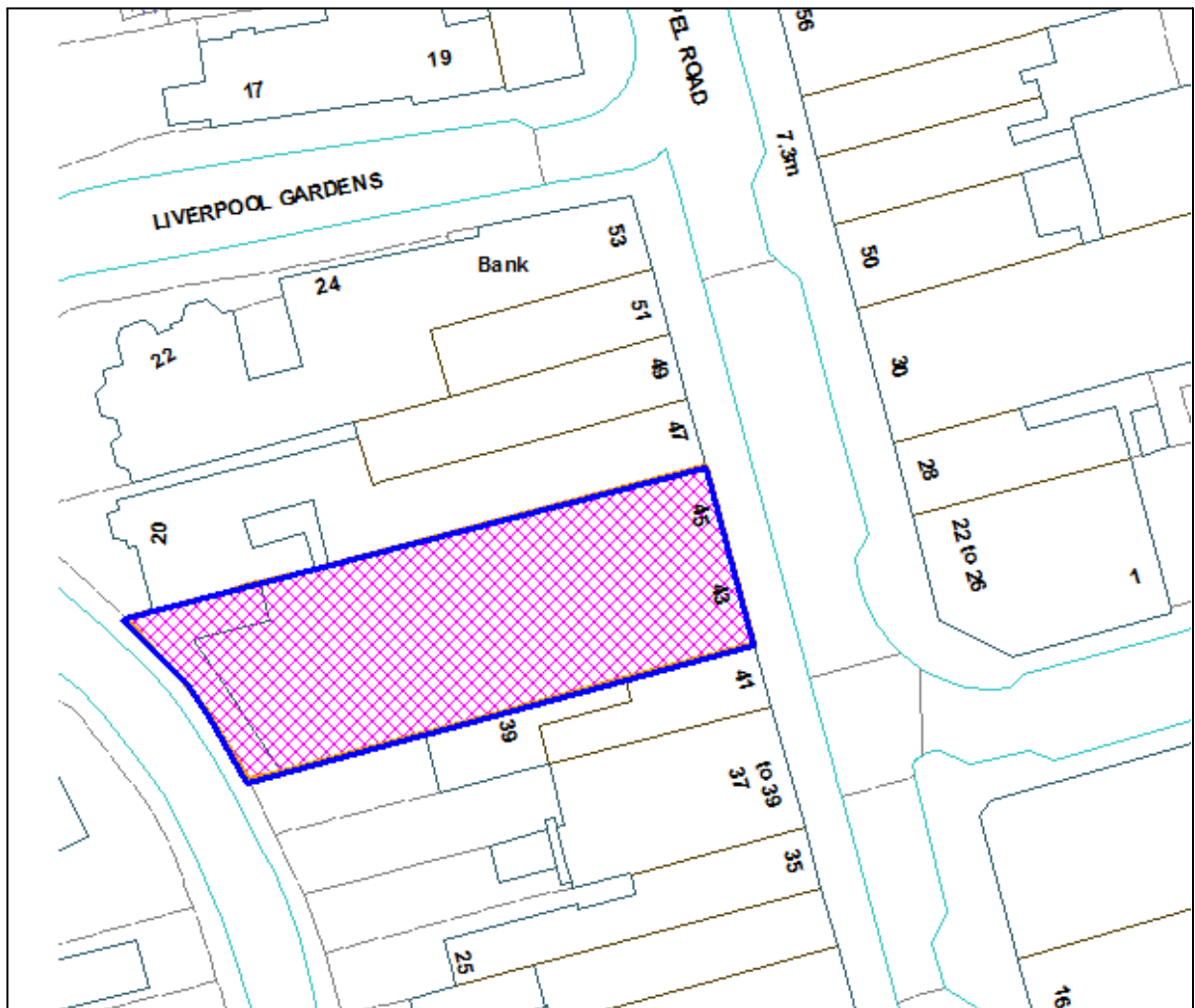


Application Number:	AWDM/1483/22	Recommendation - APPROVE
Site:	45A Chapel Road, Worthing, BN11 1EG	
Proposal:	Change of use of the first and second floors from restaurant and HMO to 11 no. residential units and construction of a third floor with 2no. residential units with terraces at first, second and third floors (13no in total).	
Applicant:	Mr Victor Hang	Ward: Central
Agent:	Saville Jones Architects	
Case Officer:	Jo Morin	



**Not to Scale**

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## Background

This application was reported to the Planning Committee on 22.03.2023 where it was resolved to grant conditional planning permission subject to the prior completion of a S106 legal agreement to secure a 20% affordable housing contribution in accordance with the Council's 'Developer Contributions' SPD (2015).

