



**WORTHING BOROUGH  
C O U N C I L**

**Planning Committee  
22 March 2023**

**Agenda Item 7**

**Ward: ALL**

**Key Decision: Yes / No**

**Report by the Director for Economy**

**Planning Applications**

**1**

**Application Number: AWDM/1745/22**

**Recommendation – Approve subject to the satisfactory comments of National Highways and SDNP and the completion of a legal agreement securing transport contributions.**

**Site: Land Site Decoy Farm, Dominion Way, Worthing**

**Proposal: The erection of a new industrial estate comprising the erection of six buildings to provide commercial, industrial and storage or distribution floorspace (Class E (g(iii)), B2 and B8 Uses), access and associated landscaping, parking and infrastructure. The application is accompanied by an Environmental Statement.**

**2**

**Application Number: AWDM/1483/22**

**Recommendation – Approve Subject to S106 Agreement**

**Site: 45A Chapel Road, Worthing, BN11 1EG**

**Proposal: Change of use of the first and second floors from restaurant and HMO to 11 no. residential units and construction of a third floor with 2no. residential units with terrace at first, second and third floors.**

**3**

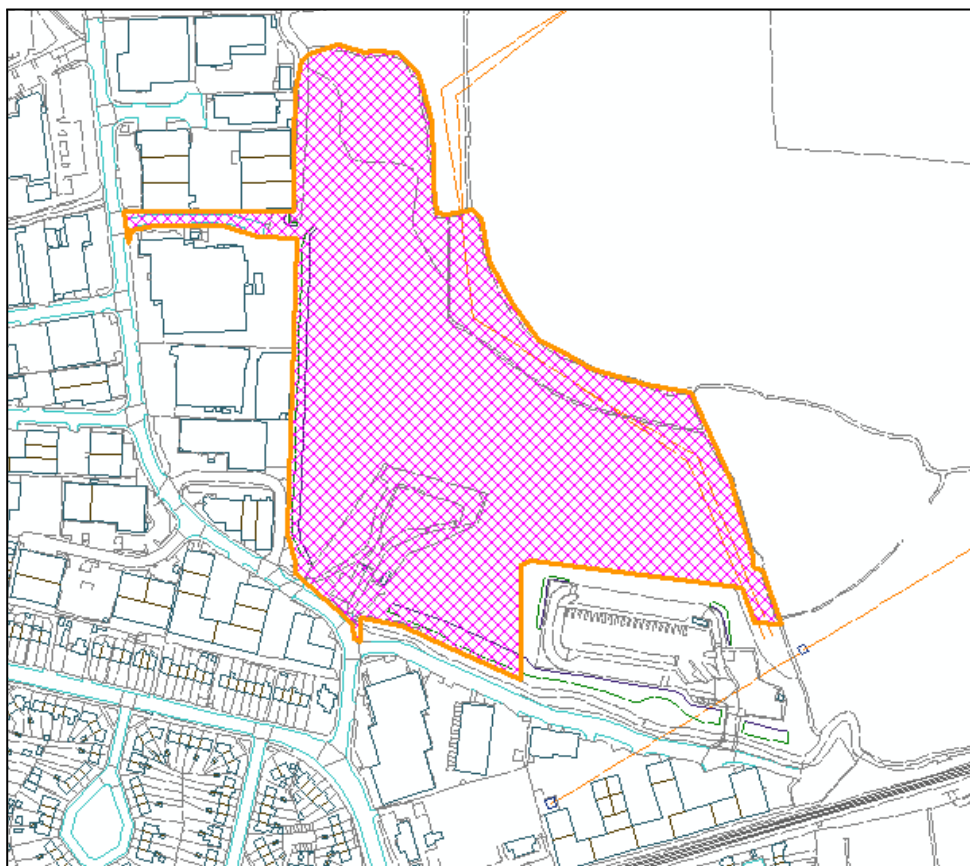
**Application Number: AWDM/0408/22**

**Recommendation – REFUSE**

**Site: 6 New Street, Worthing (The Last Melon)**

**Proposal: Application to vary condition 4 of AWDM/0703/18 to allow the outdoor use of the forecourt with 24 covers from 10am to 10pm (last customers seated by 9pm)**

<b>Application Number:</b>	<b>AWDM/1745/22</b>	<b>Recommendation - Approve subject to the satisfactory comments of National Highways and SDNP and the completion of a legal agreement securing transport contributions.</b>
<b>Site:</b>	<b>Land Site Decoy Farm, Dominion Way, Worthing</b>	
<b>Proposal:</b>	<b>The erection of a new industrial estate comprising the erection of six buildings to provide commercial, industrial and storage or distribution floorspace (Class E (g(iii)), B2 and B8 Uses), access and associated landscaping, parking and infrastructure. The application is accompanied by an Environmental Statement.</b>	
<b>Applicant:</b>	<b>Adur &amp; Worthing Councils</b>	<b>Ward: Broadwater</b>
<b>Agent:</b>	<b>WSP</b>	
<b>Case Officer:</b>	<b>James Appleton</b>	



**Not to Scale**

## **Proposal, Site and Surroundings**

This full application is made by Worthing Council for the redevelopment of a former landfill site, approximately 7.1 ha in size; in order to provide a modern industrial estate, serving as an extension to the existing estate at Dominion Way, East Worthing.

The site is located to the east of the Industrial-Employment Estate at Dominion Way and north of the existing Worthing Recycling Centre at Willowbrook Road. It lies within but at the edge of the defined urban area with Teville Stream running outside its eastern boundary. The site is a largely flat or gently sloping plateau.

The use of the landfill site ceased in the late 1970's. It has subsequently been cleared to bare ground, capped and covered in crushed concrete to provide a 'sterile' development platform. It has been treated to the point now where it can be safely redeveloped for industrial purposes.

The site is bounded to the west by Dominion Way and a range of existing 2 storey industrial buildings of varying height and size, typically surrounded by yard areas, access roads and car parking. The southern boundary of the site opens out to Dominion Way and Willowbrook Road, from where there is an existing vehicular access, with trees and security fencing on the boundary. The site is enclosed to its south eastern corner by the Worthing Recycling Centre. The north and west of the site are bounded by open fields interspersed with trees and hedgerows, which provide a large gap to housing associated with Sompting, between 0.5 and 1 km away.

Further to the south of the site there are existing industrial style units which provide a buffer to the closest housing, around Dominion Road beyond. East Worthing Station is around 200m away, due south of the site. The site falls to the north east of Worthing and to the north west of Lancing. The A27 and A259 are set around 1 km to the north and south of the site respectively, accessible by way of the B2223 (which is also known as Dominion Road).

The proposal is for flexible uses within use classes E (g) (iii), B2 and B8 of the Town and Country Planning (Use Classes Order) 2020. This comprises General Industrial uses, and Storage and Distribution. The plans show that the maximum floorspace will be 15,840m<sup>2</sup> and the maximum heights of the proposed structures will be 15m. The total area of the Site is 7.1ha in size, within which an area of 4.3ha will have been remediated and cleared and redeveloped as a consequence of these proposals.

The proposed development would be constructed as 6 separate buildings, sub divided into 18 units; and accessed from a new spine road from Dominion Way. Vehicular access would be provided via Dominion Way to the south of the site, and non-motorised vehicular access provided to the north-west of the Site. The buildings will subsequently be accessed from a network of access roads and service yards set between the buildings. Integrated within the development would be 264 car parking spaces, 10 motorcycle spaces and 60 cycle parking spaces. Pedestrian pathways

would be provided and the site would be landscaped to create a green buffer around the proposed buildings to the edge of the site.

The development will be carried out in three phases, with the spine road being constructed first, and the buildings being constructed over two subsequent phases.

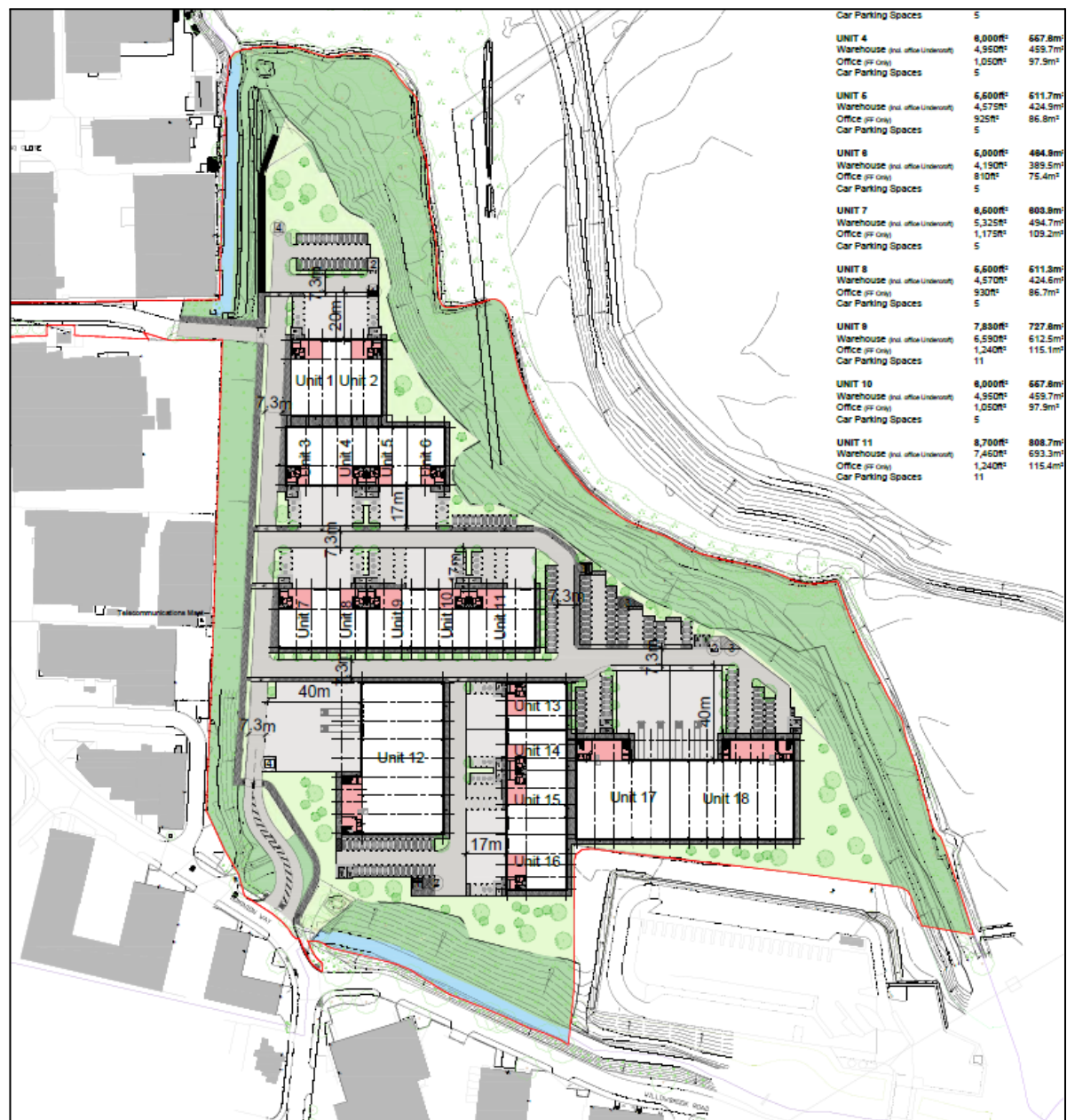


Fig I. Proposed Layout Plan

## Applicants Supporting Statements

In support of the planning application the following documents have been submitted:

- Planning application form and Community Infrastructure Levy form;
- Architectural drawings;
- Design and Access Statement (DAS);
- Drainage Strategy Plan and Flood Risk Assessment and Drainage Strategy;

- Transport Assessment and Travel Plan;
- Generic Quantitative Risk Assessment (Ground Investigation),
- Remediation Strategy, Phase 1 Preliminary Risk Assessment,
- Sustainability and Energy Statement;
- Statement of Community Involvement;
- External Lighting Impact Assessment;
- Arboricultural Impact Assessment,
- Landscape Strategy plan and Landscape and Visual Impact Assessment,
- Ecological Impact Assessment,
- Landscape and Ecological Management Plan
- Letter dated 19 August 2022 from Lizard on BNG Calculations;
- Environmental Statement including the following chapters: Introduction; Existing Site; Description of Proposed Development; Reasonable Alternatives; Approach to EIA; Socio-economics; Transport and Access; Air Quality; Noise; Biodiversity; Cultural Heritage; Geology and Soils; Landscape; Climate; Summary. Associated Appendices and Non-Technical Summary.

## Relevant Planning History

There is no relevant planning History in relation to the site.

