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Minutes of a meeting of the Worthing Planning Committee 20 September 2023 at 6.30 pm

*Councillor Andy Whight (Chair)
Councillor Ödül Bozkurt (Vice-Chair)

Councillor Helen Abrahams
Councillor Noel Atkins
Councillor Russ Cochran

Councillor Samuel Theodoridi
Councillor Rosey Whorlow
*Councillor Dan Coxhill

*Absent

Officers: Head of Planning and Development, Planning Services Manager, Senior Legal Officer and Democratic Services Officer

In the Chair's absence, the Vice-Chair, Councillor Ödül Bozkurt, acted as Chair

WBC-PC/30/23-24 Substitute Members

Councillor Sophie Cox substituted for Councillor Andy Whight
Councillor Kevin Jenkins substituted for Councillor Dan Coxhill

WBC-PC/31/23-24 Declarations of Interest

Councillor Noel Atkins declared an interest as an elected member of West Sussex County Council in relation to any issues that may affect West Sussex. Also, in relation to item 8, he declared he was Ward Councillor for Salvington ward.

Councillor Russ Cochran declared that in relation to item 8 he was Ward Councillor for Salvington Ward.

Councillor Kevin Jenkins declared that in relation to item 9, which referred to the S106 agreements which he had been party to, those decisions were related to a premises that he was now a director of but was not at the time of the decisions.

Councillor Rosey Whorlow declared she was Ward Councillor for Central ward

Councillor Odul Boskurt declared she was a Ward Councillor for Central ward

WBC-PC/32/23-24 Public Question Time

There were three pre submitted questions received from the public and one question submitted at the meeting.

1. ***Is the council aware that the ICNIRP Guidelines state that people with "implantable medical devices" and "metallic implants" in the body are "outside the scope of these guidelines" (as mentioned on page 2 of the [2020 ICNIRP Guidelines report](#)) and, therefore, does the council agree that such people are particularly vulnerable and need to be afforded extra protection under the council's obligations within the Health and Social Care Act 2012?***

If there is no disability impact assessment in relation to this technology, it could be argued that provisions of the Equality Act 2010 may well have been broken.

(Background information)

The ICNIRP Guidelines published in 2009 state:

SCOPE AND PURPOSE: *"These guidelines apply to occupational and general public exposure to static magnetic fields. The guidelines do not apply to the exposure of patients undergoing medical diagnosis or treatment. Detailed consideration of protection of patients is given in an ICNIRP statement on protection of patients undergoing a magnetic resonance imaging (MRI) examination."*
<https://www.icnirp.org/cms/upload/publications/ICNIRPMR2009.pdf>

FURTHERMORE, the ICNIRP 1998 guidelines state that the prevention of harm and advice about interference is beyond the scope of ICNIRP.
<https://www.icnirp.org/cms/upload/publications/ICNIRPmfgdl.pdf>

"Compliance with the present guidelines may not necessarily preclude interference with, or effects on, medical devices such as metallic prostheses, cardiac pacemakers and defibrillators, and cochlear implants. Interference with pacemakers may occur at levels below the recommended reference levels. Advice on avoiding these problems is beyond the scope of the present document but is available elsewhere (UNEP/WHO/IRPA1993). These guidelines will be periodically revised and updated as advances are made in identifying the adverse health effects of time-varying electric, magnetic and electromagnetic field."

AND

Global System for Mobile Communications (GSMA), "a global organisation unifying the mobile ecosystem" states:

"ICNIRP says that the updated guidelines provide a high level of protection for all people against substantiated adverse health effects from exposures to both short- and long-term, continuous and discontinuous radio frequency EMFs...The guidelines exclude electromagnetic compatibility (EMC) considerations, the influence of implanted metallic implants and the application of RF-EMF for medical procedures."

https://www.gsma.com/publicpolicy/wp-content/uploads/2021/10/GSMA_International_EMF_Exposure_Guideline_Oct21.pdf

NOTE: OFCOM states that "We refer to the 1998 Guidelines, the 2020 Guidelines and any subsequent version collectively as the "ICNIRP Guidelines".

The Planning Services Manager replied -

The question mentions both the Social Care Act and the Equality Act. This is a question for the Planning Committee and in terms of dealing with these applications, the National Planning Policy Framework, paragraph 118, dictates that the planning authorities must determine these applications on planning grounds only. Therefore, I think the question is wider than the scope of this Planning Committee. In the vast majority of applications for 5G masts that we receive, the Council can only determine them on the siting and appearance of those masts. We do receive many comments on health grounds on every mast application. We have lost half a dozen of these on appeal and at each point the inspector will make a very brief comment saying that health concerns are not something for the local planning authorities to consider.