As set out in that report the Applicant initially agreed to make the affordable housing contribution.

The Applicant has subsequently instructed consultants (Adams Integra) to advise on the viability of the proposed development scheme. The submitted Financial Viability Assessment (FVA) considers sales values, build costs, professional fees and other costs (including CIL, marketing and finance) with a profit level of 20% (on Gross Development Value for the open market units).

The FVA has been carried out with 100% open market units. When the EUV (Existing Use Value) of £700,000 is input with all of the other assumptions, the appraisal results in a negative development value of minus £3,639,592.00. It is therefore argued that the scheme is not viable and would not be able to provide any affordable housing either on site or as a financial contribution.

An appraisal of the FVA by Adams Integra has been carried out by the Council's consultant, Dixon Searle Partnership (Extract - Summary Findings - Appendix A).

Whilst DSP have found the assumptions within the submitted FVA to be within the normal expected range, a number of adjustments have been made where assumptions have been queried or there is a difference of opinion. In particular, these relate to:-

- Benchmark Land Value: the scheme has been tested against a reduced BLV of £655,000.
- Development timings: the pre-construction period has been reduced from 15 months to 6 months.
- Gross Development Value: The GDV assumption has been increased by £815,000 to £4,285,000.
- Construction costs: Following checking by Quantity Surveyors MMA, build costs have been adjusted downward to the lower second opinion estimate.
- Sales and Marketing Costs: An assumption of 2.5% has been tested (reduced from 3%).
- Developer's Profit: A developer's profit of 17.5% on GDV has been tested (compared to 20%).

When the deficit of -£3,639,592 presented in the FVA is deducted from the target profit (20% of GDV), DSP has calculated that the scheme produces an actual loss of - £2,945,592. Applying the adjusted assumptions set out above to the submitted FVA (100% market housing) DSP has calculated reduces the deficit to -£2,662,066 and the loss to £1,912,191. Even so, DSP has concluded that there is no available surplus from which to provide affordable housing.

In seeking clarification from the Applicant's Agent on the reasoning for proceeding with a scheme that will make a net loss, and explanation as to why the submitted costs are so much higher than expected values, the Agent has commented:

*"Due to the reductions in apartments from the originally submitted scheme and requirements of more expensive cladding solutions within the conservation area the already marginal scheme is now not viable. The [submitted FVA] report clearly shows that the added encumbrance of an affordable housing contribution makes it impossible to finance, our client is awaiting the outcome of the revised proposal before moving forward."*

An application by the Applicant for alternative development scheme at the site (AWDM/1647/23) comprising change of use of part of the second-floor restaurant and offices to create 8 no residential units (i.e. retaining the first-floor restaurant and with no roof extensions) was granted conditional planning permission on 25.01.2024 (under the Officer scheme of delegation).

That aside, and irrespective that it has been concluded the proposed development would make a loss, the Applicant is seeking re-determination of the application.

## **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 terraces 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 required 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 metres 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:**

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**

Worthing Local Plan (2023): Policies SP1, SP2, SS1, SS3, DM1, DM2, DM3, DM5, DM13, DM15, DM16, DM17, DM22, DM24  
Supplementary Planning Document (WBC 2012): Space Standards  
Supplementary Planning Document (WBC 2015): Developer Contributions  
National Planning Policy Framework (HCLG 2023)  
National Planning Practice Guidance  
West Sussex County Council 'Guidance on Parking at New Developments' (WSCC 2020)

## **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***

Since the application was last reported to Committee in March 2023, the former local development plan comprising the saved policies of the Worthing Local Plan (2003), and the Worthing Core Strategy (2011) has been superseded by the adopted Worthing Local Plan (March 2023). [At that time the modified version of the Submission Worthing Local Plan was a material consideration of substantial weight and reported as such in the previous Committee report.]

Policy SS1 sets out the Housing supply over the period 2020-2036 and gives a total figure of 3672 (an annual target of 230 dwellings per annum).