## Consultations

**West Sussex County Council Highways Authority** comment, in summary:

- *Pre-application correspondence took place between the LHA and the applicant's consultant.*
- *Whilst the access strategy has changed since the initial pre-application response a number of the areas outlined such as the capacity testing within the applicants supporting Transport Assessment (TA) were agreed with the LHA at the pre-application stage.*
- *In summary the LHA would not raise any concerns with the proposals from the highways perspective.*
- **Access and Visibility.** *The LHA is satisfied that the access accords with the relevant standards for visibility and would have no concerns with the proposed access strategy.*
- *The LHA has reviewed the most recently available accident data for this stretch of the Dominion Way and there have not been any recorded road traffic collisions within the immediate vicinity of the proposed point of access.*
- *A Stage 1 Road Safety Audit (RSA) identified 6 problems. The Designer has however agreed to all areas of advised mitigation.*
- **Parking and Layout.** *The Development will provide 264 car parking spaces. This is currently a hybrid of the WSCC Car Parking standards for Class E, B2 and B8. The development will provide 60 cycle parking, 10 motorcycle bays, 23 disabled parking and electric parking spaces will align with the LHA's Car Parking standards.*
- **Capacity.** *A trip generation analysis for the maximum number of proposed and previous usage at the site has been undertaken using the industry standard TRICS software. Junction Capacity has been assessed within the TA and via Junctions 9 software and it has been demonstrated that the weekday AM and*

*PM peak traffic demand generated by the proposed development. In all scenarios, the impact of the additional traffic generated by the Decoy Farm site is not considered 'severe' across all assessed junctions. Overall it is predicted that the development will increase traffic flows by less than 10% at each junction. The LHA would not consider the proposals would have a 'severe' impact on the network and would not consider the application requires any further assessment on local junction capacity.*

- ***Sustainability and Accessibility.*** The TA considers all areas of accessibility and sustainability. The applicant has proposed to provide an informal pedestrian crossing facility 52m south of the B2223 Dominion Road/ Dominion Way Signal Junction and 55m from the brow of the hill over the railway bridge. The informal crossing facility will have a refuge island 2m wide, this is based on the standards from "Inclusive Mobility" which outlines that preferably minimum width is 2m. Within the applicants TA drawing 5645-GA-101 shows the visibility splays for 43m in each directions. A number of additional off-site improvements were discussed during the pre-application process. These have been included within the TA, these include;
  - *Provision of cycle Advanced-Stop-Line (ASLs) on the approach from Dominion Way;*
  - *Financial contributions towards highway improvements schemes on B2223 Dominion Road identified within the Worthing Local Plan Transport Assessment. The exact contributions should be indicated prior to any planning consent being obtained.*
  - *Provision of funding for Local Walking & Cycling Infrastructure Plan route 211 between East Worthing and Sompting as outlined in the 'Access' Section of this report.*
- ***Travel Plan (TP)*** The TP has been assessed by the LHA's TP officer. The £3,500 TP monitoring fee would be applicable to this application. It is considered some changes are required to the travel plan, however, the changes could be incorporated under a suitable planning condition.
- ***Construction and Routing Matters*** relating to construction should be agreed prior to any planning consent being obtained. Therefore a Construction Management Plan Condition should be applied to any planning consent. This should include a routing agreement to advise larger vehicles such as HGV's to consider alternative routes to the site that do not negatively affect the residential routes around Ham Road.
- ***Conclusion*** - Having assessed the TA the LHA would be satisfied the proposals would not warrant an objection on highway safety grounds. The proposals are considered to be in line with National Planning Policy Framework (NPPF) paragraphs 108 and 109.
- Any approval of planning consent would be subject the following conditions; Access (Access to be provided prior to first occupation); Construction Management Plan; Travel Plan (to be approved). An informative should be added to deal with the need for prior consent for off site highway works.

**West Sussex County Council Fire and Rescue** comment that, in summary

- *Fire Hydrants must be provided in agreement with the Fire and Rescue Service through planning conditions, in the interests of managing the risk of fire on the site.*

**West Sussex County Council Local Lead Flood Authority** comment that,

- *The site is at a low risk of surface water flooding. Any existing surface water flow paths across the site should be maintained and mitigation measures proposed for areas of increased risk.*
- *The site is at negligible to high risk of groundwater flooding, with the highest risk concentrated to the north section of Deacon Way. The Environment Agency should be consulted on contamination risks.*
- *The site is close to existing watercourses including Teville Stream. Works affecting the flow of an ordinary watercourse will require ordinary watercourse consent and an appropriate development-free buffer zone should be incorporated into the design of the development.*
- *The drainage strategy will need to be informed by accurate data in relation to microdrainage results.*
- *The SUDS strategy should achieve betterment for surface water systems, including retention at source through rain gardens, permeable paving, swales or bioretention systems. SuDS landscaping significantly improves the local green infrastructure provision and biodiversity impact of the developments whilst also having surface water benefits.*
- *All works to be undertaken in accordance with the LPA agreed detailed surface water drainage designs and calculations for the site, based on sustainable drainage principles. The maintenance and management of the SuDS system should be set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved designs.*
- *Please note that Schedule 3 of the Flood and Water Management Act 2010 has not yet been implemented and WSCC does not currently expect to act as the SuDS Approval Body (SAB) in this matter.”*

**Environment Agency** comment that,

*We have no objection to the proposal provided that the following conditions be attached to any planning permission granted, and that the details in relation to these conditions be submitted and approved by the Local Planning Authority.*

1. De-watering of perched water encountered during construction
2. Piling
3. Remediation of each individual phase.
4. Verification report
5. Monitoring and maintenance in relation to contamination.
6. Previously unidentified contamination.

**Informatives-** *relating to flood risk activity permits and waste.*

**Southern Water** comment that,

*There is an existing public foul rising main in the development site. The exact position of the public assets must be determined on site by the applicant in consultation with Southern Water. This requires*

- *a clearance of 3 metres on either side of the public foul rising main to protect it from construction works and to allow for future maintenance access.*
- *No development or tree planting should be carried out within 3 metres of the external edge of the public foul rising main*
- *No soakaways, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public foul rising main.*

*All existing infrastructure should be protected during the course of construction works.*

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

*Our initial investigations indicate that Southern Water can provide water and foul sewage disposal to service the proposed development.*

*Any approved SUDs scheme should*

- *Specify the responsibilities of each party for the implementation of the SuDS scheme.*
- *Specify a timetable for implementation.*
- *Provide a management and maintenance plan for the lifetime of the development. including the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.*

*Land uses such as general hard standing that may be subject to oil/petrol spillages should be drained by means of appropriate oil trap gullies or petrol/oil interceptors.*

**Network Rail** - *“Following a review of the application, I can confirm that Network Rail have no comments to make on the proposals.”*

**Private Sector Housing:** *No comment*

**Environmental Health** - *Comments are awaited and will be reported at the meeting.*

**National Highways:** *Awaited*

**South Downs National Park:** *Awaited*



**Adur District Council** : The Adur Planning Policy Manager supports the application and comments that the delivery of a high quality employment site would greatly benefit the local economy. The provision of a cyclepath connection which would link to the cyclepath being provided as part of the West Sompting development would also be beneficial in terms of improved connectivity between Sompting and the Dominion Road Industrial site. She further comments that the site is on the edge of the built up area and adjacent to the sensitive Green Gap between Worthing and Adur. It will be important, therefore, to ensure that the proposed landscaping is implemented to a high standard to ensure the provision of an appropriate landscape buffer.

## **Representations**

**Neighbouring properties** (56 neighbouring properties were consulted about the application).

One neutral consultation response was received from a member of the public. This expressed support for the inclusion of 60 cycle parking spaces within the development but raises concerns that cycle commuters would be deterred by HGV movements on the immediate surrounding road network which would be increased by the proposed development. Clarification was sought on the funding for proposed cycle network improvements as outlined in the walking and cycle strategy.

## **Relevant Planning Policies and Guidance**

Worthing Core Strategy (2011):

Policy 2 Areas of Change

Policy 3 Providing for a Diverse and Sustainable Economy

Policy 4 Protecting Employment Opportunities

Policy 12 New Infrastructure

Policy 13 The Natural Environment and Landscape Character

Policy 14 Green Infrastructure

Policy 15 Flood Risk and Sustainable Water Management

Policy 16 Built Environment and Design

Policy 17 Sustainable Construction

Policy 18 Sustainable Energy Policy

Policy 19 Sustainable Travel

Worthing Local Plan (WBC 2003) (saved policies where relevant) - Saved Policy H18 'Residential Amenity'

Emerging Local Plan:

SP1 'Presumption in favour of sustainable development'

SP2 'Climate Change'

SP3 'Health Communities'

SS1 'Spatial Strategy':

SS2 'Site Allocations':

SS5 'Local Green Gaps':

DM2 'Density':  
DM5 'Quality of the Built Environment':  
DM9 'Delivering Infrastructure':  
DM10 'Economic growth and skills':  
DM15 'Sustainable transport & active travel'  
DM16 'Sustainable design':  
DM17 'Energy':  
DM18 'Biodiversity':  
DM19 'Green Infrastructure':  
DM20 'Flood Risk and Sustainable Drainage':  
DM21 'Water quality and sustainable water use':  
DM22 'Pollution':

Supplementary Planning Document 'Sustainable Economy' (WBC 2012)  
'Infrastructure Delivery Plan' (WBC 2010)

## **Relevant Legislation**

The Committee should consider the planning application in accordance with:

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

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

## **Planning Assessment**

### **Principle**

The National Planning Policy Framework sets out the need to build a strong, responsive and competitive economy. Policy 3 of the adopted Core Strategy seeks to deliver economic growth by way of identifying sites in sustainable locations to provide for a range of employment space to meet the needs of current and future occupants.

The emerging Local Plan (paragraph 5.135, submission version) identifies the provision of new industrial space as a key component of a broader strategy of promoting economic growth and skills. It notes that demand for industrial space remains strong with very low levels of vacancy reflecting a limited supply of industrial space in the market, particularly modern good quality space. This means that existing firms within Worthing struggle to accommodate expansion and relocation within the Borough. Limited availability of industrial supply locally also makes it difficult to encourage new businesses to relocate in the borough, with a shortage of industrial supply also resulting in increased rents.

The emerging plan identifies that demand for industrial space in Worthing comes from a mix of industrial sectors, with a particular need for new, modern stock that offers a good range of small to medium industrial and warehouse units. Policy DM10 of the emerging Local Plan seeks to support, promote and enable the continued development of a strong, sustainable and diverse local economy by identifying sufficient sites and premises in sustainable locations to meet the needs of businesses, and to ensure the availability of sufficient and suitable workspaces in terms of type, size and cost to meet the needs of current and future businesses.

Within this context the site has been allocated for employment use in both the Core Strategy (as 'area for change 12') and the emerging Local Plan. The latter identifies the site as A5 (Decoy Farm) as having an indicative capacity of 18,000 sqm of employment land, which would be realised by the proposed development.

The redevelopment of this site for employment use would therefore achieve a longstanding policy objective connected to the broader strategy for economic development within the Borough. The need for the development has been evidenced through up to date research carried out in the production of the new Local Plan. The provision of additional modern, up to date, industrial floorspace would provide significant benefits to the local economy, helping to retain existing businesses within the Borough and to make the Borough attractive to those looking to relocate. This will ultimately also help provide new employment opportunities for local residents.

The proposed development of this site for employment use is therefore considered to align with the objectives of both the adopted and the emerging Local Plan and would help achieve the wider strategy for economic growth in the Borough. The principle of development is very well established and the economic benefits of bringing development forward would be significant. In terms of employment, the ES (Socio Economic chapter) estimates that the proposed development would result in the creation of an estimated 264 net additional jobs, of which 238 are estimated to be taken up by residents of West Sussex, and 26 by residents outside the County.

## **Sustainability**

The Council declared a climate emergency in June 2019 which set out a commitment towards becoming a carbon neutral Council, reducing carbon emissions and offsetting any which cannot be eliminated. This was carried forward into policies in the emerging Local Plan which apply to new development, and which build on previous initiatives set out in the adopted Local Plan.

The nature of industrial development is such that it inevitably generates additional carbon emissions given current economic practices, most significantly through associated transport emissions. This is reflected in the conclusions of the Climate chapter of the Environmental Statement submitted in support of this planning application. In recognition of this the proposal comprises a number of measures that help reduce the impact of the building on the local environment in line with policy requirements in the emerging Local Plan. These can be categorised as measures to improve energy performance and sustainable construction; sustainable drainage; sustainable transport and biodiversity.

Energy and sustainable construction Policy 17 of the Core Strategy supports sustainable construction, stating that the BREEAM standards will be used to assess any new non-residential developments. Policy 18 of the Core strategy states that new development will be required to include sufficient on-site renewable energy generation. Policy DM16 of the emerging plan requires that non residential development should achieve BREEAM 'very good'. DM17 requires that all major non-residential development should incorporate renewable and low carbon energy production equipment to meet at least 10% of predicted total energy requirements.

The proposal incorporates various measures to reduce energy demand and also incorporates renewable energy technologies into the proposed development. This followed a low and zero carbon technologies feasibility study carried out prior to the planning application being submitted.

Energy reduction measures include rooflights, mechanical ventilation, rooflights and window to wall ratios sufficient to reduce artificial lighting demand, high levels of permeable insulation and avoidance of gas use and smart metering. The renewable energy measures include photovoltaic panels and a variable refrigerant volume system for the proposed development. These measures are outlined in the renewable energy strategy submitted with the application, and further details of them can be required and ultimately secured by way of planning conditions.

