**

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



## **7.0 Reputation**

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

## **8.0 Consultations**

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

## **9.0 Risk Assessment**

9.1 As referred to in individual application reports.

## **10.0 Health & Safety Issues**

10.1 As referred to in individual application reports.

## **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

## **12.0 Partnership Working**

12.1 Matter considered and no issues identified.

## **13.0 Legal**

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

## **14.0 Financial implications**

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

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## Costs Decision

Site visit made on 23 May 2023

**by A James BSc (Hons) MA MSc MRTPI**

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

**Decision date: 8<sup>th</sup> August 2023**

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### **Costs application in relation to Appeal Ref: APP/M3835/W/22/3309942 113 Salvington Road, Salvington, Worthing BN13 2JD**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Ms E Taylor-Moore of NLC Durrington Freehold Limited for a full award of costs against Worthing Borough Council.
  - The appeal was against the refusal of planning permission for development described as 'demolition of Durrington New Life Church and erection of nine apartments across three floors (resubmission of approved application No. WDM/0271/18).'
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. The national Planning Practice Guidance (PPG) advises that irrespective of the outcome of the appeal, costs can only be awarded against a party that has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process. The PPG advises that cost awards may be either procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal).
3. The applicant is seeking a full award of costs on substantive grounds, as they consider that the Council refused the planning application on grounds which were not relevant in the determination of the application and ignored key material considerations.
4. The appeal scheme seeks to provide 2 new dwellings and would materially change the appearance of the consented scheme. I disagree with the appellant that the proposal is for minor alterations. I also find that the Council has accurately described the character of the area within their delegated report.
5. The appellant alleges that the Council has misinterpreted the Daylight/Sunlight report. However, loss of daylight or sunlight does not form part of the reason for refusal and I do not consider that the Council's comments on this matter constitute unreasonable behaviour that has resulted in unnecessary or wasted expense, as described in the PPG.
6. I acknowledge that only a limited number of objection letters were received and none on the grounds of living conditions. However, I have identified clear harm in respect to both main issues and consequent policy conflict. The lack of objections does not alter my findings on the main issues.

7. The applicant considers that that the Council is required to give greater weight to the National Planning Policy Framework (the Framework) than the development plan due to the Council's recent under delivery of housing. As can be seen from my appeal decision, I found that the proposed development would harm the character and appearance of the area and the living conditions of neighbouring residential occupiers. I also found that the adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
8. Overall, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme. I have found that the Council had reasonable concerns about the impact of the proposed development, which justified its decision. I also found harm and conflict with the development plan, taking into account all material considerations, and I dismissed the appeal accordingly. As a result, I cannot agree that the Council has acted unreasonably in this case.

### **Conclusion**

9. For the reasons given above, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated. Accordingly, the application for an award of costs is refused.

*A James*

INSPECTOR



# Appeal Decision

Site visit made on 23 May 2023

by **A James BSc (Hons) MA MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 8<sup>th</sup> August 2023**

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**Appeal Ref: APP/M3835/W/22/3309942**

**113 Salvington Road, Salvington, Worthing BN13 2JD**

- 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 Ms E Taylor-Moore of NLC Durrington Freehold Limited against the decision of Worthing Borough Council.
  - The application Ref AWDM/1109/22, dated 27 June 2022, was refused by notice dated 30 September 2022.
  - The development proposed is described as 'demolition of Durrington New Life Church and erection of nine apartments across three floors (resubmission of approved application No. WDM/0271/18).'
- 

## Decision

1. The appeal is dismissed.

## Application for costs

2. A cost application has been made by NLC Durrington Freehold Limited against Worthing Borough Council. This is the subject of a separate Decision.

## Preliminary Matters

3. I have omitted reference to 'Durrington New Life Church' from the site address, as the church has been demolished. I consider that the address used in the banner heading above provides a more accurate description, which corresponds with that used on the appeal form. I have taken the proposal description from the application form, which I have replicated in the banner header above. I note there is a letter missing from the previously approved application no. and this should read AWDM/0271/18.
4. Following determination of the planning application, the Worthing Borough Council Local Plan 2020-2036 (LP) was adopted on 28 March 2023. The LP supersedes the Worthing Core Strategy 2011 and the saved policies of the Worthing Local Plan 2003, both of which are referenced in the reasons for refusal. I am required to determine the appeal on the basis of the adopted development plan and therefore the superseded policies are not relevant to the determination of this appeal.
5. The Council referenced Policy DM5 of the Worthing Borough Council Submission Draft Local Plan 2020-2036 in the decision notice and provided a copy of this policy with the appeal questionnaire. There are minor changes to this policy in the adopted version of the LP. The Council provided an update on the status of the LP and included a copy of this policy within their appeal statement. The

Council has also provided an update on their five year housing land supply position and latest Housing Delivery Test. The appellant has had the opportunity to comment on these matters and I have taken any comments received into consideration.

6. Planning permission has been granted for a part 2 storey and part 3 storey building on the site, comprising of 7 nos. 2 bed apartments with 7 parking spaces (ref: AWDM/0271/18 and varied by AWDM/2045/20). I noted on my site visit that works have been substantially completed.
7. Amended plans have been submitted with the appeal. As the amendments relate to the annotation of dimensions only, my acceptance of these plans would not prejudice the Council or other interested parties. I have therefore taken them into consideration during my determination.

### **Main Issues**

8. The main issues are the effect of the proposed development on (i) the character and appearance of the area; and (ii) the living conditions of neighbouring residential occupants, with particular regard to outlook and privacy.

### **Reasons**

#### *Character and appearance*

9. The appeal site lies in a prominent location on the corner of Salvington Road and Greenland Road. The area is predominantly residential in character, although there is a large telephone exchange building opposite the site. The telephone exchange building has a flat roof and is not dissimilar in height to the 3 storey part of the appeal property. Development along Salvington Road consists of 2 storey and 3 storey buildings, of a variety of architectural styles and periods. Immediately adjacent to the site on Salvington Road is a pair of 2 storey semi-detached dwellings, which have a pitched roof.
10. With the exception of the corner part of the appeal property, Greenland Road is characterised by single and 2 storey dwellings that vary in design but are predominantly modern in character. Opposite the appeal site on Greenland Road is a row of 2 storey flat roof terraced properties. To the south of the site is a narrow unmade track, which provides access to the rear of properties that front onto Salvington Road. Adjacent to this track is 3 Greenland Road (No 3), which is an end of terrace 2 storey property, which is set back behind the remainder of the terrace and has a flat roof. The existing building on the appeal site steps down in height and responds to the adjacent 2 storey developments on both roads.
11. I acknowledge that 3 storey buildings are not uncommon on Salvington Road. However, Greenland Road has a far more low-key character and the appeal property is already the most prominent building on this road. The proposal seeks to add an additional storey to the southern wing, which would be slightly below the height of the existing 3 storey part of the appeal property. The southern wing is set further forward in the plot and is already taller than the adjacent flat roof property. The proposal by reason of its size, height and siting would appear out of scale and overly dominant in relation to the neighbouring property.