The wider questions about the provisions of the Equalities Act and whether the obligations under the Health and Social Care Act are complied with or not are beyond the scope of the Planning Committee because of what we can deal with. In terms of planning guidance we are effectively being directed away from dealing with that matter any further.

I think there are wider questions that the Full Council could consider but in terms of the Planning Committee Officers and Members, we have to deal with these applications within the National Planning Policy Framework and that guidance states we can only deal with applications on planning grounds.

2. ***"The National Planning Policy Framework has sustainability at its core. Paragraph 152 of Chapter 14 says that 'the Planning system should support the transition to a***

low carbon future...' The Worthing Local Plan also seeks to 'support the move to zero carbon', with Strategic Objective 19 claiming to 'ensure development helps the borough to adapt and increase its resilience to the effects of climate change...'

The Council has approved at least six 5G installations in Worthing (and the Planning Inspectorate has approved several more, on Appeal). These use enormous amounts of energy. It has been calculated that a single 5G base station uses as much power as 73 average homes, which is a threefold increase over 4G (the source of this is a publication by the Institute of Electrical & Electronics Engineers).

Does the Committee agree that there is a conflict of interest between the huge power requirements of 5G base stations and the Council's priority of aiming for net zero by 2030 and if the Council is not factoring the energy use of these masts into their net zero aim, how can it claim to be working towards it in the first place?"

The Planning Services Manager replied -

The National Planning Policy Framework does mention sustainability in many of its aspects and the paragraph that the speaker has quoted, is one part of the NPPF as well, but there are also specific requirements in terms of how we deal with telecommunications applications. Paragraph 114 of the NPPF states that planning policies and decisions should support the expansion of electronic communications networks, including 5G, and as I mentioned in my reply to the previous question, in paragraph 118 of the NPPF, it also states that planning authorities must determine planning applications on planning grounds only. So, the difficulty here is that the vast majority of these applications, where they require permission at all, are only for the council to consider the siting and appearance of these masts. If there is an energy usage with them then that is a matter for the wider realm and not the planning committee. Equally, given government guidance, and the way it is written, the other benefits of mobile technology, including increased accessibility around the borough and district would also be taken into account. I think that the speaker has raised an issue but there are also wider issues to take into account. I go back to my original point, in terms of the applications we receive, and what the committee can deal with, it is only siting and appearance.

The speaker asked a supplementary question -

Can I take this question to the full council meeting in October or to the Joint Strategic Committee who approved the Carbon neutral plan? Would either of those committee's be likely to consider this issue?

The Planning Services Manager replied -

You are entitled to submit a question to the Full Council according to the constitution. Within my answer, as this is a Planning Committee, I have concentrated on Planning Committee grounds. But the question the speaker is asking seems to be wider in its scope and is looking at wider Council objectives so it makes a degree of sense to take it to the Full Council meeting.

3. ***(This question was not pre submitted prior to the meeting).***

The Worthing Borough Council planning portal has revealed that since 2020 all but 3 of the 5G mast applications, which is some 24 or so in number, have included a declaration of conformity to the ICNIRP public exposure guidelines in

the name of Three UK Ltd. However, according to Companies House, Three UK Ltd was dissolved on 27th October 2015, so I am putting it to the committee that the declaration from a company that ceased to exist as a legal entity some 8 years ago, surely cannot legitimately support a current planning application. If I may proceed to say that the ICNIRP 2020 guidelines provide a very detailed mathematical model for quantifying the net RF radiation resulting from the interaction of an individual mast with other radiation sources in its vicinity and the fact that the applicants have repeatedly submitted invalid applications very much suggests that the Certifying Design Technician, which is the job title of the person who submits these declarations, has merely copied and pasted an out of date template without actually doing the requisite detailed computations. This, in turn, suggests that these Three UK Ltd declarations cannot be relied upon to provide an accurate guarantee of the conformity of each individual design.

The fact that Worthing Borough Council has continued to accept such applications suggests that they are not being subjected to the appropriate level of scrutiny. In the light of the clear invalidity of the aforementioned ICNIRP declarations will Worthing Borough Council now reject these applications as invalid?