The cumulative impact of this is that the building would achieve a BREEAM 'very good' rating, which complies with emerging policy DM17. The energy strategy concludes that there will be a 68% reduction against building regulations standards set out Part L2A 2013 and a 71% reduction against Part L2 2021. This would represent a high level of environmental performance.

The development also provides a large number of electrical charging points within the quantum of parking provided by the development. This will help to limit the impact of transport emissions associated with the proposed development.

Sustainable Drainage Surface water will be collected on the site and stored in attenuation tanks which will be subject to controlled discharge to the Teville Stream. The applicant has indicated that green roofs or rainwater harvesting could be integrated into ancillary buildings within the development, such as bin stores and cycle parking. These are environmentally positive features of the development, further details of which can be required by planning conditions. Further details of this are provided in the 'Flood Risk and Drainage' section of this report.

Sustainable Transport The site is located in close proximity to East Worthing Station which will help promote accessibility to and from the site by way of public transport. The site is also accessible by bus and bike. A network of footpaths will be provided through the site with appropriate pedestrian crossings. These initiatives will help reduce reliance on the car as a means of accessing the site on the part of future occupants through the promotion of sustainable travel choices. A detailed travel plan will be provided along with provision for its monitoring which will help support sustainable transport. Further details are provided in the 'Highways' section of this report.

Biodiversity The proposal involves the enhancement of existing parts of the site with habitat value, and a wide range of planting including new woodland, shrubs and grassland. This will represent a significant enhancement to biodiversity. Following implementation of these measures there would be a net gain to biodiversity of around 34%. Further details of this are provided in the 'Biodiversity' section of this report.

Overall it is considered that a high standard of environmental design would be achieved, building on the advantages of the sustainable location of the site, being close to public transport links. Sufficient mitigation measures are proposed to justify the proposal against the planning policy requirements relating to sustainability, and in light of the ongoing climate emergency.

### ***Landscape, Design and Heritage***

The National Planning Policy Framework seeks to achieve well-designed places. It states that planning policies and decisions should ensure that developments function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; and are visually attractive as a result of good architecture, layout and appropriate and effective landscaping. This approach is also reflected in Policy 16 of the Adopted Local Plan which requires that all new development demonstrates good quality architectural and landscape design and use of materials that take account of local physical, historical and environmental characteristics of the area. Policy DM5 of the emerging plan has similar objectives.

### Density and Urban Design

The area surrounding the site comprises the East Worthing industrial estate, which is a typical example of post war industrial development. It benefits from planting and measures of urban greening, including generous verges and mature trees which help to improve the quality of the built environment for its users. These positive elements have been carried forward into the design and layout of the proposed development, which would read in urban design terms as an extension to this existing Industrial estate.



**Fig II. The proposed development**

The proposed built development would be subdivided into 6 separate structures clustered together in the centre of the site, interspersed with parking, walking routes and small pockets of greenery, accessed from the spine road that runs to the west of the site. The first phase of the development, to the north of the site, comprises 11 medium sized units, with large loading bays to the front of each building, arranged in a line leading off an access road. The second phase is to the south of the site, and includes four more medium sized units and three large units with circa 40 metre loading bays, spread across the widest part of the site.

In terms of appearance, the buildings would be large, functional structures that serve the needs of modern industry. They are between 10 and 12 meters in height to the main upper parapet, with a low pitched roof above this facilitating drainage and maximising the effectiveness of solar panels. The elevations have visual interest through vertical lines of glazing across the front of the building, which also serve the environmental purpose of reducing the need for artificial lighting within the building. Large doors are provided for the purposes of access.

In terms of the layout from the point of view of vehicles, pedestrians and cyclists; a landscaped entrance is provided with a bespoke footpath going along a spacious green verge and extending along the spine road on the western part of the site. The units are accessed by three roads that extend across the site in an east to west direction, with the southernmost road extending to three further spurs. Walkways and marked road crossings facilitate safe pedestrian access to all the units.





**Fig III. Landscaped entrance to the proposed development, showing retained trees, new planting including woodland, and pedestrian entrance.**

The clustering of development to the centre of the wider site provides the quantum of development envisaged in the Local Plan, whilst also maximising the opportunity to provide contiguous open landscaped space around the edge of the development, providing a visual break to surrounding development, and giving the best possible opportunity for planting to develop and mature and biodiversity to flourish. This planting helps to screen the development and reduce its visual impact on the surrounding area.

Overall it is considered that the proposal is satisfactory in urban design terms and the proposal would be a good contemporary example of this type of development. The landscaping and urban greening around the edges of the estate would enhance the overall quality of the built environment in this part of Worthing.

Landscape: The site currently has the appearance of open land which has an engineered appearance due to the levelling that has arisen following decontamination works. It is interspersed with some trees, scrub, fencing and hardstanding. It sits contiguous to the north and east with the countryside associated with the Sompting Gap, which is characterised by large open fields with hedgerows. Because of its undeveloped appearance the site currently performs a role in sustaining this gap, although it has a history of development, having previously been used as an unregulated landfill site.

The proposed development will have a large landscaped buffer around the perimeter of the site. This would comprise a mixture of shrub and tree planting along with the

preservation of some existing trees. The landscaping strategy has been influenced primarily by ecological mitigation considerations, and the need to enhance biodiversity; but the planting will nonetheless also perform a role in screening the proposed development from longer views, particularly as the planting matures 10-20 years on after the development is commenced.

The Landscape and Visual Impact Assessment evaluates the impact of the proposed industrial development from 10 viewpoints in the area surrounding the site. Five of these viewpoints are from public rights of way in the wider landscape to the north of the site in the South Downs National Park. The other 5 are localised views in Worthing and Sompting. The report concludes that in most cases landscape impacts will be negligible or neutral. However, it does identify adverse impacts to public viewpoints from within the Sompting Gap both over the course of construction and residual impacts 15 years on.



**Fig IV. Typical view of the development upon completion, from Sompting Gap.**

These adverse impacts arise from the proposed built form being seen in the context of the existing settlement edge of Worthing, and overhead power lines, which have an urbanising influence on views. They must be considered in a context where the site has been identified as an area of change suitable for development in both the adopted and emerging Local Plan, so the principle of change involving such urbanisation is well established. Over time the proposed planting along the site boundaries, and the maturing of the existing vegetation, will help to assimilate the proposed development into its surroundings and soften views.



### Conservation Areas and listed buildings.

The nearest Conservation Area to the Site is Broadwater, located approximately 900m north west of the Site, and Farncombe Road, located approximately 950m south west of the Site. The separation distance is such that the proposed development would not result in any impact on these designated heritage assets. The separation distance and limited overall height of the development is also sufficient to avoid any impact on the setting of listed buildings in the wider surrounding area.

The development would comprise a self contained extension to an existing built up area and is not in the vicinity of any designated or non-designated heritage assets, including Listed Buildings or Conservation Areas.

Overall the proposal is considered to be acceptable in terms of design, with an acceptable landscape impact and avoiding any adverse effect on heritage assets. It complies with the National Planning Policy Framework, along with policy 16 of the Core Strategy, and policy DM5 of the emerging Local Plan.

### ***Residential amenity***

The National Planning Policy Framework seeks to achieve a high standard of amenity for existing residents. This is also reflected in saved policy H18 of the Worthing Local Plan (2003), which states that development which would result in an unacceptable reduction in amenity for local residents will not be permitted. Policy DM5 of the emerging Local Plan has similar objectives.

The site is located within a longstanding and well established industrial area (coloured purple in Fig V below). These essential economic uses are typically clustered together, as is the case here.



**Fig V: surrounding land uses (residential in blue)**

Figure v shows that there is good separation distance between the site and the closest residential properties, along Dominion Road to the south west of the site (coloured blue), with existing commercial development within the intervening space. As discussed earlier in the report, there would also be a landscaped screen including woodland towards the front of the site, with the units being set well back into the site itself (see Fig II).

To the south east the Brighton to Southampton railway acts as a significant physical barrier screening the site from the residential development around Ham Way. To the east and north the site is bounded by undeveloped fields which acts as a buffer to residential development in Sompting which is variously set around 0.5 km to 1 km away from the site. As noted elsewhere in this report, landscaping is built into the proposal and this helps to screen the development in longer views from residential properties.

As a consequence of the separation distance and proposed landscaping measures, surrounding residents would be effectively screened from any adverse impact on residential amenity. Nevertheless, the proposed uses including B2 heavy industrial and B8 storage and distribution uses have the potential to impact on the amenities of local residents in particular the nearest residents on Dominion Road to the south of the site and adjacent to Dominion Way.

As details of any external plant or the type of industrial processes likely to be undertaken on site is unknown, the ES (Noise and Vibration Chapter) has considered maximum noise levels that could be incorporated into a planning

condition to protect residential amenities in the future. The ES sets these noise limits as being 49 (dB LAr,T) during the day and 30 (dB LAr,T) overnight corresponding with relevant background noise levels.

The Environmental Health Manager is reviewing the ES and will be recommending maximum noise level conditions in line with the ES to ensure that nearby residential properties. Members will be updated at the meeting.

On the basis that planning conditions, recommended by the ES, can be imposed to mitigate any adverse impacts on local residents, it is considered that the proposal would comply with the National Planning Policy Framework, saved policy H18 of the Worthing Local Plan 2003 and policy DM5 of the emerging Local Plan.

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

The National Planning Policy Framework requires that, where new development is proposed the potential impacts on transport networks must be addressed. It encourages opportunities to promote walking, cycling and public transport use. However, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Policy 19 of the adopted Local Plan states that proposals must assess the effect on the surrounding transport environment and mitigate against any adverse effects. Policy DM15 of the emerging plan emphasises the need to promote active travel by walking, cycling, Non-Motorised User routes and public transport, reducing the proportion of journeys made by car.

Parking and Access The development will serve 18 industrial units and will provide 264 car parking spaces, along with 10 motorcycle bays and 60 parking spaces. This is in accordance with local parking standards adopted by West Sussex County Council for commercial development of this scale. In addition to this there would be a variety of vehicular movements associated with the end uses on the site including large heavy goods vehicles typically associated with industrial uses.

There will be two points of access to the proposed industrial estate. The main proposed access will be a priority junction which will include a pedestrian refuge island, connecting to Dominion Way. The junction would be of a scale and form appropriate for the type of vehicles that would access an industrial estate. A separate pedestrian access would be provided leading into the site from this point. Secondary access will be provided from Deacon Way, used by pedestrians, cyclists and emergency vehicles.

Impact on the road Network. Considering the wider impact of the proposed development, trip generation analysis has been carried out in consultation with the Local Highway Authority. The proposed development is predicted to generate a total of 211 two-way vehicle trips during the weekday AM peak hourly period (07.45-08.45hrs) and 211 two-way trips during the weekday PM peak hourly period (16:30-17:30 hrs). The impact of the proposal on the surrounding road network, including nearby junctions with the A24 and A27 and the Local Highway Authority have confirmed that they are satisfied that the proposals would not have a 'severe'

impact on the local highway network. The TA assessed the impact on 7 highway junctions (including the impact on the A27 at Grove Lodge and Sompting Road junctions) and determined that the development would increase traffic flows by less than 10% at each junction.

As a result of the above assessment the TA does not suggest any financial contributions towards offsetting any impact on these junctions. However, as recommended by the Local Plan supporting Transport Study the applicant accepts the need for a financial contribution towards highway improvements proposed along Dominion Road. Further discussions with the Highway Authority are underway to determine the extent of any contribution.

The response from National Highways (NH) is awaited although an initial indication suggests that NH may also require a financial contribution to offset any additional impact on the A27.

Public Transport, walking and cycling. The industrial estate would be around 300 metres from East Worthing Station which would be within walking distance. This is on the Brighton to Southampton railway line and typically benefits from 2 trains per hour in each direction. The closest bus stop is less than 300 metres from the site on the B2223. This is served by a bus that runs hourly from Tarring to South Lancing, but not on Sundays. Taking the above into account the site is considered to have good levels of public transport accessibility.

The site would be accessible on foot or bike from Dominion Way. One respondent to the consultation expressed concern that the proposal would lead to additional HGV movements such that may deter cycling on the nearby roads. However, the proposal provides adequate provision for cycling into the site and the additional HGV movements on the wider road network would not be of a scale such that would act as a significant deterrent to cycling as a method of transport.

The applicant has proposed to provide an informal pedestrian crossing facility south of the B2223 Dominion Road/ Dominion Way Signal Junction and this would provide a refuge island 2m wide to improve pedestrian connectivity. The TA also proposes the provision of cycle Advanced-Stop-Line (ASLs) on the approach from Dominion Way. These off site improvements could be secured by a grampian style planning condition.

The developer will also provide a financial contribution towards the future Local Walking and Cycling route 211 between East Worthing and Sompting to help promote cycling as a means of transport. However, the proposal is not reliant on the delivery of this cycle route to be acceptable in planning terms and it is noted that the cyclepath would be constructed on land within Adur District. A travel plan would be provided and can be required by a planning condition, including the requirement for a monitoring fee to be paid to WSCC.

Construction Management. The site is relatively self contained and buffered by industrial development in the intervening space to the closest residential properties. It is noted that the construction phase will have an impact on the local road network and this will need to be managed appropriately. A construction management plan

would help to control construction activities to limit any adverse effects on local residents and the highway network.