12. The proposal would not be significantly higher than the pitched ridge of the neighbouring terrace on Greenland Road. However, the pitched and hipped roof of the neighbouring terrace minimises its bulk at roof level. In contrast, the proposal would appear significantly bulky and its large 3 storey mass would appear unduly prominent and discordant in the context of the more modest development along Greenland Road. I acknowledge that the proposal would not increase the overall footprint of the building and the same space would be retained around the building. Nevertheless, the proposed development would appear out of scale with neighbouring buildings and it would harm the character and appearance of the street scene.
13. Furthermore, the appeal property currently has a blank 2 storey side elevation adjacent to No 3. As No 3 is set further back from the street than the appeal property, the blank elevation is prominent within the street scene. The proposed additional storey would significantly increase the extent and prominence of this blank façade, which would be out of keeping and harmful to the character and appearance of the area and would equate to poor design. While the proposal would utilise design techniques already found on the building, this would not mitigate the visual harm.
14. The proposal also seeks to provide an additional storey above the eastern section of the building, adjacent to 111 Salvington Road (No 111). This extension would be set in from the existing front and side elevations, which would help to minimise its overall visual appearance. The set back from the side elevation would also ensure that this part of the scheme relates well to the adjacent 2 storey development on Salvington Road.
15. Parking is already a prominent feature on both road frontages and the proposal would create a further 2 parking spaces. The parking area that would be accessible from Greenland Road would extend across the full width of the southern projection. There would also be an increase in hardstanding along the Salvington Road frontage. The increase in hardstanding would be at the expense of soft landscaping. As a result, the parking provision would appear visually dominant, creating a hard appearance that would harm the character and appearance of the street scene.
16. For the reasons given above, I conclude that the proposed development would result in significant harm to the character and appearance of the area. It would conflict with Policy DM5 of the LP. This policy requires among other things that new residential development respects and enhances the prevailing character of the area; enhances the local environment by way of its appearance and character, with particular attention being paid to the architectural form, height, scale, landscaping and impact on the street scene; achieves high quality design; and, makes a positive contribution to the sense of place, local character and distinctiveness of an area.
17. The proposal would also fail to comply with the National Planning Policy Framework (the Framework), which among other things seeks to achieve high quality, well-designed places and developments that are sympathetic to local character, including the surrounding built environment.

### *Living conditions*

18. The existing 2 storey southern wing of the appeal building extends almost the full depth of the garden of the neighbouring property at No 111. While the southern wing is set away from the boundary with No 111, it is prominent from when viewed from the neighbouring property. The additional storey, by reason of its height and siting would increase the prominence of the appeal property and it would have an overbearing and enclosing effect, which would be detrimental to the living conditions of occupants of No 111.
19. No 3 is set further back in its plot than the southern wing of the appeal property. The provision of an additional storey on the southern wing would have a significant enclosing effect on the front of No 3 and it would appear oppressive and unduly overbearing to the occupants of this property.
20. The appeal site is located within a built up area where residential properties experience a mutual level of overlooking. The window arrangement on the east elevation of the southern wing would be similar to that on the floor below, with 2 windows shown to be obscure glazed, which could be secured by condition. The proposed development would not result in a detrimental level of overlooking or perception of overlooking to the occupiers of the neighbouring properties on Salvington Road, when compared to the consented scheme. Given the distance between the appeal site and the terrace on the opposite side of Greenland Road, the proposed development would not result in a harmful loss of outlook or privacy to the occupiers of this terrace.
21. While the issue of daylight and sunlight is raised by both parties, loss of daylight or sunlight does not form part of the reason for refusal. Based on the evidence before me and my site visit, I have no reason to reach a contrary conclusion to the Council on this matter.
22. For the reasons given above, I conclude that the proposed development would result in significant harm to the living conditions of neighbouring residential occupiers in respect of outlook. The proposal would conflict with Policy DM5 of the LP, which requires among other things that new development should not have an unacceptable impact on the occupiers of adjacent properties in respect to outlook. Furthermore, the proposal would be contrary to the Framework, which requires that new developments promote well-being and provide a high standard of amenity for existing and future users.

### **Other Matters**

23. Whilst only a limited number of objections were received to this scheme from local residents and no concerns were raised by local residents in respect to living conditions, this does not alter my findings on the main issues.

### **Planning Balance**

24. At the time the planning application was determined, the Council was unable to demonstrate a 5 year housing land supply (5YHLS). Following adoption of the LP, the Council can now demonstrate a 5YHLS. However, the latest Housing Delivery Test results show that the Council delivered 35% of its housing requirement in the last 3 recorded years, which is a substantial under delivery. Consequently, the provisions of paragraph 11 d) (ii) of the Framework apply. This sets out that where the policies which are most important for determining



the application are out of date, planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

25. Notwithstanding the shortfall in housing delivery, I accord the conflict with Policy DM5 of the LP considerable weight as this is a recently adopted policy that is consistent with the Framework.
26. The proposal would align with the objectives of the Framework, which seek to significantly boost housing supply, promote the effective use of land and provide housing within locations that have good accessibility to services/facilities and public transport links. The provision of 2 new dwellings would make a small contribution towards the Council's housing land supply. There would be economic investment from the construction of the development and future residents would help to support local services and facilities. The proposal would also make efficient use of a brownfield site, which would have environmental benefits.
27. The appellant asserts that the economic benefits from tax income and the New Homes Bonus are material considerations for this appeal. Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that a local planning authority must have regard to a local finance consideration as far as it is material. The national Planning Practice Guidance makes it clear that it is not appropriate to make a decision based on the potential for a proposal to raise money for a local authority. Accordingly, I ascribe little weight to these suggested benefits.
28. Overall, the social, economic and environmental benefits of the scheme carry limited weight in favour of the development. However, against these benefits, there would be significant harm to the character and appearance of the area and the living conditions of neighbouring residential occupiers.
29. Given the harm I have identified above, the adverse effects of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole and therefore the presumption in favour of sustainable development does not apply in this case.