The Planning Services Manager replied -

I would rather respond to this question in writing and would need to know the specific applications the speaker is referring to.

The speaker clarified that he could provide the Planning Services Manager with this information.

The Head of Planning and Development replied -

We can, in terms of future and or current applications, question the validity of ICNIRP statements. Obviously, we can't do anything about decisions that have been granted, but for new applications it is certainly something we can question the applicant about if they continue to refer to a company that no longer exists. Thank you for bringing this to our attention.

The speaker asked a supplementary question -

How does your answer relate to current planning applications that haven't yet received a judgement?

The Head of Planning and Development replied -

We can ask the applicants to clarify the ICNIRP guidelines and who exactly did prepare them and whether the company still exists. In that way we can challenge any current applications as yet undetermined

4. (Read by the Head of Planning and Development) *The A27 - particularly at Lyon's Farm and Grove Lodge junctions is congested and have been shown to fail air quality measurements consistently for many years. Having granted planning permission for the opening of Lidl, (a company known to pay badly and with very dubious business ethics) which will bring more traffic - will the committee agree to commission an independent review of the impact of this project on traffic and air quality in the area?*

The Head of Planning and Development replied -

It is important to stress, and members will be aware of this, that National Highways is responsible for the A27 in terms of management of traffic and air quality. National Highways was consulted on the application and, after several months of reviewing it, they raised no objections to the proposal. Members will be aware, and the public will probably also be aware, of the various studies of the A27 that have been undertaken and that there has been significant funding allocated to the A27 improvements through the Road Investment Strategy. The local community in the town were consulted about proposals last year and we are still waiting to understand what National Highways will do to address some of the congestion and air quality issues along this section of the A27 through Worthing.

Notwithstanding the fact that the Council received no objections, both from National Highways and West Sussex County Council, the Planning Committee will recall that we did secure development contributions to mitigate air quality and also secured, from the developers, funding to improve Lyons Way by trying to ease congestion of traffic leaving the retail park, particularly of traffic turning left towards Brighton. So, although we had no highway objections, your Officers did negotiate, as part of that planning approval, quite significant funds allocated for road improvements to ease congestion and also to try and tackle some of the air quality issues. We will need to work with National Highways about the use of any funding secured in that planning permission to address air quality issues but the junction improvement proposed would try to minimise stationary traffic and ease some of the congestion issues.

WBC-PC/33/23-24 Members Questions

There were no pre submitted questions from Members.

WBC-PC/34/23-24 Confirmation of Minutes

RESOLVED, that the minutes of the Planning Committee meeting held on **Wednesday 26 July** and **23 August 2023** be confirmed as a correct record and that they be signed by the Chair.

WBC-PC/35/23-24 Items Raised Under Urgency Provisions

There were no items raised under urgency provisions.

WBC-PC/36/23-24 Planning Applications

The applications were determined as set out in the attached appendix.

9. 25pm – A vote to continue after 3 hours is taken and approved by the Committee.

WBC-PC/37/23-24 Enforcement report - The Drive, Mill Lane

The Head of Planning and Development outlined the details of the report and explained that the development in question had been a phased and undertaken over several years and this has caused some difficulties in discharging some of the planning conditions. He clarified however that various conditions had been breached and there were also some CIL issues regarding additional floor space. The requirement to demolish the existing building was one of the breaches. This building had a very close proximity to the adjacent property.

Where a single garage had been approved the developer had begun the erection of a double garage. The Tree Officer felt that the structure was unreasonably close to a large tree that was the subject of a TPO and had suggested that any application to retain the double garage should not be supported. The Officer clarified that a future visit to the site accompanied by the tree officer was necessary to gauge what damage had already occurred to the tree roots and to determine whether any prosecution action should proceed.

A resident spoke in support of the Officer's recommendation. She drew the Committee's attention to several areas where she felt the developer had breached conditions.

The developer spoke to address the breaches suggested within the report and mentioned by the resident. He voiced an opinion that the construction of the double garage had not inflicted any damage to the tree and referred to works within a larger preserved tree close to the entrance into the site.

During debate the members concurred that when a plan was brought to a committee and approved that created an expectation that the conditions set would be adhered to. In addition they agreed that it was important to avoid setting a precedent allowing a TPO to be ignored.

It was proposed that the committee agreed with the Officers recommendation and approved that a Breach of Condition Notice be served and an enforcement notice in relation to the unauthorised construction of a double garage and to delegate possible prosecution action in relation to the TPO tree subject to there being satisfactory evidence of wilful damage to the tree. This was seconded and voted in favour of unanimously.