To conclude, the proposal is considered to be acceptable in terms of its impacts on Highways, Accessibility and Parking. It complies with the relevant policies in the National Planning Policy Framework, along with the Core Strategy and emerging Local Plan that seek to avoid harm to highway safety and promote sustainable travel.

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

The National Planning Policy Framework sets out planning policy that seeks to manage the impacts of flooding. It states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Policy DM20 of the emerging Local Plan states that opportunities should be taken to reduce flooding through sustainable drainage systems and natural flood management to deliver multi-functional benefits for people and wildlife. Similar objectives are set out in Policy 15 of the adopted Core Strategy.

Flood Risk The bulk of the site, including the main development platform, is located in an area of very low flood risk. The main development area is located within low-risk Flood Zone 1, where the probability of annual fluvial flooding is significantly less than 1 in 1000 in any one year. Small areas of the site, for instance those adjacent to Teville Stream, have a flood Zone 3 rating, but this is due to their proximity to a watercourse and they are not being developed.

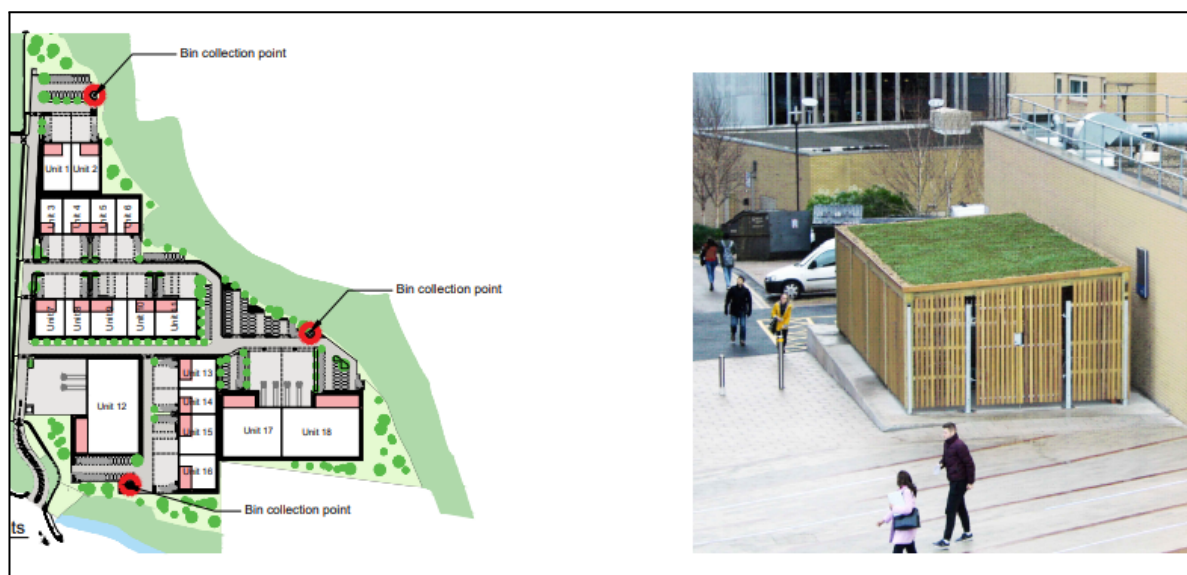
The submitted Flood Risk Assessment has found the site to be at 'low risk' from all sources of flooding; tidal, fluvial, pluvial, sewer, groundwater and artificial sources and there is no evidence has arisen in consultation to cast doubt on these conclusions.

Drainage Southern Water has confirmed that, in terms of foul water drainage, there is capacity to accommodate the proposed development. According to the map provided by Southern Water, an existing drain would pass beneath a car park in the new development, the applicant has confirmed that they are aware of this constraint and it has been factored into the design process.

In terms of surface water drainage, the site at present has no drainage and is therefore classified as Greenfield in drainage terms. Due to the former use of the site and the way it has been remediated, there is limited capacity for ground infiltration. Consequently, surface water will be collected in below ground attenuation tanks, with silt pits and petrol interceptors in the service yard to prevent contamination. This will then be subject to controlled outflow into Teville Stream via a flow control chamber, the flow of this discharge will discharge at an appropriate rate having regard to the need to avoid flooding.

The Local Lead Flood Risk Authority (LLFA) has queried whether rain gardens, permeable paving, swales or bioretention systems could be incorporated into the site as sustainable drainage features. In this case however the topography of the site and limited area of development make such features technically difficult to implement without significantly compromising the development potential of the site. The

applicant has proposed additional rainwater harvesting and Green roofs above ancillary buildings which would help manage surface water on site and reduce run off.



**Fig VI - example of a similar bin store to that proposed, with a green roof.**

A full, detailed sustainable drainage system would need to be submitted to the Council in response to a planning condition. This will need to be supported by accurate and up to date information on the greenfield runoff rates so that appropriate surface water storage is integrated into the scheme, addressing the comments received from the LLFA. However, sufficient information has been submitted at this stage to demonstrate that the proposal complies with local and national planning policy relating to sustainable drainage.

In conclusion, the proposal is acceptable in terms of its impact on flood risk and drainage. It complies with the relevant parts of the National Planning Policy Framework, as well as policy 15 of the adopted Local Plan and policy DM20 of the emerging Local Plan.

### ***Trees and Landscaping***

The site currently comprises various trees and scrub. Some of this would be cleared, and some retained in the proposed development as part of the proposed landscaping arrangements. A total of 14 trees are to be removed to facilitate the proposed development, including one Sycamore (B2) two graded as C1 (Hawthorn and Ash). 20 trees will be retained, including two trees which are the subject of a Tree Preservation Order.

To compensate for the loss of existing trees, significant pockets of woodland planting will occur across the site, at various points along the southern, eastern and northern boundaries. This would comprise native species tree and shrub planting at 2 metre centres with woodland seed mix. Upon maturity this would represent a significant betterment over the existing position and increase the tree cover across the site, and will also help to screen the development in longer views from the Sompting Gap.

The woodland planting will occur as part of a wider landscaping strategy which covers the perimeter of the site and also comprises flowering lawn, wildflower meadow, woodland wet areas and native shrub planting. The landscaping strategy has been informed by the topography of the site and the underlying ground conditions, as well as the broader relationship with the built environment.

### **Contaminated land**

The National Planning Policy Framework states that planning decisions should ensure a site is suitable for its proposed use taking account of ground conditions and risks arising from contamination. Policy DM21 of the emerging Local Plan states that development must not have an unacceptable impact on the quality and potential yield of local water resources, and Policy DM22 states that development should not result in pollution or hazards which prejudice the health and safety of the local community and the environment, including nature conservation interests and the water environment.

Extensive studies of the environmental condition of this site have been carried out and are evidenced in the contaminated land assessment provided with the planning application. These note that a significant amount of voluntary remediation has taken place to the site which concluded in March 2021, and has been subsequently confirmed in a verification report. Investigative works are ongoing in the remaining areas which were occupied in the voluntary remediation of the site. A remediation strategy has been prepared in relation to the site, the implementation of which can be secured by way of a planning condition.

The site falls close to the Tarrant Chalk Member Principal Aquifer and there is a low to moderate risk of harm to this as a result of piling works associated with the construction of the proposed development. The Environment Agency is satisfied that the risk levels are such that the impact on this environmental feature can be controlled by way of a planning condition.

The proposed industrial use is considered to be the most appropriate use possible of the site given its history and the constraint imposed by its previous use as a landfill site. The proposed planting and biodiversity enhancements being realised by the proposed development will significantly improve the overall environmental condition of the site. Overall it is considered that the proposal complies with planning policies that relate to contaminated land. Any residual risks arising from contaminated land can be managed through planning conditions and this approach has been agreed with relevant stakeholders, including the Environment Agency. The former use of the site should not constrain its future development as envisaged in this planning application.

### ***Biodiversity***

A large part of the existing site consists of artificial surface which has no biodiversity value. The boundary habitats comprise wet woodland, neutral grassland and mixed shrub. The wet woodland would be largely retained, as would part of the mixed shrub.

The proposals would provide around 0.66Ha of wildflower grassland, around 0.41Ha of native shrub planting and around 0.45Ha of woodland planting to the site margins. This would support a varied habitat structure, suitable for supporting a range of species. The main body of the development provides around 1.7Ha of trees, 0.13Ha of introduced shrub planting and 0.02Ha of amenity grassland, together with around 0.66km of native, species rich hedgerow. There are also significant areas of flowering lawn within amenity grassland and shrubs with a recognised wildlife value.

The submitted biodiversity net gain assessment, prepared by Lizard Design and Ecology, concludes that the combination of retained habitats with the new habitats being delivered would result in an overall biodiversity net gain of 34.21%. These environmental enhancements would be secured in the planning permission including by planning condition, where appropriate.

The proposal has been informed by extensive surveys regarding the existing wildlife, including protected species that occupy the site. The environmental statement concludes that the overall impact on these species will be negligible as a consequence of the development.

Overall the proposal is considered to be acceptable in terms of its impacts on ecology and biodiversity. It complies with the requirement, set out in the National Planning Policy Framework, to minimise impacts on and provide net gains for biodiversity. The improvement to the ecological condition of the site is a consideration that weighs in favour of the proposed development.

### ***Other Issues***

The Fire service have been consulted on the application. They have not objected but require fire hydrants to be provided in the estate. This is a matter that can be dealt with by way of planning conditions.

### ***Legal Agreement***

Whilst the majority of matters can be dealt with by way of planning conditions, there is a requirement for a financial contribution towards off site highway improvements in Dominion Road identified in the Transport Assessment supporting the Local Plan. Negotiations are continuing with the Highway Authority in connection with the size of any contribution and Members will be updated at the meeting. Any financial contribution would be required via a planning obligation and the option of a Unilateral Undertaking is being explored with the applicant to address this matter.

### **Conclusion and Recommendation**

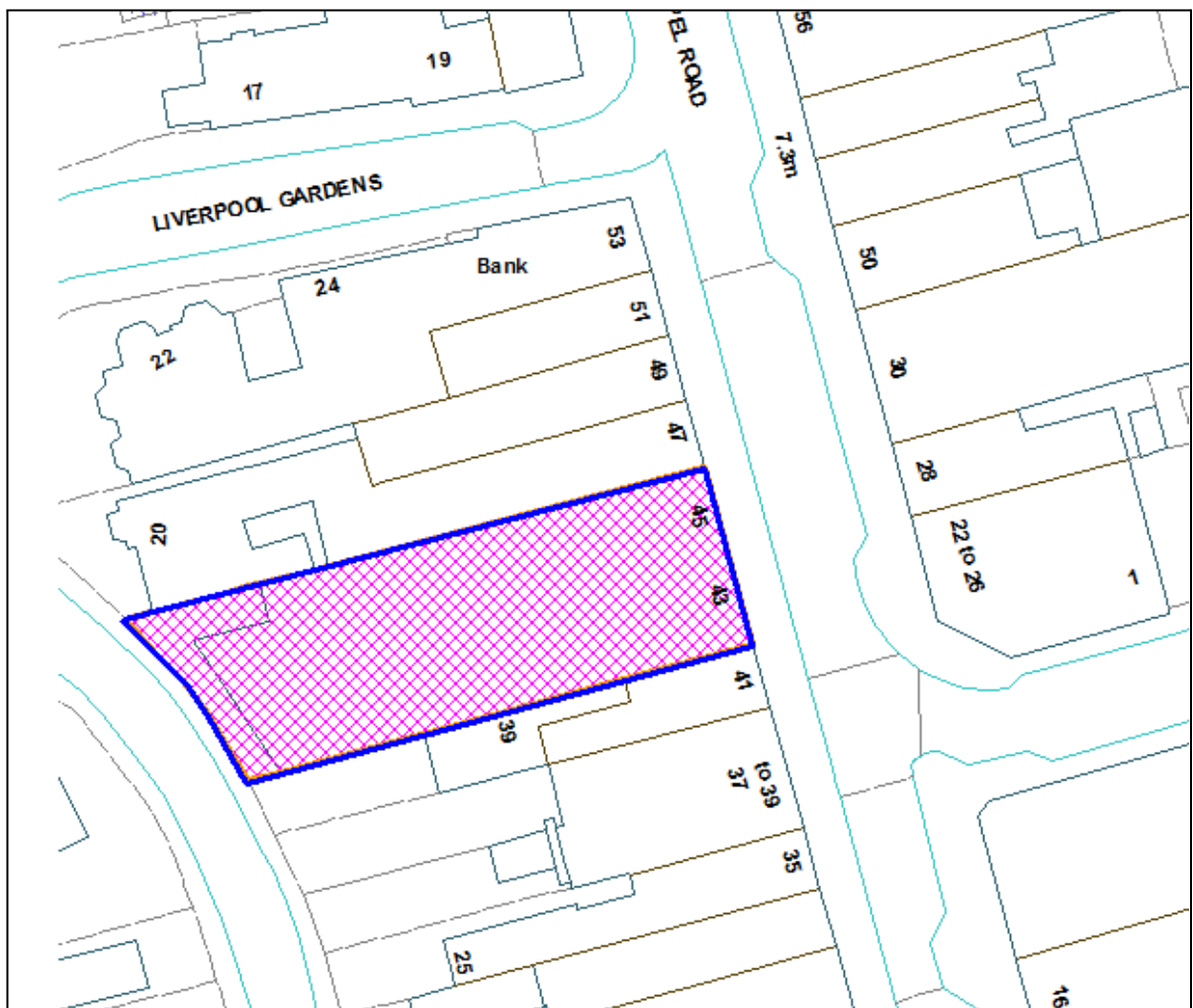
The proposed development would provide a significant amount of new employment floorspace, with economic benefits. It would find a sustainable long term solution for this former landfill site and its environmental condition would be enhanced. Any harms have been satisfactorily mitigated through the design process. The proposal is therefore considered to comply with the Development Plan and emerging Local Plan and is therefore recommended for approval subject to conditions and a planning obligation.