### **Conclusion**

30. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

*A James*

INSPECTOR



## Appeal Decision

Site visit made on 23 May 2023

by **A James BSc (Hons) MA MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 26 July 2023**

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**Appeal Ref: APP/M3835/W/22/3310953**

**1 Eastcourt Road, Gaisford, Worthing, West Sussex BN14 7DA**

- 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 & Mrs F Taheri Westwood against the decision of Worthing Borough Council.
  - The application Ref AWD/1399/22, dated 16 August 2022, was refused by notice dated 20 October 2022.
  - The development proposed is the extension and conversion of a disused garage to form a residential studio.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Following the Council's decision, the Worthing Borough Council Local Plan 2020-2036 (LP) was adopted on 28 March 2023 and now forms part of the development plan. The new LP supersedes the Worthing Core Strategy (2011) and the saved policies from the Worthing Local Plan (2003), both of which are referenced in the reasons for refusal.
3. However, the Council referenced Policies DM1, DM2 and DM5 of the Worthing Borough Council Submission Draft Local Plan 2020-2036 on the decision notice. There are minor changes to these policies in the adopted version of the LP. The Council provided an update on the status of the LP and included extracts of the relevant policies within their appeal statement, which the appellants have had the opportunity to comment on. I have determined the appeal on the basis of the development plan at the time of my decision. The superseded development plan documents are no longer applicable for the determination of this appeal. I am satisfied that no party has been prejudiced by my approach.

### Main Issues

4. The main issues are the effect of the proposed development on:
  - i) the character and appearance of the area;
  - ii) the living conditions of occupants of 1 and 3 Eastcourt Road with particular regard to outlook, sunlight, daylight, noise and disturbance; and
  - iii) the living conditions of future occupants of the proposed development.

## Reasons

### *Character and appearance*

5. The appeal site lies within a mixed use area. Opposite the site is a train station car park and some industrial units. The properties on Eastcourt Road and the northern side of Southcourt Road are predominantly within residential use, consisting mainly of 2 storey period terraced properties. The adjacent terraced properties typically have 2 storey projecting bays, sash windows and decorative features above the windows and doors. The terraced properties generally have small front gardens that are enclosed by a low boundary wall and are finished in a painted render. To the rear, the terraced properties have 2 storey outriggers. The uniformity of the terraced properties in terms of their size, traditional character and formal layout makes a positive contribution to the character and appearance of the area.
6. The appeal site lies to the rear of Nos 1 and 3 Eastcourt Road (Nos 1 & 3). There is a small garage on the site, which has a pitched roof and fronts onto Southcourt Road. The existing garage adjoins the boundary with a pathway to the west, which provides pedestrian access to the rear of properties that front Eastcourt Road. The existing garage is in a poor condition and landscaping within the site is overgrown. Although more a matter of maintenance, the appeal site currently detracts from the character and appearance of the area.
7. The proposal seeks to extend the existing garage and convert it into a residential studio. The existing garage by reason of its use, size and siting appears ancillary to No 1 and is subservient in relation to the neighbouring dwellings. The principle of residential development on the site would not be at odds with the surrounding area. The site is also well related to existing services, facilities and public transport links.
8. Planning permission to extend and convert the garage to a studio dwelling was dismissed at appeal in June 2021 (ref: 3270034). In comparison to the dismissed scheme, the plot size has increased, to incorporate land to the rear of No 3. The previously proposed flat roof element has also been omitted. Whilst the proposed dwelling would be greater in depth, it would be narrower in width, which would result in additional space and landscaping around the dwelling. The proposal would also be sited further away from Nos 1 and 3 than the dismissed scheme.
9. The form of the proposed development is not dissimilar to the existing garage; however, it would be larger in width, depth and height. The replacement of the garage door with windows and a door, and the change in roof form would transform the character of the building from that of a domestic outbuilding to a new independent dwelling.
10. The proposed dwelling would extend the built form across the site so that it would adjoin part of the rear boundary of No 3. No 3 has a single storey extension off its rear outrigger and a very small back garden. Although the proposed dwelling would have more space to the side than the dismissed scheme and provide outdoor amenity space to the rear, side and front, the proposal by reason of its close proximity to its boundaries and its relationship with neighbouring properties would still appear unduly cramped. Although new soft landscaping is proposed, the frontage of the property would be largely

dominated by hard surfacing and domestic clutter, including the cycle store and bin store, which would detract from the street scene.

11. I acknowledge that there is limited space between the outriggers on the terraced properties. However, the space between the outriggers is predominantly used to access the rear gardens, rather than for amenity space. This does not justify the cramped relationship that the proposal would have with the rear boundaries of adjacent properties.
12. The Inspector for the dismissed scheme found that the proposed single storey contemporary style dwelling would be out of keeping with the adjacent 2 storey terraced properties and would harm the character and appearance of the area. Whilst the proposal omits the flat roof element and the provision of a pitched roof and use of painted render would be reflective of adjacent properties, the proposal by reason of its size, height and modern design would remain at odds with the adjacent 2 storey terraced properties, which have a uniformed and traditional appearance. Consequently, the proposal would appear incongruous in this location and fail to respect the local distinctive character of the area.
13. Although there is a detached dwelling to the rear of 1 Southcourt Road, this dwelling is not readily appreciated within the wider street scene as it is set some distance back from the highway. The proposed dwelling would be more visible in the street scene and its size and cramped relationship to adjacent properties would fail to respect the established urban grain.
14. I recognise that the proposed development would tidy up the existing site and improve the character and appearance of the area, which would benefit the street scene and the experience of local people. However, appropriate maintenance of the site would achieve similar objectives, without the resultant harm that I have identified. I therefore give this benefit very limited weight.
15. For the reasons given above, I conclude that the proposed development would cause significant harm to the character and appearance of the area. The proposal would conflict with Policies DM2 and DM5 of the LP. These policies amongst other matters require that new residential development respects and enhances the character of the site and makes a positive contribution to the sense of place, local character and distinctiveness of an area.
16. The proposal would also be contrary to the Council's Guide to Residential Development Supplementary Planning Document (2013) (SPD), which requires that proposals respond positively to their context, giving particular consideration to local building heights. Furthermore, the proposal would conflict with the Framework, which requires that development is sympathetic to local character, including the surrounding built environment.
17. In respect to this main issue, I do not find conflict with Policy DM1 of the LP, which relates to housing mix. Policy DM1(b) does require development to respect the characteristics of the local area, but this relates purely to self-build and custom build projects; neither of which are proposed in this appeal.

*Living conditions of occupants of Nos 1 & 3*

18. Whilst the proposed development would be set further away from No 3 than the dismissed scheme, the proposal would now extend into land directly to the rear of No 3. No 3 has a very small rear garden and the proposed development would adjoin part of the rear boundary.