WBC-PC/38/23-24 West Durrington Update Report

Members **AGREED** the revised approach regarding the delivery of the Community Park. The decision was delegated to the Head of Planning and Development to secure the Deed of Variation to the original s106 agreement.

Councillor Jenkins excused himself from the meeting at 10.05pm

WBC-PC/39/23-24 Worthing Conservation Area Reviews

The recommendations were **AGREED** by the committee.

WBC-PC/40/23-24 Joint Adur & Worthing Statement of Community Involvement - Draft for Consultation

The recommendations were **AGREED** by the committee.

The meeting ended at 10.12 pm

Chair

Application Number:	AWDM/1906/22	Recommendation - To APPROVE subject to completion of a planning obligation
Site:	Development Site At Former Debenhams Store 14 To 20 South Street And Iceland Car Park, Marine Place, Worthing	
Proposal:	Redevelopment of the former Debenhams Building (including site over existing Iceland Car Park) to comprise a mixed use development including commercial floor space (Use Class E) at ground, part first and part second floor level, and 80 residential 1-2 bedroom flats from first floor to upper levels including the addition of two floors above Debenhams and Iceland sites with amenity spaces including sky lounge, home-working suite, storage lockers and bike store for residents.	
Applicant:	Craig Developments Ltd	Ward: Central
Agent:	ECE Planning Limited	
Case Officer:	James Appleton	

The Head of Planning and Development presented the application explaining how it had been deferred from the committee meeting in June 2023 as the Members required more fire safety information. The Health and Safety Executive had now given their formal response and the applicant had submitted a slightly amended plan which addressed their concerns. He confirmed that an additional flat had been added to the plans, by way of splitting a large flat into two, plus a second staircase.

The Officer outlined the contents of the addendum which contained a representation that had been submitted after the agenda had been published. The addendum also addressed concerns over viability issues. The Officer confirmed for members that, should any profit be made, over seventeen and a half percent, the Council would receive this money, subject to the financial review to be included in the s106 Agreement.

The Officer clarified the situation regarding the legal ownership of the Seaspray fire escape and confirmed that the legal dispute should not be considered a planning matter.

Members had questions for the Officer regarding the split of the £150,000 contribution from the applicant, the timing of the planned construction and the Travel Plan.

There was one registered speaker who gave a representation in objection to the application. She addressed issues such as road safety concerns and the current Seaspray fire escape being inadequate for the increase of residents that would be using it in an emergency situation.

There were two registered speakers, the agent and the applicant, who gave representations in support of the application. They explained that, despite the issue not being a planning concern, they did have legal ownership of the Seaspray fire escape and

that they had provided the documents to the council. In response to Members' concerns the applicant confirmed they would be in a position to financially complete the scheme, they responded that they had complete confidence and as a result had already bought the building and had begun stripping it down internally. Another member enquired whether the one bedroom flats that also contained a study would ever be marketed as two bedroom properties, to which the applicant replied in the negative.

During debate members concurred that despite still having concerns regarding the lack of affordable housing the application was a favourable one which sat well with the new Local Plan and to delay the start of construction any further would only put the project at an increased risk of failing due to viability.

A proposal was made to **approve** as per the revised recommendation. This was seconded and voted on with a unanimously in favour outcome.

Decision delegated for approval subject to the completion of a s106 agreement securing affordable housing and travel plan contributions and a post development viability review and subject to conditions:-

1. Development in accordance with the approved Plans...
2. Development in 3 years.
3. Use Restriction Class E.
4. Detailed drawings, including sections, of windows to be submitted.
5. Specification of Materials.
6. Detailed design of certain elements (to be identified).
7. Sectional drawings of new window reveals.
8. Opaque glass and screening to be installed prior to occupation and retained for the lifetime of the development.
9. Hours of Building Work
10. Site Waste Management Plan in line with Waste Mitigation strategy set out in sustainability report.
11. Construction Management Plan (including dust management - as per air quality assessment).
12. Flood Resilience measures.
13. SUDS design and implementation.
14. SUDS maintenance.
15. Provision of waste storage prior to occupation.
16. Provision of cycle storage prior to occupation.
17. Implementation of energy efficiency measures.
18. Details of renewable energy measures.
19. Proposals to be 'network ready' for connection to a future communal heating network.
20. Noise conditions in accordance with noise report.
21. Travel Plan (including implementation of sustainable transport strategy as set out at para 4.4 of Transport Assessment)