**Approve, with the decision delegated to the Head of Planning and Development to await the satisfactory comments of National Highways and the SDNP and the completion of a planning obligation to secure off site highway improvements and the following conditions:**

1. Development in accordance with approved Plans.
2. Standard Time Limit .
3. Details of Phasing to be submitted ensuring completion of access road and strategic landscaping prior to commencing phases 2 and 3.
4. Restrict uses to that applied for (E (g(iii)), B2 and B8 Uses).
5. Details of boundary treatment to adjacent land.
6. Submission, approval and implementation of a travel plan.
7. Construction Management Plan.
8. Maximum noise levels set at the boundary of the site (as recommended by ES and Env Health Manager).
9. Completion of off site highway improvements prior to commencement of phase 2.
10. Site Access - implementation prior to occupation.
11. Installation of fire hydrants.
12. Fire service vehicle access requirements .
13. Details and implementation of petrol and oil traps/gullies on hardstanding.
14. Details of foul and surface water drainage.
15. Details of on-site green roofs and rainwater harvesting.
16. Implementation and management of drainage system prior to occupation.
17. De-watering of perched water encountered during construction.
18. Piling.
19. Remediation of each individual phase.
20. Verification report.
21. Monitoring and maintenance in relation to contamination.
22. Previously unidentified contamination.
23. Replacement tree planting.
24. Landscaping plan.
25. Retention of landscaping.
26. BREEAM very good.
27. Detail of energy reduction and renewable energy measures.
28. CEEMP.
29. LEMP.
30. Biodiversity enhancements to achieve a net gain.
31. Tree Protection Plan
32. Boundary Treatment including to Dominion Way and the waste recycling tip.
33. Lighting Plan.
34. Estate management plan dealing with the security of common parts.
35. Detailed design of shared pedestrian and cycle path through the site.

Application Number:	AWDM/1483/22	Recommendation - Approve - subject to completion of a planning obligation.
Site:	45A Chapel Road, Worthing, BN11 1EG	
Proposal:	Change of use of the first and second floors from restaurant and HMO to 11 no. residential units and construction of a third floor with 2no. residential units with terrace at first, second and third floors.	
Applicant:	Mr Victor Hang	Ward: Central
Agent:	Saville Jones Architects	
Case Officer:	Jo Morin	



**Not to Scale**

Reproduced from OS Mapping with the permission of HMSO © Crown Copyright Licence number LA100024321

## Site and Surroundings

The application relates to the upper floors of a 3-storey, mid-terrace building fronting the west side of Chapel Road and backing onto Liverpool Road to the rear. The upper floors are currently in use as a restaurant and kitchen on the first floor, with a further restaurant dining area, ancillary offices and an HMO on the second floor. The restaurant is accessed via a lift/stairs from Chapel Road. The restaurant kitchen and HMO are accessed (via lift/stairs) from Liverpool Road. The ground floor (Nos 45 and 43) is subdivided into 2 no retail units and does not form part of the application.

The front component of the building facing Chapel Road has a rendered elevation in a Art Deco style with large window openings and decorative front parapet with flat roof behind. The front facade is set back from the road and the ground-floor shop units below with a first-floor terrace enclosed by glazed balcony screening. The larger rear building component is mostly constructed in brick other than the central core of the second-floor which has glazed 'ribbon' windows to the North and South elevations and a shallow pitched roof covered in corrugated sheeting. The remaining rear part of the building has a parapet flat roof at 3-storeys. The rear elevation is dog-legged with the North side recessed, having a narrow concrete forecourt in front served by a vehicle access off Liverpool Road.

The front of the application property onto Chapel Road is adjoined on either side to the North and South by 3-storey Victorian, pitched-roof terraced buildings. The upper floors of these neighbouring buildings are also set back behind shallow 'bungalow' shop frontages at ground-floor, on the same alignment as the application property, but with characteristic projecting first-floor or double-height bay windows. These traditional terraced frontage buildings have a notably shallower span or depth than the application property, typically with a 2-storey rear offshoot or 'outrigger'. To the south, the 2-storey rear offshoot at No.41 has been enlarged by a deep 2-storey pitched-roof extension leaving a narrow gap between its northern flank wall and the south side elevation of 45/45A. The ground-floor of No.41 is in commercial use with a maisonette on the upper upper floors of the main frontage building accessed via the deep rear extension and external stairs from Liverpool Road.

To the North, Nos 47-49 Chapel Road has been substantially enlarged at the rear by ground and first-floor extensions virtually infilling the plot with a narrow gap remaining at first-floor alongside and parallel to the North elevation of the application property. The ground-floor of Nos 47-49 is a restaurant 'Mangiamo', with residential flats above (Angel Apartments). Also adjoining the site to the North (to the west of 47-49 Chapel Road) is 20 Liverpool Gardens, a detached, 2-storey, Victorian villa in use as a dental surgery. It has a deep 2-storey off-shoot on the North side of its rear elevation, and a single-storey off-shoot on its South side; the latter attached at ground-floor to the North side of No.45.

Opposite the site, on the corner of the junction of Liverpool Road with Liverpool Gardens, is 18 Liverpool Gardens, a detached 2-storey Victorian stuccoed villa in business use.

The site is located within the secondary zone of the Central Shopping Area and the Chapel Road Conservation Area. The rear part of the site is located within the Liverpool Terrace/Liverpool Gardens Office Area.

## **Proposal**

Following amendment, permission is sought for the change of use of the first and second-floor (removing the existing corrugated pitched roof) to create 11 residential flats, and construction of a new in-set third-floor roof extension to provide 2 flats (13 flats in total). Solar PVs are proposed on top of the roof extension with the outer edges of the remaining flat roof used as amenity terraces enclosed by glass balustrading. Alterations to the existing building includes the formation of openings on the South side to form 8no recessed, enclosed balconies with decorative brickwork screens. Cycle stores would be provided internally at first-floor adjacent to the lifts, with a galvanized steel bin store constructed on the recessed, rear forecourt onto Liverpool Road.

The application is supported by a Planning and Heritage Statement by Saville Jones Architects and a Noise Impact Assessment by Anderson Acoustic July 2022.

## **Relevant Planning History**

WB/03/0784/FULL Change of use of first floor and partial change of use of second floor from A1 to A3 with part of area on second floor used as ancillary staff accommodation. Permission granted 14.08.2003.

## **Consultations**

### ***West Sussex County Council:***

The **Local Highway Authority** (LHA) has raised no objection, commenting:

#### ***"Site Context and History***

*The access onto the application site is located on Chapel Road, an adopted public maintained highway. The LHA would view said road to be set within an urban setting. The said highway is subject to a 20-mph speed limit. No current speed survey data is located within a reasonable distance of the access that would state otherwise. In terms of design parameters, the LHA consider the parameters of Manual for Streets (MfS) as guidance.*

#### ***Parking and Sustainability***

*The application has been supported with a NIL parking provision. The LHA appreciates that highstreet scenes, similar to this one historically receive little to no benefit of vehicle parking and have operated in such a way with little to no hindrance of the operations of the Public Highway, utilising both public transport and public car parks. The application site is no different, with public transport within close proximity and a range of shops and public amenities, the LHA believes that current or future occupiers of the development would not be reliant on the use of the private motorised vehicles. The LHA also notes that the existing restaurant and HMO use*

*under WSCC parking guidance has the potential to generate the need of 224 spaces whilst the proposal would only generate the need for up to 25 spaces*

*With the above considered and the applicant not clearly stating their intentions regarding sustainable travel to include cycle parking [sic], the LHA would advise that if the LPA deem necessary, cycle parking should be provided in conjunction with MfS and WSCC sustainable travel guidance. Details of which can be secured with a suitably worded condition found below.*

### 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."*

In the event of approval the LHA recommends the following condition:

### Cycle Parking

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

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

**WSCC Fire and Rescue Service:** Having viewed the plans for the planning application no. CR/2022/0449/CND for the change of use of the first and second floors from restaurant and HMO to 11 no. residential units and construction of a third floor with 3no. residential units with terrace at first, second and third floors; evidence is required to show that all parts inside all flats are within 45 metres of a fire appliance as identified in Approved Document – B (AD-B) Volume 1 2019 edition: B5 section 13. This is to be measured along the hose lay route and not in a direct line or arc measurement. Any areas not within this distance will need to be mitigated by the installation of domestic sprinkler or water mist system installed to BS9251 or BS8458 standard. This will either extinguish a fire or suppress a fire long enough for the Fire Service to prepare the additional equipment require to reach the property.

**Lead Local Flood Authority:** WSCC in its capacity as the Lead Local Flood Authority (LLFA), has been consulted on the above proposed development in respect of surface water flood risk. A proportionate Flood Risk Assessment and Drainage Strategy should be submitted on the basis that surface water risk is modelled as low-moderate and groundwater as low. Please consult the District [Borough] Drainage Engineer.

### **Southern Water:**

The existing building lies over an existing public foul sewer. If the works to be carried out will alter the existing foundation line or depth or the structural load applied on the sewer it will be necessary for the applicant to contact Southern Water. It is possible

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

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

In situations where surface water is being considered for discharge to our network, we require the below hierarchy for surface water to be followed which is reflected in part H3 of the Building Regulations. Whilst reuse does not strictly form part of this hierarchy, Southern Water would encourage the consideration of reuse for new developments:-

- Reuse
- Infiltration
- Watercourse
- Storm sewer
- Combined Sewer.

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

The **Environmental Health Officer** has no objection in principle, commenting:-

*“The main areas of concern is the Chapel Road facade, where there are big areas of glazing overlooking the road and close to nearby licensed premises and Bedroom 2 of Flat 12 that has a bank of Air Source Heat Pumps (ASHPs) a couple of meters from the bedroom window.*

*The acoustic report leaves the ventilation strategy open to the developer as this has not been finalised yet but leaves three options open for consideration. System 1, background ventilation with intermittent mechanical ventilation. System 3, continuous mechanical ventilation with trickle ventilation and System 4, mechanical ventilation with heat recovery. It also suggests that separate overheating advice should be sought for those properties that require windows to be kept closed.*

*For the more exposed residential units facing Chapel Road I would recommend the MVHR system. This will provide the residents with more protection against noise and would negate the need to open windows at sensitive times. Systems 1, 3 or 4 would suffice for the other residential properties.*

*With regards to bedroom 2 of Flat 12, I think they are going to struggle to meet the maximum plant noise criteria set out in the acoustic report of 40dB(A). You have the combined noise of the three units plus reflected sound of hard surfaces in close proximity to this noise sensitive room. I suspect that this can be overcome by installing fixed glazing on this facade as this room can be ventilated naturally on the western facade. I would need to see the noise data for these ASHPs but I do not anticipate these to be of concern to any nearby residential property.*

Noise can be managed but glazing, ventilation and the overheating assessment needs to be agreed once finalised. This can be conditioned.

*The sound insulation between the commercial and the new residential property is satisfactory and there is scope to improve this insulation depending on what the final use of the ground floor property is."*

The **Private Sector Housing** team has no objection.

The **Conservation and Design Architect** comments:

*"The terrace along the eastern side of Chapel Road was originally built as residential bay fronted buildings, post 1840. The current building was erected sometime between 1932 and 1943, where previously 3 of the terraced houses had stood. This building therefore has a bigger footprint than its neighbours and extends deeply into its site in contrast to its neighbours to the south. This new building was being used as the John Perring furniture shop in 1949.*

*This building is situated within the Chapel Road Conservation Area, where the Chapel Road elevation is identified as a positive contributor, whilst the tail end of the building facing onto Liverpool Road is identified as a negative contributor to the character and appearance of the area.*

*The current application includes alterations to the rear south facing elevation and a new recessed top floor. Due to the scale and current massing of the rear section of the building, it is currently out of character with its neighbouring buildings. The poor fenestration of the southern elevation adds to its utilitarian appearance. The proposed scheme would enliven this elevation, whilst the new top floor would only marginally increase the visible mass. In the circumstances, the proposals would preserve the current character of this particular building."*

**Technical Services:** The Engineer has commented as follows:-

Flood risk: The application is within flood zone 1, and is shown to be at low risk from surface water flooding. We therefore have no objection on flood risk grounds.

Surface water drainage: The application does not include an increase to the impermeable area. We have no conditions to request. Any alterations to surface water drainage must be designed and constructed in accordance with building regulations.