19. The proposed dwelling would be higher and have a greater overall mass than the existing garage. Although the proposal would have a pitched roof, which would reduce some of its massing at roof level, its flank elevation would exceed the height of the boundary fence and its sloping roof would be visible above. The proposal by reason of its height and siting would create an increased sense of enclosure and would appear oppressive and overbearing from the ground floor, rear facing windows of No 3 and its rear garden.
20. Given the height, siting and orientation of the proposed dwelling, the proposal would result in a detrimental loss of daylight and sunlight to the ground floor rear windows of No 3 and its garden. Although the proposed development is not directly to the south of the garden of No 3, it would be to the south-west of this property. Consequently, there would be a reduction in sunlight particularly in the afternoon and evening and during the winter months. As a result of the size, mass and siting of the proposed dwelling, it would have a greater impact on the living conditions of No 3, in respect to outlook, daylight and sunlight than the dismissed scheme.
21. The proposal would be set further away from No 1 than the dismissed scheme. No 1 has a small lean-to extension off its outrigger, which has high level windows facing the appeal site. There is a close boarded fence and planting immediately adjacent to this extension. Consequently, outlook, daylight and sunlight are already restricted to this extension. No 1 does not have any first floor windows on the rear outrigger facing the appeal site. Although, the proposal would come closer to this property than the existing garage, given the distance to the garden of No 1 and the fact that this area is already overshadowed by the existing boundary treatment and landscaping, means that the proposal would not appear unduly overbearing or result in a harmful loss of outlook, daylight or sunlight to No 1 or its garden.
22. The proposed dwelling and associated amenity space would not result in a significant adverse increase in noise to adjoining occupants when compared to the existing use. Furthermore, given the single storey nature of the proposal and existing boundary treatment, the proposal would not result in a harmful loss of privacy to neighbouring properties.
23. I note that occupants of No 3 support the proposed development. However, this does not change my findings in respect to living conditions.
24. Even though the proposal would not harm the living conditions of occupants of No 1, the proposal would cause significant harm to the living conditions of occupiers of No 3 with particular regards to outlook, sunlight and daylight. The proposal would fail to comply with Policy DM5 of the LP, which requires that new developments do not have an unacceptable impact on the occupiers of adjacent properties in respect to outlook, daylight and sunlight.
25. The proposal would also fail to comply with the Council's Guide to Residential Development SPD November 2013, which requires that development does not have a significant negative impact on amenity. In addition, the proposal would conflict with the Framework, which requires that developments provide a high standard of amenity for existing and future users.

*Living conditions of future occupants of the proposed development*

26. The proposed dwelling would measure 33 square metres (sqm). Although the proposal achieves the minimum floor area for a studio flat set out within the Council's Space Standards SPD February 2012, these standards have been superseded by the new LP. Policy DM2 of the LP requires that proposals comply with The Technical Housing Standards - Nationally Described Space Standard 2015 (the Standards). The Standards require that a single storey, one bedroom dwelling has a minimum internal floor area of 37 sqm. Whilst I acknowledge that the scheme is for a studio apartment (as opposed to a one bedroom flat) and that space is not lost to internal walls and corridors, the Standards do not provide any relaxation for residential studios. There are no exceptional circumstances before me to justify a departure from these minimum standards, as required by Policy DM2.
27. The Space Standards SPD requires that small, detached dwellings (up to 3 bedrooms) have a rear garden that measures at least 85 sqm. The proposal would have a rear garden of 12 sqm, which falls significantly short of this standard. The rear garden would also be overlooked by the first floor windows of No 3 at a relatively short distance. Whilst other amenity space is proposed to the side and front of the dwelling, these areas would be more visible from the public realm and would not provide good quality, private amenity space. Although the outdoor amenity space would be greater in size than the floor area of the dwelling, the outdoor amenity space would be of a poor quality and not meet the minimum standards set out within the Space Standards SPD.
28. The Inspector for the dismissed scheme found that there would be very limited outlook for future residents. The scheme before me has sought to address this by providing a triple aspect dwelling. However, future residents would still have a limited outlook due to the constrained nature of the site. Furthermore, the living accommodation and outdoor amenity space would be small and cramped and there would be limited storage space within the dwelling. Consequently, the proposal would fail to provide acceptable living conditions for future occupants.
29. For the reasons given above, I conclude that the proposed development would fail to provide adequate living accommodation for future occupants. The proposal would be contrary to Policy DM2 of the LP. This policy amongst other matters requires that new dwellings meet as a minimum, the nationally described space standards for internal floor areas and storage space.
30. The proposal would also conflict with the Council's Space Standards SPD February 2012, which seeks to provide a satisfactory standard of external space for new dwellings. In addition, the proposal would conflict with the Framework which requires that developments provide a high standard of amenity for future users and promote well-being.
31. Policy DM5 is not applicable to this main issue, as it refers only to the impact of proposals on occupants of adjacent properties and not the living conditions of future occupants of the development.

**Other Matters**

32. The appellants consider that the scheme would have health and safety benefits to neighbouring residents due to the poor upkeep of the site and lack of

occupation. The condition of the site is more a matter of maintenance and could be easily remedied. There is limited evidence before me that anti-social behaviour is an issue on the site, and I therefore give this limited weight. The appellants also argue that removing the car use from the site will remove associated pollutants. However, any emissions generated from one vehicle arriving or departing the site would have a minimal impact on neighbouring occupants and I therefore give this suggested benefit very limited weight.

### **Planning Balance**

33. At the time that this planning application was determined, the Council was unable to demonstrate a 5 year housing land supply (5YHLS). Following adoption of the new LP, the Council has confirmed that it can now demonstrate a 5YHLS. However, the Council accepts that it does not meet the Housing Delivery Test. The latest Housing Delivery Test shows that the Council delivered 35% of its housing requirement within the last recorded 3 years, which is a substantial under delivery. Consequently, the provisions of paragraph 11 d) (ii) of the Framework apply. This sets out that where the policies which are most important for determining the application are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
34. Notwithstanding the shortfall in housing delivery, I accord the conflict with Policies DM1, DM2 and DM5 of the LP considerable weight, as they are recently adopted policies that are consistent with the Framework.
35. The proposed development would align with the objectives of the Framework, which seek to significantly boost housing supply and promote the effective use of land. In addition, the proposal would support the development of under-utilised land and buildings, in an area where land is constrained. The scheme would also provide housing within a location that has good accessibility to services, facilities and public transport links.
36. The provision of one new dwelling would make a small contribution towards the Council's housing land supply. It would provide one small unit of accommodation, which would be attractive to a range of households, including those on lower incomes or those who do not have access to a private motor vehicle. Environmental benefits of the proposal include tidying up of a currently run down site; making efficient use of land; refurbishment and extension of a redundant building; provision of cycle parking to support sustainable transport modes; provision of renewable energy technology; and, new planting.
37. The appellants assert that the economic benefits from the increased Council tax receipts and the New Homes Bonus are material considerations for this appeal. Section 70(2) of the Town and Country Planning Act 1990 (as amended) states that a local planning authority must have regard to a local finance consideration as far as it is material. The Planning Practice Guidance makes it clear that it is not appropriate to make a decision based on the potential for a proposal to raise money for a local authority. Accordingly, I ascribe little weight to these suggested benefits.
38. Overall, the social, economic and environmental benefits of the scheme carry limited weight in favour of the development. However, against these benefits, there would be significant harm to the character and appearance of the area

and the living conditions of neighbouring occupants, which I give significant weight. Furthermore, the proposed development would fail to provide an acceptable standard of accommodation and private outdoor amenity space for future occupants, which I afford significant weight.