Informatives

Southern Water, WSCC Highways and note from Emergency Planning Officer

Application Number:	AWDM/0653/23	Recommendation - APPROVE
Site:	Shelter South Of West Buildings, The Promenade, Marine Parade, Worthing	
Proposal:	Demolition of existing public shelter and redevelopment to provide two Use Class E(b) restaurants set over two floors.	
Applicant:	Other Nextcolour Ltd	Ward: Central
Agent:	Geraint John Planning Limited	
Case Officer:	Gary Peck	

The Planning Services Manager presented the report explaining that a permission had been granted in 2019 but this had now lapsed and so a fresh application was before the committee today.

Members had questions for the Officer regarding the safety aspects of building on the beach, heritage issues and what travel planning had been done regarding deliveries etc.

There were four registered speakers who spoke in objection to the application, including a Ward Councillor. Their representations dealt with heritage issues and how the proposed structure would be out of keeping with the character of the Worthing seafront. The shelter that would be demolished if the application was approved was circa. 1920's and as well as being listed in Worthing Borough's list of Local Interest buildings, was also one of a pair.

Objectors had concerns that the construction of these restaurants would set a precedent for more tall buildings on the beach. They considered the application to be overdevelopment of the site and contrary to DM23 and DM24 of the Local Plan.

The planning consultant spoke as a registered speaker supporting the application. He reiterated points within the report regarding the alterations to the scheme colouring and the regeneration and new investment aspects outweighing any heritage concerns.

During debate members concurred that the current shelter, although in need of some repair and restoration, was a part of Worthing's historic seascape and this project would see a significant harm to our heritage. It was noted that an application for new beach huts had, relatively recently, been rejected with the purpose of keeping a clear seascape.

A proposal to refuse the application was put forward which was seconded and voted on with a unanimously in favour outcome.

The Committee resolved to **REFUSE** the application on the grounds that the proposed development by virtue of its overall scale, design and massing would fail to enhance the character of the site and prevailing character of the area, detract from the appearance of

the seafront and Conservation Area and fail to protect, preserve and enhance the setting of heritage assets in the vicinity of the site. The proposal therefore fails to comply with policies DM5, DM23 and DM24 of the Worthing Local Plan and paragraphs 130, 134 and 202 of the National Planning Policy Framework.

Application Number:	AWDM/1240/21	Recommendation: APPROVE subject to the receipt of additional information
Site:	Buckingham Road, Multi Storey Car Park, Buckingham Road, Worthing	
Proposal:	Installation of a new facade and fall-protection system and new signage to the car park building. Enhancements to the existing street level public realm beneath the car park overhang, by refreshing the decoration, lighting and flooring.	
Applicant:	Worthing Borough Council	Ward: Central
Case Officer:	Stephen Cantwell	

The Head of Planning and Development presented the report and addressed the changes within the addendum regarding the mesh fencing design proposed for the top floor of the car park. The Officer also drew the committee's attention to some additional representations that had been received since the report publication.

Members had questions for the Officer regarding the thickness and design of the mesh fencing. The Officer clarified that the mesh was made of galvanised steel and 2 metres high to avoid anyone being able to climb up it. However, the contractors had indicated that the size of the mesh was such that it could still be climbed and therefore a cranked top was proposed to make the mesh harder to climb. The Officer felt that this cranked top was not visually acceptable for the top floor appearing like a security fence and therefore a condition was recommended to require details to be submitted. It was likely that a smaller mesh would be required to make it harder to climb.

During debate Members concurred that it was important to get the car park open again, particularly with Christmas approaching. They agreed that with the car park being closed it had become an area for anti-social behaviour and it was hoped that would cease once it was open again.

A proposal to accept the revised recommendation, was put forward, seconded and voted on in favour of unanimously. Members also asked Officers to alert the applicant to keep residents engaged throughout construction.

Revised Recommendation in the addendum agreed subject to the receipt of satisfactory information requested in this report, to **Approve** the amended application subject to the following conditions:

1. Adherence to approved final plans
2. Standard time limit of 3 years for implementation
3. Prior to the commencing work on any of the proposed mesh fencing on the top floor of the car park, precise details of the design and size of the proposed mesh and supporting framework shall be submitted to and approved in writing with the LPA. Thereafter the development shall be completed in accordance with the approved plans.

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