**The Worthing Society:**

*'We do not object to the principle of residential development on the upper floors of this building, or to its limited extension at roof level. However, the roof extension proposed would be very large and prominent in the street scene in Liverpool Road and Liverpool Gardens. Its prominence would be emphasised by the proposed zinc cladding, even though this would eventually weather down to a light grey colour. We consider that the proposed extension needs to be set back much further from the edges of the building, in order to reduce its visual impact, and that an alternative*

*cladding material should be considered. We also object to the proposed angled photovoltaic panels that would be affixed to the roof. These would be seen in long views and would increase the visual harm that the extension would cause. If photovoltaics are considered necessary, we consider that the panels should be positioned horizontally, reducing their prominence with no great loss to their generating capacity. Overall, we consider that the proposal would amount to overdevelopment and that it would cause significant harm to the street scene and to the Conservation Area.'*

## **Representations**

1 representation in support of the application has been received from local residents commenting that Worthing needs new homes and these look like large, quality new homes with cycle storage. We particularly like the replacing of the existing ugly, industrial, corrugated roof with a smart, more tasteful roof which we will see from street level as we live in the vicinity. The change may reduce noise and traffic pollution to the existing restaurant. All in all, it looks like this project will provide a positive contribution to Liverpool Road.

## **Relevant Planning Policies and Guidance**

Saved Worthing Local Plan (WBC 2003): Policies H18, TR9, S10, RES7  
Worthing Core Strategy (WBC 2011): Policies 6, 7, 8, 10, 16, 19  
Supplementary Planning Document (WBC 2012): Space Standards  
Supplementary Planning Document (WBC 2015): Developer Contributions  
National Planning Policy Framework (HCLG 2021)  
National Planning Practice Guidance  
West Sussex County Council 'Guidance on Parking at New Developments' (WSCC 2020)  
Submission Draft Worthing Local Plan (as Modified): SP1, SP2, DM1, DM2, DM3, DM5, DM13, DM15, DM16, DM17, DM22, DM24

## **Relevant Legislation**

The Committee should consider the planning application in accordance with:

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

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

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



## **Planning Assessment**

### ***Principle***

The policy context consists of the NPPF and the local development plan which at the time of writing comprises the saved policies of the Worthing Local Plan (2003), and the Worthing Core Strategy (2011). The modified version of the new Worthing Local Plan currently carries substantial weight in the determination of planning applications having been found to be 'sound' by the Inspector following independent examination.

The National Planning Policy Framework (NPPF) has considerable status as a material consideration which can outweigh development plan provisions if policies are out of date or silent on a relevant matter. In such circumstances paragraph 11(d) of the NPPF states that development should be approved unless it would cause adverse impacts which significantly and demonstrably outweigh benefits when assessed against NPPF policies overall, or if the NPPF affords particular protection to assets or areas of importance.

Paragraph 73 of the revised NPPF requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum 5 years' worth of housing against their housing requirement set out in adopted strategic policies, or against local housing needs where the strategic policies are more than five years old.

It is acknowledged that in response to the requirements of the Framework, and informed by local evidence, a 5 year supply of deliverable housing in relation to Objectively Assessed Need cannot be demonstrated. However, the Council recognises the Government's commitment to boost the delivery of new homes and a robust assessment of all potential opportunities has been undertaken as part of the new Local Plan. Despite taking a positive approach to development, the new Local Plan identifies that the delivery rate for housing will fall significantly below the levels of housing need identified.

Worthing Core Strategy Policy 7 aims to ensure that the right mix and type of housing is delivered in the right places to meet identified demand and that appropriate infrastructure is delivered. Worthing Core Strategy Policy 8 seeks to deliver a wide choice of high quality homes to address the needs of the community with higher density housing (including homes suitable for family occupation) in and around the town centre.

The new Local Plan sets out a spatial strategy that seeks to achieve the right balance between planning positively to meet the development needs of the Borough including by maximising appropriate development of brownfield land whilst continuing to protect and enhance the Borough's high quality built environment. This approach reflects national planning policy within the NPPF which states that planning policies and decisions should promote an effective use of land in meeting the need for homes while safeguarding and improving the environment and ensuring safe and healthy living conditions (Paragraph 119).

Saved policy S10 of the Worthing Local Plan (2003) seeks to resist the loss of ground-floor retail and retail-related uses within the Secondary Area of the Central Shopping Area, but does not apply to upper floors. There are no planning records relating to the existing HMO accommodation on the second-floor of the building (although it is understood to be licenced). The floor area in question was approved as ancillary staff accommodation by the planning permission granted under WB/03/0784/FULL and it is unclear when the change to HMO accommodation took place, or whether it has since become lawful in planning terms through the passage of time. Policy DM1 in the new Local Plan seeks to resist the loss of existing (Class C3) residential use. It goes on to state that applications involving the conversion of HMO accommodation will be considered on their merits.

There is no objection in principle to a residential development of this town centre site involving the loss of the existing restaurant and HMO on the upper floors to provide a mix of 1, 2 and 3-bedroom self-contained residential dwellings (Class C3). The key considerations raised by the application are the effects of the development on the character and appearance of the area, including the historic environment; the living conditions and residential amenities of future and neighbouring residential occupiers; affordable housing; sustainability; and transport and highway safety matters, which are considered below.

### ***Visual Amenity and Effect on the Conservation Area***

Policy DM2 of the new Local Plan states that proposals must make the most efficient use of land, which will usually mean developing at densities above those of the surrounding area with the optimum density of a development resulting from a design-led approach to determine the capacity of the site. It states that particular consideration should be given to the site context and character of the surrounding area, including heritage assets; accessibility by walking, cycling and public transport; the need to achieve high quality design and the need to minimise environmental impacts, including harm to the amenities of adjoining occupiers.

Although of a different architectural period to its immediate neighbours in Chapel Road, the front facade of the application building assimilates well within its context and makes a positive contribution to the character and appearance of the Chapel Road Conservation Area. On the other hand, the large scale, footprint, 'bulk' and massing of the rear part of the building is anomalous in relation to the more modest scale and traditional form and layout of its Victorian neighbours and dominates views of Liverpool Road. Although the fenestration and detailing of the rear (west) elevation of the building is not in itself unattractive, the somewhat oppressively utilitarian form and 'bulk' of the building is particularly exposed to views from the south in Liverpool Road owing to the lack of adjoining frontage development on this side. The shallow pitched roof second-floor component of the building is visible to the north from Liverpool Gardens, above the frontage buildings at Nos 22-24.

The front (east) of the proposed roof extension would be set well back from the Chapel Road elevation by some 8.5m and would not be visible in view at street level.

Concerns were initially raised by officers and also the Worthing Society that the additional mass of the roof extension, albeit set-in from the outer walls, would further

emphasise the anomalous scale and 'bulk' of the building and its discordant appearance in the context of both Liverpool Road and Liverpool Gardens; its visual dominance and somewhat 'heavy' appearance accentuated by the use of zinc cladding.

The Applicant has responded to these concerns by slightly reducing the footprint of the roof extension (also reducing the number of proposed units from 14 to 13), increasing the gap between the western and southern edges of the building by approximately 0.5m, to 2.8m and 1.8m respectively, and setting-in the lift shaft by a further 0.15m from the northern edge. The roof height of the extension has been reduced by 0.4m and the initial design of the roof 'overhang' replaced with a more lightweight 'brise soleil'. In response to concerns about the zinc cladding and in order to help achieve a more 'light and airy' appearance, the external cladding has been replaced with glass rainscreen cladding which could be a 'milky' white or light blue to merge with the skyline. The angle of the solar PVs on top of the roof has been lowered to minimise their visual impact.

The glass balustrading enclosing the roof-top terraces will need to be 'frameless' in design to ensure a complementary lightweight appearance.

The formation of larger window openings and recessed balconies into the south flank of the building would 'enliven' exposed views of this side of building. Perforated brick screens partially enclosing the face of the recessed balconies have been introduced, initially in response to concerns about overlooking, but would also be an attractive detail that would add visual interest. It is considered the treatment of this elevation would enhance the exterior of the building, compared to its existing stark and incohesive 'back end of building' appearance.



*View from South - CGI*

On the whole it is considered the amendments to the scheme have satisfactorily addressed concerns about the visual impact of the additional mass of the roof extension and the Council's Conservation Architect is satisfied that the development would preserve the character of this building and would not harmfully detract from the character or appearance of the Chapel Road Conservation Area.



*View from West - CGI*

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

As amended, the proposed accommodation would consist of 2no 1-bedroom units and 1no 2-bedroom unit on the first-floor; 4no 2-bed and 1no 1-bedroom duplex units over the first and second floor; 2no 1-bedroom units and 1no 2-bedroom unit on the second-floor and 2no 3-bedroom units on the third floor.

The Gross Internal Area (GIA) of all the apartments either meets or exceeds the minimum floorspace standards set out in the Government's so-called National Described Space Standards. In all but one case (Unit 7) the relevant minimum space standard would be exceeded by between 7-26 sqm.

Flat 2 (first-floor) and Flat 10 (second-floor) would have a solely south-facing aspect. Flat 7 (first-floor), Flat 11 (second-floor) and Duplex 8 would have a solely east-facing aspect towards Chapel Road. All of the other apartments would have either a dual, or in the case of Flat 13, a triple aspect.

Eight of the proposed apartments would be provided with an area of private external amenity space utilising the existing first-floor terrace fronting Chapel Road (for Unit 7 and Duplex 8), plus forming 8no recessed, enclosed balconies (over the first and second-floor) for Duplexes 3, 4, 5, and 6 and the creation of generous roof terraces for the roof-top units (Flats 12 and 13).

The application is supported by a Noise Impact Assessment based on a noise survey undertaken on the site over a 5-day period, and provides guidance on mitigation measures necessary to provide an acceptable internal and external noise environment for future occupiers taking account of noise from nearby roads and commercial premises, including the impact of noise from patrons and amplified music from nearby bars and pubs and the ground-floor retail unit.

The Report identifies that the external building fabric should be sufficient to control external noise ingress to habitable spaces providing the glazing meets the sound insulation performance specified. This performance value varies according to the ventilation strategy that will be adopted, and which is yet to be finalised. Alternative ventilation strategies are considered in the report, based on either background ventilation with intermittent mechanical ventilation (System 1), continuous mechanical ventilation with trickle ventilation (System 3) or mechanical ventilation with heat recovery (System 4). The Council's EHO recommends that for the more exposed units fronting Chapel Road (7, 11 and Duplex 8) MVHR (System 4) should be used in order to effectively protect the occupiers from noise and to negate the need to open windows at sensitive times (i.e. Summer evenings and night-time before pub closing times). The Council's EHO is satisfied that ventilation systems 1, 3 or 4 would suffice for the other units although it is noted that paragraph 6.13 of the Planning, Heritage and Design Statement confirms that *all* units will be provided with MVHR (System 4).

A bank of ASHPs is proposed on the roof adjacent to the lift/service component on the north side of the roof extension and adjacent to the north elevation of Flat 12. The EHO has questioned whether the noise plant criteria set out in the report will be met for Bedroom 2 (now Bedroom 3) of this unit owing to proximity of the plant to this north-facing bedroom window. However, the EHO considers this could be overcome by installing fixed glazing to the north-facing window bearing in mind this noise-sensitive room could be ventilated naturally by window and door openings shown on the west elevation.

In conclusion, it is considered external noise impacts can be managed to achieve a satisfactory living environment, but glazing, ventilation and an overheating assessment will need to be agreed as a condition of planning permission.

An assessment of the external private amenity spaces within the report identifies that noise levels on the eastern terraces fronting Chapel Road will be above the upper limit recommended by BS:8233. However, given the town centre location of the site where provision of external private amenity space is typically limited it is considered the benefits of access to outside space would outweigh the slight exceedance of exposed noise levels in this case. Noise levels for the other external amenity areas are expected to meet the recommended criteria.

With regard to the ground-floor commercial unit(s); it should be noted that these lie outside of the application site and that the range of permissible uses within Class E (retail, commercial and business uses) could include a broad range of potential future uses, including restaurants. The report considers 2 alternative options for the floor construction between the ground-floor and proposed first-floor flats, but given that potential future uses could include background music, or noisier activities than

those currently also extending into the evening, it is considered the higher performance specification stipulated would be appropriate in this instance and can be secured as a condition of planning permission..

### ***Residential amenity – effect on existing dwellings***

The most affected residential properties are those on the upper floors of the neighbouring buildings to either side.

#### Flat 2, 35 Liverpool Road

Planning records for the maisonette above No.41 show windows serving habitable rooms within the front and rear elevations of the main frontage component. The dwelling is accessed at first-floor through the deep rear extension and external stairs onto Liverpool Road (shared with the offices). A series of rooflight windows positioned on the north slope of the rear extension are split between the office accommodation and the entrance corridor leading to the maisonette. 3no narrow windows in the north elevation of the original rear off-shoot are shown to serve a shower room. Windows in the deep recess on the west elevation serve a kitchen/dining area on the first-floor and bedroom above. The living room at the front of the building on the first-floor adjoins the existing restaurant terrace.