Paragraph 76 of the NPPF states that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision-making purposes where:

- a) The adopted plan is less than 5 years old; and
- b) That adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.

Paragraph 77 goes on to state that where there has been a significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the Plan period).

The most recent housing trajectory and 5 year housing land supply for Worthing can be found in the Annual Monitoring Report 2022-23. Table 9 indicates the Five Year Supply measured against the adopted WLP annual target of 230 dwellings plus a 20% buffer, and demonstrates a 7 year supply of deliverable sites.

To maintain the supply of housing paragraph 79 of the NPPF requires local planning authorities to monitor progress in building out sites with planning permission. Where the Housing Delivery test indicates delivery has fallen below 75% of the local planning authorities housing requirement over the previous three years, the presumption in favour of sustainable development applies, in addition to the requirement for an Action plan and 20% buffer.

The latest Housing Delivery Test was published in January 2022, and covers the period from 2018/19 - 2020/21 (prior to adoption of the Local Plan). Worthing Borough Council scored 35%. Therefore the presumption in favour of sustainable development applies as the delivery of housing was less than 75% of the housing requirement over the previous three years.

The site is located within the secondary shopping frontage of the Town Centre Primary Shopping Area and the Chapel Road South Character Area. LP policy DM13 seeks to protect and enhance the successful functioning, vitality and viability of the town centre by maintaining a strong retail role and continuity of active frontages. Within this context a wider range of uses are typically supported in the secondary



frontage (compared to the primary frontage) providing these are active uses with active shopfronts. The ground-floor entrance to the existing restaurant from Chapel Road consists of a pair of recessed, glazed, double-leaf doors (2.7m wide) opening into a lobby with stairs and lift to the upper floor. Fascia signage, including on the external wall face, advertises the presence of the restaurant on the floors above. This narrow section of active frontage would be lost to create a residential entrance to the proposed flats. However, given its narrow width, and the existence of other entrance doors in Chapel Road serving residential uses above ground-floor, its loss would not undermine or detract from the vitality or retail function of this part of the town centre.

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.

As before, 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 adopted 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 previously 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 responded to these concerns by amending the proposals to 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 was 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 was 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 was lowered to minimise their visual impact.

This scheme, so amended, was presented to the Planning Committee at the meeting in March 2023.

Officers considered the glass balustrading enclosing the roof-top terraces would 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. The perforated brick screens partially enclosing the face of the recessed balconies initially introduced in response to concerns about overlooking would also be an attractive detail that would add visual interest. It was 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 was considered the amendments to the scheme satisfactorily addressed concerns about the visual impact of the additional mass of the roof extension and the Council's Conservation Architect was satisfied that the development would preserve the character of this building and would not be harmful to 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 as required by policy DM2. 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 was considered external noise impacts could be managed to achieve a satisfactory living environment, but glazing, ventilation and an overheating assessment would 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 was 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 immediate surrounding context has not significantly changed since the application was last reported to the Planning Committee in March 2023. 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. 3 no. 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***

An appraisal of the FVA submitted by the Applicant by the Council's consultant concurs that no affordable housing can be achieved and that the development scheme as a whole is not financially viable.

### ***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 outlines the sustainability credentials of the proposal 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.

### ***Other issues***

The development is CIL chargeable.

### **Conclusion**

The Planning Committee has previously resolved to grant planning permission for the proposed development subject to the prior completion of a legal agreement to secure a financial contribution in accordance with the Council's 'Developer Contributions' SPD (2015) in lieu of 20% affordable housing.

A Viability Assessment submitted by the applicant has concluded that an affordable housing contribution cannot be made in this instance and that the development as a whole is not financially viable. This has been accepted by the Council's viability consultant. The Applicant's Agent has not provided any detailed explanation of how the development could be brought forward and consequently it is considered unlikely that planning permission, if granted, would be implemented. The Applicant's Agent has indicated that the amendments sought by Officers during the consideration of the application have affected development value and current high build costs and have had a negative impact on viability. It is considered the amendments negotiated by Officers were reasonable and necessary to achieve compliance with the relevant development plan policies relating to design quality, safeguarding local character and preserving the character and appearance of the Conservation Area.