39. Overall, given the harm I have identified above, the adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole and therefore the presumption in favour of sustainable development does not apply in this case.

### **Conclusion**

40. For the reasons given above, having regard to the development plan as a whole, the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

*A James*

INSPECTOR





## Appeal Decision

Site visit made on 15 June 2023

by **J White BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 20 July 2023**

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**Appeal Ref: APP/M3835/W/23/3315490**

**Lynhurst Road, Broadwater, Worthing BN11 2DW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by CK Hutchison Networks (UK) Limited against the decision of Worthing Borough Council.
  - The application Ref AWD/1478/22, dated 31 August 2022, was refused by notice dated 26 October 2022.
  - The development proposed is 15.0m Phase 9 slimline Monopole and associated ancillary works.
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### Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of 15.0m Phase 9 slimline Monopole and associated ancillary works at land at Lyndhurst Road, Broadwater, Worthing BN11 2DW in accordance with the terms of the application Ref AWD/1478/22 dated 31 August 2022, and the plans submitted with it including BN0801 issue A.

### Preliminary Matters

2. The description of development in the banner heading above is taken from the application form, albeit with superfluous information not referring to an act of development removed.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis and informed the main issue.
4. The Worthing Borough Council Local Plan 2020 – 2036 (WLP) was adopted on 28 March 2023. The parties have had the opportunity to comment on the updated policy position and these comments have been taken into account, where received. In any event, the principle of development is established by the GPDO and the provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have done so only insofar as the policies are a material consideration relevant to matters of siting and appearance.

## **Main Issue**

5. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area.

## **Reasons**

6. The proposed development would be located on the wide pavement directly in front of a public car park on the south side of Lyndhurst Road. The pavement either side of the road contains a range of street furniture, including lighting columns, street signs, traffic lights and bus shelters. The car park of Worthing Hospital is opposite with the hospital building further to the north. The street within the vicinity of the appeal site is lined with established trees either side.
7. The proposed 15m telecommunications mast with ancillary equipment would be of functional appearance, typical of telecommunications equipment seen in urban and suburban areas generally. Although the proposal would be greater in height than the existing lighting columns, the development would be largely screened in views along Lyndhurst Road. Even in winter, the trees would offer some screening. However, the development would be readily visible from positions near to the site, including the bus stops on Lyndhurst Road and from the car parks either side, between the existing trees.
8. As it would be seen amongst many vertical features, including the lighting columns and established trees, the monopole would not stand out as an isolated or unduly exposed structure. This would be the case even though it would be close to car parks and the upper part of the monopole would protrude above the trees either side. It would not appear alien or unexpected and would be seen against the vegetation, which provides a visual break to the car parks and a level of enclosure to the street.
9. Although the proposed monopole would be a tall installation and the antennas at the top would add some bulk, it would overall appear as a narrow, slimline feature. The areas of car park would continue to contribute to provide visual relief to its built-up surroundings, notwithstanding the introduction of the proposed development, and would remain largely open features either side of the road.
10. The proposed number of cabinets would result in a row of them along the pavement's edge, but they are typical of the form of structures seen on roadsides. As such they would not appear as incongruous features within the street and would not lead to undue visual clutter. Thus the proposal, when considered as a whole, would avoid causing material harm to the character and appearance of the area.
11. My attention has been drawn to the nearby 'Farncombe Road' Conservation Area and the potential impact the proposal might have on it. However, the appeal site does not lie within the conservation area, with it ending approximately 100 metres to the east of the appeal site. As such it would be erroneous to undertake the statutory duties under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.
12. In any case, I have found that the proposal would not adversely compromise the character or appearance of the street scene. For similar reasons, and given the context of the appeal site, I do not find that it would cause harm to the setting of the conservation area.

13. Consequently, the proposal would not appear overly prominent or visually intrusive, and the siting and appearance of the proposed installation would have an acceptable effect upon the character and appearance of the area. Insofar as it is a material consideration, the proposal would comply with Policies DM5 and DM14 of the WLP, which amongst other provisions, seek to ensure development is high quality and that telecommunication infrastructure minimises its impact on the visual amenity, character or appearance of the surrounding area. The appeal scheme also complies with the National Planning Policy Framework (the Framework) which seeks proposals for telecommunications to have no significant adverse effect on the external appearance of the space in which they are located.

### **Other Matters**

14. The Framework is clear that Local Planning Authorities should not question the need for an electronic communications system. I am satisfied that the plans and details submitted are sufficiently accurate to enable an assessment of the impact of the proposal to be made.
15. I note the concerns about the lack of consultation with the Council prior to the application for prior approval being submitted. However, I note the Delegated Officer Report sets out the consultation responses received by the Council following receipt of the application. I have taken into account the views expressed as part of that process, along with those submitted in response to the appeal. I consider that sufficient consultation has been undertaken.
16. I acknowledge that concerns have been raised about potential effects on health, particularly the proposed monopole's proximity to the hospital, children's nursery and care home, including people with existing health issues. Third parties have pointed to a number of studies and a legal challenge. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. I do not consider that the evidence before me indicates that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
17. Within their evidence, the appellant states that the site maintains a reasonable distance from 'sensitive receptors'. This term is not defined, although I note that the site has been chosen to be the best possible location to provide 5G coverage at the furthest distance from sensitive residential receptors. The effect on health is not in and of itself a valid material consideration, and I have little substantive evidence to demonstrate the proposal by virtue of its siting or appearance would be harmful to sensitive receptors.
18. The Equalities Act 2010 sets out the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This involves having due regard, in particular, to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people who share a relevant protected characteristic and those who do not.
19. The principle of development is established by Part 16 of the GPDO. Potential impact on health is addressed above and, whilst the parties dispute this, I note

that the information submitted by the appellants sets out that consultation was carried out with the nearby children's nursery and that the hospital has been consulted by the Council. Therefore, I am satisfied that allowing prior approval would not amount to discrimination for any protected group under the Equalities Act.