Owing to the very close proximity, concerns were initially raised by officers about the effects of overlooking on the amenities of this occupier from the nearest recessed/enclosed balconies at first and second-floor level, serving Duplex 6. [There are currently window openings at first and second floor within the south flank of No.45A adjacent to this neighbour but they are blocked up internally.] Perforated brick screens have been proposed as a device to curtail the angle of view eastwards (towards the rear windows of the maisonette) when standing on the terrace, and to screen direct views of the above-mentioned shower room windows. Bearing in mind the windows and doors of the main habitable accommodation of Duplex 6 (and the other Duplexes) are recessed into the enclosed balconies by some 1.5m, it is considered the effects of overlooking from within the rooms and standing on the recessed terraces will not be so seriously intrusive as to warrant refusal on this ground.

Planning permission for the formation of the existing first-floor restaurant terrace fronting Chapel Road dates from 2010 (WB/10/0507/FULL), before permission was granted for the maisonette above No.41 in 2013. A condition of the planning permission prevents access onto the terrace between 11pm and 8am the following day. There is a glazed screen on the southern end of the terrace, but it does not appear to be obscured. Although road traffic and other noise on Chapel Road will not necessarily make this terrace particularly attractive as an amenity space, it can reasonably be anticipated that it will be used more intensively by future occupiers than at present. It is important that obscured privacy screening to a minimum height of 1.7m is erected on the south side of the existing terrace to prevent unneighbourly overlooking of the first-floor bay window serving the living room of the maisonette. This can be secured as a condition of planning permission.

#### 47-49 Chapel Road (Angel Apartments)

Planning records (AWDM/1409/17) show 3 residential flats on the first-floor at 47-49 (2 no with the main frontage building and 1 at the rear), and 2 on the second-floor within the main building. There are a number of window and door openings at first-floor on the south elevation of a flat-roofed infill extension facing towards the north flank wall of No.45A at a distance of approximately only 1.5m. Records indicate that these are the sole source of daylight and outlook to 2no bedrooms. Windows in the deep recessed main rear (west) elevation of the front building serve a bathroom at first-floor, and a bedroom on the second-floor.

The alterations to the central second floor of the building will raise the eaves height of this component by approximately 0.4m on the north side. The third floor roof extension is set-in some 3.6m from the northern edge of the building at this point with a shallow pitched-roof fall to the eaves. Given the very narrow separation gap it is unlikely this marginal increase in eaves height or additional mass of the set-in roof extension would have any significant impact on the receipt of light to, or outlook from the adjacent first-floor windows of Angel Apartments. The cill height of the proposed second-floor windows in the north-facing elevation (serving bedrooms in the Duplexes) have been raised and their width reduced in response to concerns about possible overlooking of the above-mentioned south and west-facing windows in Angel Apartments. Given the very narrow angle of view downward it is considered that overlooking would not result in any serious loss of privacy. The easternmost window (second-floor, north elevation) has been re-positioned further west, away from the adjacent west-facing bedroom window in the rear of Angel Apartments. The combination of the raised window cill height and direction of view (at 90 degrees to the affected window) is considered adequate to prevent unneighbourly overlooking.

As above, It is important that obscured privacy screening to a minimum height of 1.7m is erected on the north side of the existing terrace fronting Chapel Road to prevent unneighbourly overlooking of the first-floor bay window serving the main habitable living area of the nearest residential flat within Angel Apartments.

The proposed ASHPs are shown located in 2 separate banks on the existing rooftop towards the north side of the building. The Council's EHO does not anticipate noise emissions from the ASHPs to be a concern for neighbouring residential properties but will require details to be agreed as a condition of planning permission.

#### ***Accessibility and parking***

The site is sustainably located within the town with excellent access to a broad range of services and facilities, and within easy walking distance of bus stops in Chapel Road and South Street, and Worthing rail station.

There is currently no on-site parking provision and none is proposed. The Local Highway Authority has not raised any highway safety objection on this basis, noting that the parking demand generated by the existing restaurant and HMO use will be higher than for the proposed residential flats.



Two internal cycle stores are proposed on the first-floor, adjacent to the 2 no lifts, providing 15 no cycle spaces which exceeds the WSCC minimum guidance.

### ***Affordable housing***

The Council's Interim Policy Statement (August 2019) gives clarification of the application of Core Strategy Policy 10 and requires the provision of 20% affordable housing on sites of 10-14 dwellings (gross). Policy DM3(b) of the new Local Plan (as proposed to be modified) also requires 20% affordable housing on sites with the capacity to provide 10 or more units, indicating that affordable housing should be delivered on-site unless off-site provision for a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objectives for creating mixed and balanced communities. In this case, 20% would amount to 2.6 on-site units (rounded to 3) or an (index-linked) financial contribution of £218,622 in accordance with the Developer Contributions SPD (2015).

Having taken advice from the Council's Housing team, the Applicant's Agent has commented that it would be impractical for a registered provider to take on this small number of units within a private development, but has stated that the Applicant is willing to make the financial contribution in accordance with the SPD.

### ***Sustainability***

The proposed involves the reuse and refurbishment of an existing building which is innately sustainable in reducing pressure for development of greenfield sites and loss of habitat.

The Planning, Heritage and Design Statement confirms that the dwellings will be designed to achieve high levels of energy performance with a targeted reduction of 20% in CO2 emissions through implementation of the following measures:

- Exceeding the minimum fabric requirements of Approved Document L1A of the Building Regulations;
- Heating supplied to each apartment by ASHPs to low temperature radiators and underfloor heating;
- Thermal mass of existing concrete frame and masonry structure flattening peak demand for energy;
- All apartments provided with MVHR;
- Installation of latest optimised solar PV array on new flat roof;
- Recessed balconies and brise soleil to provide solar shading;
- All dwellings provided with 100% low energy lighting.

The proposal would meet the policy objectives for sustainable design and renewable/low carbon energy production set out in policies DM16 and DM17 of the new Local Plan (as proposed to be modified).

### ***Other issues***

The development is CIL chargeable.

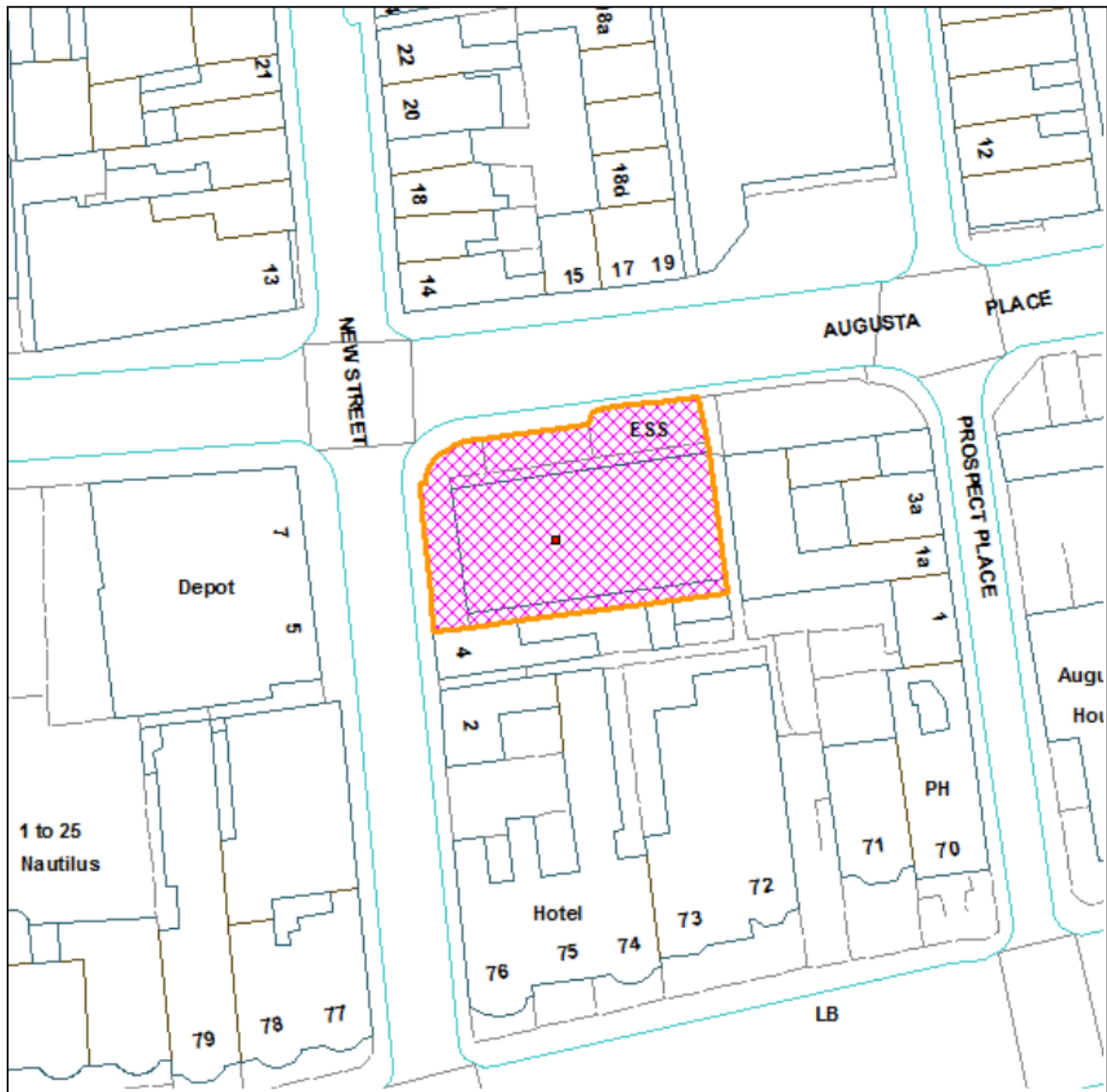


## **Recommendation**

**APPROVE:** with the decision delegated to the Head of Planning and Development to secure the completion of a satisfactory planning obligation undertaking to pay the index-linked affordable housing contribution of £218,622 and subject to the following conditions:

1. Approved Plans
2. Standard time limit
3. Agree and implement external materials and finishes.
4. Agree and implement architectural details including all windows/doors, balcony balustrading, perforated brick screens, brise soleil etc.
5. Agree and implement sound insulation scheme and associated ventilation and overheating strategy to protect future occupiers from external noise impacts
6. Agree and implement sound insulation scheme to protect future occupiers from internal noise impacts from ground-floor commercial premises
7. Agree noise mitigation measures for all fixed plant and equipment (inc. ASHPs)
8. Bedroom window on north side of Flat 12 to be fixed shut
9. Agree and implement obscure-glazed privacy screens not less than 1.7m high to north and south sides of existing first-floor terrace fronting Chapel Road
10. Implement cycle storage
11. Agree and implement bin storage
12. Agree and implement Construction Management Plan
13. Hours of Working
14. Agree and implement sustainability measures (inc. solar PVs) prior to occupation

Application Number:	AWDM/0408/22	Recommendation - REFUSE
Site:	6 New Street, Worthing (The Last Melon)	
Proposal:	Application to vary condition 4 of AWDM/0703/18 to allow the outdoor use of the forecourt with 24 covers from 10am to 10pm (last customers seated by 9pm)	
Applicant:	Mrs Carla Pankhania	Ward: Central
Agent:	Debbie Marriage	
Case Officer:	Gary Peck	



**Not to Scale**

Reproduced from OS Mapping with the permission of HMSO © Crown Copyright Licence number LA100024321

*This application was deferred at the November meeting of the Committee to consider the overall use of the premises in discussion with the applicant. The previous report is appended.*

## **Current Situation**

Following the November meeting, and in discussion between your officers and the applicant's agent, it was considered that the application description should be amended to refer to Condition 4 of the permission granted under reference AWDM/0703/18 which is the more recent permission relating to the application site rather than the 2005 permission referred to in the original application. The wording of the condition itself is the same and prevents use of the forecourt as an outdoor eating or drinking area:

*The forecourt of the building shall not be used as an outdoor eating or drinking area in connection with the approved use or any other use and no tables or chairs shall be placed in the forecourt.*

*Reason: To safeguard the amenities of the occupiers of the neighbouring properties in accordance with Worthing Core Strategy policy H16; the National Planning Policy Framework and the Sussex Noise Advisory document.*

The following additional information from the applicant in support of the application has also been submitted:

*We explained at the last committee the hardships we have encountered since we got the lease to 6 New Street in 2020 and why we opened as we did.*

*We explained briefly how the forecourt will help us transition from more of a bar to a restaurant. We will now explain our plans more thoroughly. We hope to be able to have tables and chairs outside from 10am to 10pm each day. In order to ensure that tables are cleared in time we will have last tables seated by 9pm and customers will be advised they must clear the outside by this time.*

*As shown in our application, we are looking to have 6 tables seating 2 people each, on either side of the front entrance, so 24 covers in total.*

*There will be no amplified music and no extra lighting. This can be covered in the re-worded condition 4.*

*We believe that outside seating will help us with our food sales tremendously. As explained in the last committee, even with extensive marketing and advertisement there are not many people that know we do food. Tables and chairs outside, with cutlery and menus, will let all passers by know that we are a restaurant and serve main meals. At the moment the exterior of the building is not very warm or inviting and gives the premises the look of a bar, which is not what we want for the business. By creating a friendly and attractive atmosphere with tables and chairs will not only advertise the fact that the building is a restaurant but will more importantly attract customers looking to eat.*

*There are so many other advantages to having these tables outside. If we have more customers looking for food then we would finally be able to afford more chefs and justify the need for them. More chefs means that we can offer a more extensive menu. This in turn will attract even more customers. It is a domino effect which will organically increase our food sales.*

*We have been trying to advertise our food for over a year with little success. It is heartbreaking seeing people walking to the front door of the business and ultimately leave in confusion as they don't know what we are.*

*We truly believe that this will be a real turning point for us. We will still have the measures in place we do now to control noise and nuisance. Security personnel will continue to be employed on busy evenings (as per our licensing requirements).*

*Our smoking area will still be maintained within the curtilage of the site, at the corner of New Street and Augusta Place. However, another positive of the tables and chairs is that, until 10pm, the smoking area will be people sitting at tables which is much more appealing than people stood by an ashtray. We feel that this variation would not be a nuisance to our neighbours but rather a step in the right direction; a win win for everyone.*

The applicant's agent further added:

*To manage the forecourt dining, the applicants are willing to seat new diners on the forecourt up to 9pm each evening. This will allow diners enough time to finish their meals before they have to move inside.*

*I put forward a suggested re-worded condition as follows:*

The forecourt of the building, shown outlined in red on dwg. 377/04, shall be used for seated eating and drinking between the hours of 10am to 10pm each day. There shall be no amplified music or external lighting on the forecourt without the prior approval of the local planning authority.