Considered on its merits in relation to the NPPF and the relevant policies of the adopted Local Plan, it is considered that planning permission should now be granted without a requirement for an off-site affordable housing contribution (albeit it now seems unlikely that the development will come forward).

### **Recommendation**

#### **APPROVE 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

## 4. Findings Summary

- 4.1.1 The overall approach to assessing the viability of the proposed development is considered appropriate in our opinion.
- 4.1.2 Consistent with this, we consider a number of the submitted assumptions to be within the range we would expect. However, there are several assumptions within the AHVR that we have queried or where a difference of opinion exists. Reviewing the commentary in Section 3 above, these are as follows:
- Benchmark Land Value (see discussion at 3.2 above) — we have tested the scheme against a reduced BLV of £655,000.
  - Development timings (paragraph 3.4) — we have reduced the pre-construction period from 15 months to 6 months.
  - Gross Development Value (paragraph 3.5) — we have increased the overall GDV assumption by £815,000 to £4,285,000.
  - Construction costs (paragraph 3.6) — the submitted cost plan has been reviewed by MMA as part of this checking process undertaken by AWC. We have adjusted the build cost in our trial appraisal according to their lower second opinion estimate.
  - Sales and marketing costs (paragraph 3.9) — we have tested an assumption of 2.5%, reduced from 3%.
  - Developer's Profit (paragraph 3.10) — we have tested a developer's profit of 17.5% on GDV, compared to the submitted target of 20% on GDV.
- 4.1.3 The scheme as presented produces a deficit of -£3,639,592. DSP has calculated that when the presented deficit is deducted from the target profit, the scheme produces an actual loss of -£2,945,592.
- 4.1.4 Applying the above noted assumptions to the applicant's submitted appraisal (100% market housing) as a base reduces the deficit to -£2,662,066 and the loss to -£1,912,191
- 4.1.5 These results indicate that even if the BLV were reduced to nil, the proposed scheme is not viable. The AHVR does not explain the applicant's reasoning for proceeding with a scheme that by their own calculations will make a net loss. Although there may be other commercial factors at play that we are not aware of, as noted above, we have significant concerns about the relationship between the submitted costs and values. We are not aware that proof of positive viability is a criterion for acceptable development under current national policy; however, we suggest that the Council may wish to consider seeking a detailed explanation from the applicant as to the reason why the submitted costs are so much higher than the expected values.

- 4.1.6 In conclusion, appraised appropriately for this purpose, we consider that there is no available surplus from which to provide affordable housing. The deficit shown through our appraisal indicates that the scheme would not support further planning contributions.
- 4.1.7 We need to be clear our review is based on current day costs and values assumptions as described within our review based on the current scheme as submitted. A different scheme may of course be more or less viable — we are only able to review the information provided.
- 4.1.8 Of course, no viability or review can accurately reflect costs and values until a scheme is built and sold — this is the nature of the viability review process. In this sense, the applicant and their agents are in a similar position to us in estimating positions — it is not an exact science by any means, and we find that opinion can vary.
- 4.1.9 As regards the wider context including the challenging economic situation, in accordance with the relevant viability guidance our review is based on current day costs and values — a current view is appropriate for this purpose. The very latest indications are of decreasing house prices; thought likely to continue over the coming year or more although balancing this to some degree, trends are also pointing to a potential slowdown in construction cost inflation as demand appears to be falling for residential projects, with the most recent rates indicated by BCIS showing some lower rates than previous months; however, it is not yet known whether these indications will be developing into longer-term trends.
- 4.1.10 The RICS Professional Standard notes that *'Development risk'* reflects: *'The risk associated with carrying out, implementing and completing a development, including site assembly, planning, construction, post-construction letting and sales'* and that *'The return for the risk is included in the developer return and the PPG makes it clear that it is the developer's job to mitigate this risk, not plan makers and decision takers.'* This is all part of the usual development process. Furthermore, in reflecting the PPG the RICS professional Standard notes: *'PPG paragraphs 007 and 009 reflect on the impact of market cyclicity during the life of the plan. Paragraph 007 gives market downturns as one example of the justification for a site-specific FVA, but it is restricted to "a recession or similar significant economic change". This implies the exclusion of normal market cyclicity, which is embedded in the level of developer return'.*
- 4.1.1 DSP will be happy to advise further as required.

Review report ends  
January 2024