20. Concerns have also been raised regarding the proximity of the installation to residential housing. Given the distance of the proposed installation from the closest residential properties and the surrounding context, I am satisfied that no undue loss of light, privacy or outlook would occur. Nor would the mast be overbearing when seen from those properties.
21. The Framework seeks to minimise the number of such sites and encourages the use of existing masts and buildings for new equipment. However, in this case there is evidence that such options have been explored and discounted for specific reasons. Also, as I have identified that the siting and appearance of the proposed development would be acceptable, it is not necessary to consider the detailed merits of any potential alternative site.
22. The impact of the proposed development upon the natural environment, including trees and pollinators, is not substantiated. Concerns raised relating to the proposal's carbon footprint and effect on property values fall beyond the scope of the prior approval process to which this appeal relates.
23. Where the equipment would be sited, I observed seemingly stable ground conditions. Moreover, any possible threat to the stability of the proposed development has not been clearly substantiated. I have also had regard to other matters raised by local residents, such as the potential for the installation of CCTV and the proximity of the proposal to Beach House Park, but find none that lead me to a different overall conclusion.
24. I acknowledge the appeal decision referred to by the Council. I have not been provided with the full details of the case, including the design and precise location and I am therefore unable to fully assess any direct comparability to the current appeal proposal. However, from the details before me, it appears that the merits and circumstances of this appeal is materially different to the appeal proposal before me, including that the site was in a different location. In any case, every appeal must be considered on its own merits, as I have done.

### **Conditions**

25. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the Local Planning Authority otherwise agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 years beginning with the date on which the Local Planning Authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

**Conclusion**

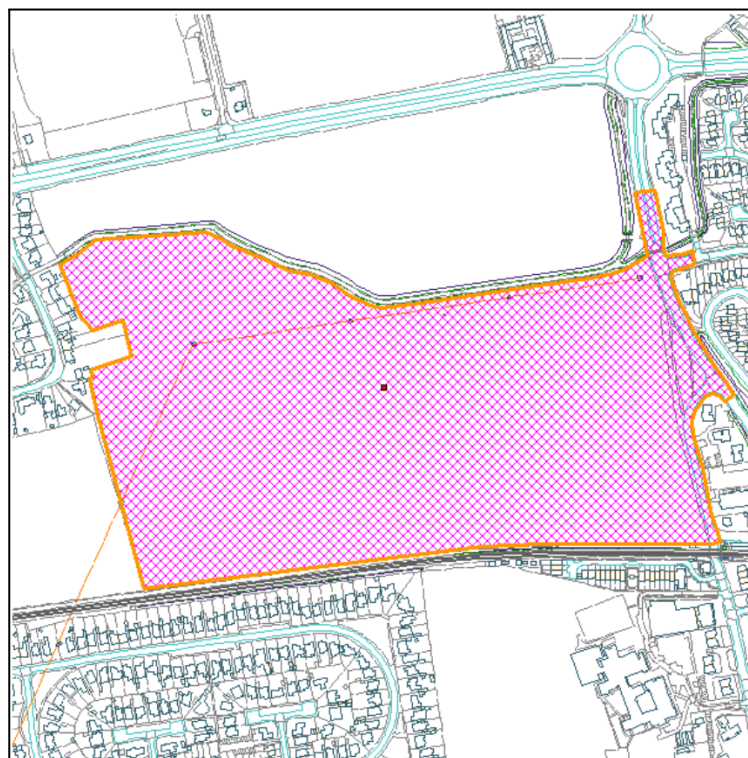
26. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

*J White*

INSPECTOR

## UPDATE REPORT

<b>Application Number:</b>	<b>AWDM/1264/20</b>	<b>Recommendation - To agree to new refusal reasons to contest the redetermined appeal on this site.</b>
<b>Site:</b>	<b>Land North West Of Goring Railway Station, Goring Street Worthing (Chatsmore Farm)</b>	
<b>Proposal:</b>	<b>Mixed use development comprising up to 475 dwellings along with associated access, internal roads and footpaths, car parking, public open space, landscaping, local centre (uses including A1, A2, A3, A4, A5, D1, D2, as proposed to be amended to use classes E, F and Sui Generis) with associated car parking, car parking for the adjacent railway station, undergrounding of overhead HV cables and other supporting infrastructure and utilities (Outline with all matters reserved)</b>	
<b>Applicant:</b>	<b>Persimmon Homes Thames Valley</b>	<b>Ward:</b>
<b>Agent:</b>	<b>Mr David Hutchison, Pegasus Group</b>	
<b>Case Officer:</b>	<b>Gary Peck</b>	



**Not to Scale**

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## Background

- 1.1 In August 2020, an outline application was submitted for the erection of 475 dwellings and associated infrastructure at the land known as Chatsmore Farm. The proposed layout is shown below:



- 1.2 In March 2021, the Committee resolved to refuse this application for the following reasons:

1. The proposed development is outside of the built-up area as defined in the Worthing Core Strategy and the emerging Submission Draft Worthing Local Plan and is not allocated for residential development. The proposal is therefore contrary to policy 13 of the Worthing Core Strategy and emerging policies SS4, SS5 and SS6 of the Submission Draft Worthing Local Plan, resulting in the coalescence of settlements and the loss of an important area of green space that contributes to local amenity, sense of place and wildlife. Furthermore, it is considered that the adverse impacts of the development would demonstrably outweigh the benefits as substantial adverse landscape and visual effects would arise from the development affecting the local area and the wider landscape, including the landscape setting to the National Park (therefore adversely affecting its statutory purpose to conserve and enhance its natural beauty and cultural heritage), Highdown Hill scheduled Monument and the Conservation Area.
2. The application is considered to be premature as the development proposed is so substantial, and its cumulative effect would be so significant, that to grant permission would undermine the plan-making process in particular its overall spatial strategy about the location of new development, its landscape evidence and proposed green space designations that are central to the emerging Submission Draft Worthing

Local Plan. The proposal therefore fails to comply with paragraph 49 of the National Planning Policy Framework.