*In addition to this, if Members feel it necessary to monitor the operation of the forecourt for an initial period, then the condition can state that the use of the forecourt for seated eating and drinking will be permitted for a period of one calendar year from the date of the decision notice in the first instance.*

## **Reconsultation**

In light of the amended description and additional supporting information, reconsultation was undertaken with consultees and neighbours.

## **West Sussex County Council Highways**

Previous comments as set out in the appended report remain valid.

## **Environmental Health**

No objection

## **Further representations**

4 letters of objection have been received in respect of the additional information on the following grounds:

- the premises is still being advertised and primarily run as a bar advertising cocktails and karaoke
- there is already a lot of noise from the premises and people outside will exacerbate the problem
- a few tables outside will not signify that the premises are used as a restaurant
- seating area is directly next to the living accommodation of number 4 New Street, the tenants of which have had to endure noise and disturbance already from the premises.
- the premises could add more tables inside if they wanted a bigger restaurant offer rather than having such a large dance floor.

## **Planning Assessment**

At the previous meeting, members of the Committee requested more information regarding the overall use of the business premises. While the supporting information subsequently submitted is acknowledged by your officers, it is not considered that the overall conclusion reached in the last Planning Assessment can be altered on the basis of the information provided since the previous meeting.

It remains the case that the outdoor seating area is in very close proximity to neighbouring properties. The Committee particularly requested further information regarding the the overall use of the businesses but it seems quite clear that its predominant use is not as a restaurant currently and while a greater use of the outside area may encourage a greater balance between bar and restaurant than appears to be the case at present, this must be considered against the potential impact upon neighbouring properties. Were the use of the outside area complementary to an existing use of the inside as a restaurant, and the food offer greater than it appears to be currently, then it is possible that a different conclusion could be reached. However, given the apparent use of the premises at present, it is not considered there is sufficient justification to grant permission.

## **Recommendation**

### **REFUSE permission for the following reason**

1. The use of the area for seating by virtue of its proximity to existing residential properties is likely to result in an unacceptable level of noise and disturbance to nearby properties. The proposal therefore fails to comply with policy 16 of the Core Strategy and policies DM5 and DM13 of the Submission Worthing Local Plan 2021

## **APPENDIX - PREVIOUS COMMITTEE REPORT (November 2022)**

### **Proposal, Site and Surroundings**

This application seeks to vary condition 7 of the permission granted under reference WB/05/0225/FULL which stated: *The forecourt of the building shall not be used as an outdoor eating or drinking area in connection with the approved use or any other use and no tables or chairs shall be placed in the forecourt.*

*Reason: To safeguard the amenities of the occupiers of the neighbouring properties.*

In support of the information, the applicant's agent states:

*Outdoor dining on the forecourt will benefit the restaurant and the business in many ways. Firstly, by having diners visible to the public it will change the appearance of the premises from a cocktail bar to a restaurant, which will draw in more diners. It has always been the family's intention to operate a restaurant (they are in the restaurant trade), not a bar. Secondly, it will make a huge difference to the business, which has been struggling financially since they opened, allowing them to compete on an equal footing with other restaurants in the area that have outdoor tables and chairs. During the hot summer weather the restaurant has been extremely quiet, as diners understandably want to sit outside.*

It is further stated that during 2021 and 2022 the licensing restrictions on the premises were temporarily relaxed to allow alcohol to be sold without food. The supporting information goes on to state that having an outside seating area would put the business on a par with others in the area.

The application site is within the town centre of Worthing, on the corner of Augusta Place and New Street with the seafront a short distance to the south and Montague Street a similar distance to the north. It is located within the Conservation Area. The surrounding area is mixed in nature containing both residential dwellings and commercial uses. Directly to the south of the application site is a pair of residential cottages, with the nearest being separated from the application site by a narrow side access.

There are also residential cottages to the north while opposite the application site is a car workshop and associated car works.

The application building itself is detached and faces onto New Street and has a mezzanine floor. The forecourt is at the front (west) of the restaurant and wraps around to the front section of the side (north). The applicant states this is currently being used as a smoking area.

### **Relevant Planning History**

**WB/05/0225/FULL** - Change of use from retail to restaurant and alterations to implement the use. As well as the condition which is the subject of this application, the terms of the permission restrict the use specifically to a restaurant use (A3) and

trading hours from 8.00 am to midnight Mondays to Saturdays and 9am to 11 pm on Sundays and Bank or Public Holidays.

**WB/06/0648/FULL** - Variation of Condition 7 of planning permission WB/05/0225/FULL to allow use of the forecourt of the restaurant as an outdoor eating and drinking area in connection with the restaurant, with the provision of external lighting to west and north elevations and enclosed by timber balustrade.

Temporary permission was granted for 1 year (and so expired in 2007) subject to restrictions to limit covers to sixteen; use between 8am and 10pm; controls on lighting; no alcoholic drink without a meal and all meals consumed at tables, seated, no amplified sound or music; and no table or seat within 1.5 metres of No 4 New Street.

**AWDM/0202/17** - Variation of Condition 3 of approved application WB/05/0225/FULL, to change opening times to Monday – Thursday: 1 hour longer trading from 8.00 am – 1.00 am; Friday – Saturday: 2 hours longer trading from 8.00 am – 1.00 am; Sunday and Bank Holidays 1 hour longer trading from 8.00 am – 24.00 hrs. Temporary permission granted in 2017 (expired in 2018).

**AWDM/0703/18** - Variation of condition 3 of approved application WB/05/0225/Full for Food Restaurant for permanent planning permission for opening hours 8am to 1am Monday to Saturday and 8am to 12 midnight Sundays and Bank Holidays (as permitted temporarily under AWDM/0202/17). - Application permitted. The restriction upon the use of the forecourt was reimposed.

## **Consultations**

### **West Sussex County Council**

This proposal seeks the variation of Condition 7 of approved application WB/05/0225/FULL, to allow outdoor seating. The site is located on New Street, an unclassified road subject to a speed restriction of 30 mph.

The plans demonstrate an outdoor seating area, comprising 12 tables and 24 chairs. The proposed seating area is located within private land and does not encroach into maintained highway boundary. In addition, from inspection of the plans and local mapping, the provision of an outdoor seating area is not anticipated to result in an obstruction to vehicular visibility in this location.

Whilst an increase in seating capacity may result in a slight material intensification of movements to and from the site, this is not anticipated to have a significant impact on the local highway network. The LHA acknowledges that the site is situated in a sustainable town centre location that is well connected by public transport and within walking distance of local car parks.

In 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.

### **Environmental Health**

My main concerns would be disturbance to local residences from the outside use of the forecourt. External seating is seasonal, its use coinciding with the good weather when residences want windows open for ventilation. In public spaces around the town where there is a mixture of commercial and residential premises, we restrict pavement licences to 10 pm and should permission be granted in this instance then I would recommend a similar 10pm curfew on the use of this seating. I would also request restrictions on the external playing of music in this area.

### **Representations**

14 letters of representation have been received objecting to the proposal on the following grounds:

- increase noise, traffic and anti social behaviour
- the premises has been used as a bar rather than a restaurant and is therefore already causing noise and disturbance
- there have been countless complaints arising from the use of the premises already
- much of the noise comes from the smoking area already which will be used for the seating so will exacerbate the problem
- an encouragement to sit outside will increase existing noise and disturbance

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

Worthing Core Strategy (2011):

Policy 3 Providing for a Diverse and Sustainable Economy, Policy 5 The Visitor Economy Policy 16 Built Environment and Design

Supplementary Planning Document 'Sustainable Economy' (WBC 2012)

Submission Draft Worthing Local Plan 2022

DM5 Quality of the built environment DM10 Economic growth and skills DM12 The visitor economy DM13 Retail and Town Centre Uses

### **Relevant Legislation**

The Committee should consider the planning application in accordance with:

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



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

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

## **Planning Assessment**

The main issue in the determination of the application is the impact of the proposal upon the character and appearance of the surrounding area balanced against the need to support an existing business.

As stated in the emerging Local Plan, in general, the Council will be supportive of proposals that seek to expand operations beyond the usual daytime economy into evening / night-time economic opportunities but careful consideration will be given as to the appropriateness of certain types of activities and operational hours. There is a need to ensure that any proposal does not lead to significant problems of crime, disorder and noise that would unacceptably impact on the amenity of those living and in the area. Accordingly, a careful balance is required between the needs of (and impacts on) local residents with the economic benefits of promoting an enhanced evening and night-time economy.

This is particularly the case in respect of this application given the building is in close proximity to a number of residential properties, many of whom have raised concerns about this application. Indeed your officers were already aware of neighbour concerns prior to the submission of the application which seemed to arise particularly when the premises was operating almost exclusively as a bar, albeit some of the noise and disturbance being caused was not necessarily exclusively as a result of this premises given there are other late night uses nearby. Nonetheless, it emphasises the conflict between mixed uses in a location close to the town centre.

A material consideration is the 2006 application which similarly sought to vary the condition and was granted a temporary permission for 1 year which was not renewed subsequently. It appears that the considerations during the determination of that application are still relevant now since permission was granted subject to a number of restrictions primarily ensuring that the outdoor tables were used only for customers eating a meal (and hence alcohol could not be served to the tables without a meal being eaten) and it was noted that a distance of 1.5 metres had to be maintained to number 4 New Street whose side wall directly adjoins the area in question. It could be argued, therefore, that a similar temporary permission could be granted subject to the similar restrictions.

However, the subsequent changes to the Use Classes Order which have generally relaxed the distinction between various use classes now makes the position less clear cut. In this case, the premises is restricted by the condition in question but it seems evident that it is still not being used as a 'restaurant' (as the supporting information attests) given the food offering in the evening, particularly, appears limited. In that respect, therefore, the previously imposed conditions in 2006 would

not appear to be relevant to the business as currently operating and accordingly the area would be used by customers primarily drinking. It is noted that while a condition restricting use of the area to no later than 10.00pm would be accepted, the website of the premises indicates that only tapas is served in the evenings and only until 9.00pm.

It is appreciated that the area in question is relatively limited in size and therefore the capacity of the outdoor seating area would be relatively limited, but the representations from neighbouring residents appear to indicate that any external use of the premises causes a degree of disturbance.

The application site is located within the Conservation Area. The concerns outlined above relate to the effect of the outdoor seating area on the amenities of neighbouring properties but it is not considered that in itself the proposal would cause harm to the special qualities of the Conservation Area.

Your Officers are concerned, therefore, that the proximity of the seating area to neighbouring residential properties means that it is a difficult site to satisfactorily accommodate an outdoor seating area. While there is a desire to support an existing business in such difficult times, on balance it is considered that the proposal would adversely affect the amenities of neighbouring properties to an extent that would harm their amenity.

## **Recommendation**

### **REFUSE permission for the following reason:**

01The use of the area for seating by virtue of its proximity to existing residential properties is likely to result in an unacceptable level of noise and disturbance to nearby properties. The proposal therefore fails to comply with policy 16 of the Core Strategy and policies DM5 and DM13 of the Submission Worthing Local Plan 2021

22 March 2023

## **Local Government Act 1972**

### **Background Papers:**

As referred to in individual application reports

### **Contact Officers:**

James Appleton  
Head of Planning & Development  
Town Hall  
01903 221333  
james.appleton@adur-worthing.gov.uk

Gary Peck  
Planning Services Manager  
Town Hall  
01903 221406  
[gary.peck@adur-worthing.gov.uk](mailto:gary.peck@adur-worthing.gov.uk)

Jo Morin  
Principal Planning Officer (Development Management)  
Town Hall  
01903 221350  
[jo.morin@adur-worthing.gov.uk](mailto:jo.morin@adur-worthing.gov.uk)

## **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.