3. The Local Planning Authority is not satisfied that adequate information has been submitted to demonstrate that the proposal is acceptable in terms of access and would not therefore give rise to increased hazards to highway users including the Strategic Road Network. The proposal therefore fails to comply with the relevant guidance of the National Planning Policy Framework which requires that the potential impacts of development on transport networks can be addressed in development proposals.
  4. The Local Planning Authority does not consider that adequate information has been submitted to demonstrate that the mitigation proposed is acceptable in terms of its impact on the local highway network including (but not limited to) the Goring Crossroads and A259/ Goring Way / Aldsworth Avenue junctions and Strategic Road Network. As such it has not been demonstrated that the development would not have a severe impact on the local highway network and therefore the proposal fails to comply with paragraph 109 of the National Planning Policy Framework 2019.
  5. It has not been demonstrated to the satisfaction of the Local Planning Authority that the development provides suitable mitigation for the impact of the development upon ground nesting birds.
  6. It has not been demonstrated to the satisfaction of the Local Planning Authority that the infrastructure requirements of the development can be adequately met in respect of the provision of affordable housing, public and open space, highways improvements and off site mitigation for the provision of nesting birds.
- 1.3 The decision was appealed by the applicants and a Public Inquiry subsequently took place in January 2022. By the time of the appeal, reasons for refusal 3,5 and 6 had been resolved and the appeal therefore proceeded on the remaining grounds.
- 1.4 The Inspector allowed the appeal by decision letter of 25 February 2022, concluding:

*'While I consider the proposal would result in a number of adverse impacts, I do not consider they would significantly and demonstrably outweigh the clear and substantial benefits that would arise from the proposed development when assessed against the policies of the Framework taken as a whole.*

*Consequently, notwithstanding the overall conflict with the development plan...I consider there are material considerations which indicate that a departure is justified in the present circumstances.'*



- 1.5 The appeal decision was extremely disappointing for Members, Officers and residents alike and moreover the Inspector's reasoning for his decision, most particularly his conclusions in respect of the then emerging Local Plan and the impact of the development upon the adjoining National Park, seemed flawed and certainly not reflective of the earlier position taken by the Local Plan Inspector who had endorsed the protection of the site as proposed by the Local Plan.
- 1.6 As a result, the Council concluded there were sound reasons for a High Court challenge which was submitted on the following grounds:

The Council submits that the Inspector erred in the following respects:

- i) In his treatment of the impact of the development on the gap between the settlements of Goring and Ferring, specifically in failing to provide adequate reasons in respect of those impacts or consequent assessment of the development against Policy SS5 of the emerging Local Plan ("eLP").
  - ii) In failing to take account of the conflict with Policies SS1 and SS4 of the eLP and/or failing to provide adequate reasons as to the assessment of the development against those policies or the weight to attribute to any conflict.
  - iii) In failing to take account of a material consideration, namely the reasons for the absence of a specific gap designation in the adopted development plan.
  - iv) In his treatment of the impacts of the development on the South Downs National Park ("the National Park"), specifically in failing to comply with his duty in section 11A of the National Parks and Access to Countryside Act 1949 ("the 1949 Act") and/or paragraph 176 of the National Planning Policy Framework ("the Framework"); and/or in failing to provide adequate reasons and/or reaching an irrational conclusion in respect of the impact of the development on the National Park.
- 1.7 The High Court hearing took place in July 2022. In her decision of August 2022, the Judge concluded that:

*The claim for statutory review is allowed on Grounds 2 and 4 only. The decision of the Inspector is to be quashed by order of the Court.*

- 1.8 In terms of ground 2, the Judge concluded that '*If, as is likely, the Inspector found that the proposed development was in conflict with Policies SS1 and SS4, he should then have determined the appropriate weight to accord to any such conflict, and treated it as a material consideration in the overall planning balance*' and with regard to ground 4 that the Inspector had '*failed to give weight to the acknowledge 'moderate adverse' impacts upon the National Park*'

1.9 Persimmon submitted an application to appeal the High Court decision later in August 2022 and in October 2022 leave to appeal the decision was granted. The matter was therefore considered again in the Court of Appeal in May and considered before 3 judges, Sir Geoffery Vos, Master of the Rolls, Sir Keith Lindblom, Senior President of Tribunals, and Lady Justice Andrews.

1.10 The decision was handed down at the end of June. It set out the key issues as:

*The main question in this case is whether an inspector who granted planning permission for a large development of housing and other uses in countryside within the setting of a National Park made errors of law when considering relevant local and national planning policy. The court below held that he did, in two ways: first, in failing to deal with the proposal's conflict with two draft strategic policies in an emerging local plan, and secondly, in misapplying the Government's policy for development that would affect the setting of a National Park.*

1.11 The Court of Appeal did not agree with the Judge's conclusions in respect of the conflict with the draft policies (SS4 and SS5) in the then emerging Local Plan:

*'I therefore disagree with the judge...I do not think there is any real doubt about the lawfulness of the inspector's approach to the draft strategic policies of the emerging local plan on which the council relied. In my view he clearly did take those policies into account, gave weight to the proposal's conflict with them, and provided proper reasons for his relevant conclusions. Those conclusions show a reasonable and lawful exercise of planning judgement on the evidence and submissions he heard.'*

1.12 In respect of the second issue, however, regarding the effect of the proposal upon the setting of the National Park, the appeal judges found with the Council:

*'It is only in paragraph 49 that the inspector addressed the question of the proposal's compliance or otherwise with the policy in paragraph 176 of the NPPF. In that paragraph, however, he said nothing about the requirement in the first sentence of paragraph 176 that "[g]reat weight should be given to conserving and enhancing landscape and scenic beauty in National Parks". There are two difficulties here. First, it is not clear how the inspector reconciled his conclusions on harm in paragraphs 47 and 48 with his conclusion at the end of paragraph 49 that neither the setting of the National Park nor views from within it would be "materially affected". On a straightforward reading of what he did say, these conclusions seem at variance with each other, or at the very least to call for some further words to align them. Secondly, and anyway, it is not clear how he reconciled his conclusions on harm to the setting of the National Park in paragraphs 47 and 48 with the "great weight" principle in the first sentence of paragraph 176 of the NPPF. In what he did say about that harm there is no indication that he gave it such weight as the "great weight" principle required, or indeed what weight, if any, that was. If it really was no weight, he did not explain why this was so...'*

*...A third difficulty is this. The conclusions in subsequent passages of the decision letter, including the section where the inspector weighed the planning balance, do nothing to overcome the deficiencies in the passage where he was specifically considering the relationship of the proposal to the policy in paragraph 176 of the NPPF. His "Overall conclusions on landscape" in paragraph 57 of the decision letter repeat his earlier conclusion, in paragraph 49, that the proposed development would not "materially affect the setting of the [National Park]", but they do not refer to the policy or expand on what he said in paragraph 49. I do not think one can infer that when he said the appeal site was "valued by the local community and ... its loss would result in some harm in this respect" he was referring to the effects it would have on the setting of the National Park or to the paragraph 176 policy. And I do not accept he was doing that when he referred to his conclusion that the development would "adversely impact on a number of visual receptors which would result in some further harm". His references to "visual receptors" in paragraph 57 and again in paragraph 84 seem to relate to his consideration of "localised impacts" in paragraphs 50 to 56, and not to his evaluation of the effects on the setting of the National Park. If this is a misreading of his conclusions, that is, I think, only a consequence of the deficiency in his reasons. And when he came to the "Overall Planning Balance" in paragraphs 82 to 92 he made no mention at all of the National Park and its setting, or of the policy in paragraph 176 of the NPPF. The most one could say is that in acknowledging the development "would result in a number of adverse impacts", in paragraph 91, he might have meant to include the adverse effects he had found it would have on the setting of the National Park. But this too is unclear...*

*...It is enough to conclude, as I think we must, that in this part of his decision-making the reasons he gave failed to meet the standard required...*

*...In my view, therefore, the council's complaint on this ground is justified. The inspector's reasons are defective. They leave a substantial doubt that he has lawfully applied relevant national policy to one of the main issues in the section 78 appeal.'*

## **Current Situation**

2.1 The Planning Inspectorate confirmed by letter of 3 August:

*Following a High Court challenge to our Inspector's decision on this appeal dated 25th February 2022, the Court has ordered that the appeal be re-determined. This does not necessarily mean that the Inspector will reach a different overall decision.*

2.2 The Council has now been invited to send further representations to the Planning Inspectorate, covering any material change in circumstances and to comment on the specific issues upon which the appeal was quashed. This must be done by Thursday August 24th.

2.3 At the time of writing this report, your Officers were about to seek further advice from Counsel regarding the submission and any advice received from Counsel

will be reported verbally to Members since it is not anticipated that it will be received prior to Monday 21 August.

- 2.4 As the appeal decision has been quashed the appeal is to be redetermined. However, there has been a material change in local planning policy since the appeal decision and therefore there will be a completely different context for the appeal to be redetermined.
- 2.5 At the time of the appeal, the Local Plan had not been adopted and the issue debated at appeal was whether the issue of prematurity was a valid ground for refusing the application. The current position is that we now have an adopted Plan supported by a Local Plan Inspector and the current proposal is clearly contrary to an up to date Development Plan.
- 2.6 The adoption of the Local Plan in March now means that the current development plan policies define the site as outside the built-up area. Policy SS4 states:
- a) *Outside of the Built Up Area Boundary land (excluding sites designated as Local Green Space under SS6) will be defined as 'countryside and undeveloped coast'.*
  - b) *Development in the countryside will be permitted, where a countryside location is essential to the proposed use. Applications for the development of entry-level exception sites, suitable for first time buyers or those looking to rent their first home will be supported where these:*
    - *comprise of entry-level homes that offer one or more types of affordable housing;*
    - *are adjacent to existing settlements, and proportionate in size to them;*
    - and*
    - *comply with any local design policies and standards.*
  - c) *Development to support recreation uses on the coast will normally be permitted subject to: i. built facilities being located within the adjacent Built Up Area Boundary; ii. the need to maintain and improve sea defences.*
  - d) *Any development in the countryside and undeveloped coast should not result in a level of activity that has an adverse impact on the character or biodiversity of the area...*
  - ...f) *The setting of the South Downs National Park and the Designated International Dark Skies Reserve must be respected and opportunities to improve access to the National Park will be sought through joint working with other organisations including the Park Authority, West Sussex County Council, National Highways and landowners. Any development within the setting of the National Park should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.*
- 2.7 In addition, the application site is specifically identified under policy SS5 as a Local Green Gap:

*The four areas listed below are designated as Local Green Gaps between the settlements of Worthing & Ferring and Worthing & Sompting/Lancing, and will be protected in order to retain the separate identities and character of these settlements.*

*a) Goring-Ferring Gap;*

***b) Chatsmore Farm;***

*c) Brooklands Recreation Area and abutting allotments;*

*and d) Land east of proposed development (site A14) at Upper Brighton Road.*

*Outside of those areas designated as Local Green Space [Brooklands is the only Local Green Space in the Borough], all applications for development (including entry level exception sites) within Local Green Gaps must demonstrate that individually or cumulatively:*

- i) it would not undermine the physical and/or visual separation of settlements;*
- ii) it would not compromise the integrity of the gap;*
- iii) it conserves and enhances the benefits and services derived from the area's Natural Capital; and*
- iv) it conserves and enhances the area as part of a cohesive green infrastructure network.*

- 2.8 Your Officers therefore consider that the clear conflict with Local Plan policies should also be pursued in the redetermined appeal.
- 2.9 The issue relating to the setting of the National Park, which was also upheld by the Appeal Court judges, clearly must now be pursued further in the redetermination of any appeal. Paragraph 176 of the National Planning Policy Framework states 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks'. It was acknowledged by the Inspector that there would be a moderate adverse impact upon the setting of the National Park as a result of the development and, as found by the respective Judges, it is difficult to reconcile such a conclusion with the requirements of national planning policy to an extent that the development should be allowed.
- 2.10 Although there was a reason for refusal on highways grounds submitted to the previous appeal, the Inspector did not uphold this reason for refusal and this aspect of the appeal was not challenged subsequently. Accordingly, West Sussex County Council has confirmed that they will not pursue the highways reason for refusal any further. There is no reason for Officers to dispute this advice.
- 2.11 The National Park Authority did not appear at the previous Inquiry. In light of the Appeal Court judgement, your Officers will be requesting that the National Park also makes representations to the Inspectorate and ideally attends any future appeal inquiry.

2.12 It was hoped that following the Appeal Court decision, Persimmon may withdraw their appeal. Although a request has been made by your Officers to this effect, no response has been received at the time of writing this report.

### **Recommendation**

**To continue to pursue any further appeal on the following grounds (precise wording subject to comments by Counsel representing the Council):**

1. The proposed development is outside of the built-up area as defined by the Worthing Local Plan (2023) and does not comprise development essential to the countryside nor does it comprise development of entry level exception sites. The proposed development also and would have an adverse impact on the setting of the adjacent South Downs National Park and therefore is contrary to paragraph 176 of the National Planning Policy Framework and policy SS4 of the Worthing Local Plan.
2. The proposed development comprises development in a designated Local Green Gap which would undermine the physical and visual separation of Goring and Ferring therefore compromising the integrity of the gap. Further, the proposed development by virtue of its scale would fail to conserve and enhance the benefits and services derived from the area's Natural Capital nor maintain the site as part of a cohesive green infrastructure network. The proposal therefore fails to comply with policy SS5 of the Worthing Local Plan (2023).