



Report by the Director for Economy

Planning Applications

1

Application Number: AWDM/0905/22 Recommendation – APPROVE

**Site: Footprints Children And Family Centre
40 Crescent Road, Worthing**

Proposal: Application for full planning permission to change the use of a currently vacant building to a children's day nursery with capacity for 60 children.

2

Application Number: AWDM/0408/22 Recommendation – REFUSE

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

Proposal: Application to vary condition 7 of approved application WB/05/0225/FULL, to allow outdoor seating.

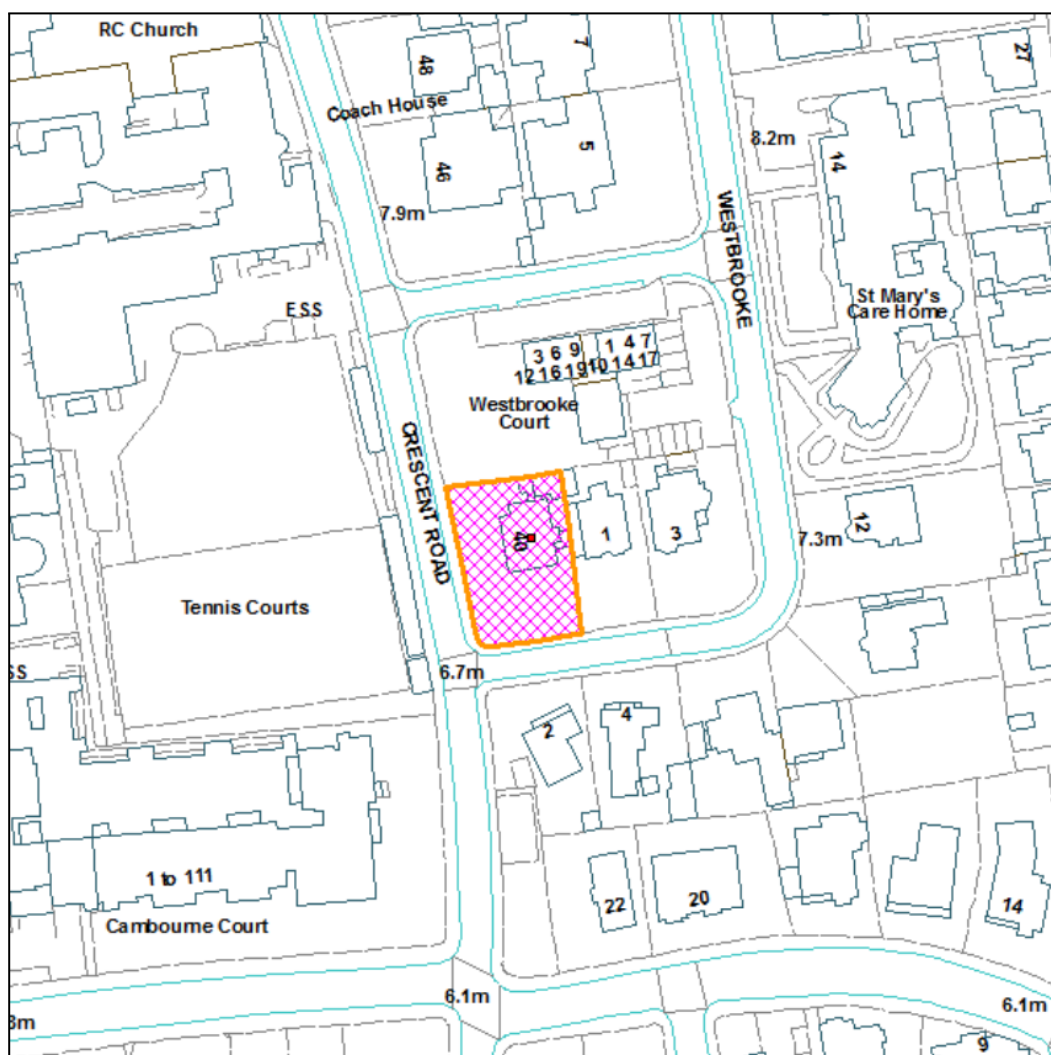
2

Application Number: AWDM/1210/22 Recommendation – REFUSE

**Site: Land East Of 120 And 122 Durrington Lane, Salvington Road
Worthing, West Sussex**

Proposal: The application which is retrospective is for the change of use of the land to a builders/storage yard including 2 shipping containers.

Application Number:	AWDM/0905/22	Recommendation - APPROVE
Site:	Footprints Children And Family Centre 40 Crescent Road, Worthing	
Proposal:	Change of Use to Children's Day Nursery (60 children)	
Applicant:	Mr Roger O'Hara	Ward: Central
Agent:	N/A	
Case Officer:	Gary Peck	



Not to Scale

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Proposal, Site and Surroundings

This application seeks permission to change the use of a currently vacant building to a nursery. The building was previously owned by the County Council who granted permission to itself under a Regulation 3 application in 2004 to convert the application site from a residential dwelling to form a 34 place Nursery although it is understood that the premises were used more as a day centre. The County Council has subsequently disposed of the site which is now owned by the present applicant. While ordinarily this would be an application for a variation of condition, a permission granted Regulation 3 does not run with the land and hence this is an application for full planning permission.

The application site is on the corner of Crescent Road and Westbrooke and is within the Conservation Area, its boundary being immediately to the south. Since the premises was acquired by the applicant, hedging has been removed from the site (it previously affected the view from the junction with Westbrooke) and was replaced, without permission, with a fence of over 2 metres in height. A retrospective application was submitted and refused under delegated powers. It is now the subject of an appeal. The outcome does not affect the determination of the current application.

The nursery is yet to open. The subject building has villa style design and appears similar to a residential property. Parking is provided to the front and of the building with the main garden area to the side. Similarly scaled residential properties are immediately to the east in Westbrooke while a block of flats, Westbrook Court, is to the north. Across the road to the west are school sports courts behind a flint wall.

Relevant Planning History

04/00246/CCR3 - (Regulation 3 County Consultation) - Application under Regulation 3 for conversion of residential dwelling to form 34 place Nursery and replacement single storey building in place of garage to provide community room and alterations to boundary wall to provide new vehicular access - No objection to County Consultation

AWDM/1293/22 - Retrospective application for timber acoustic fence on top of the existing wall on the south and west side of Nursery: REFUSED (an appeal has been lodged against the Council's decision).

Consultations

West Sussex County Council Highways - initial comment

This proposal seeks to increase the children's day nursery capacity from 34 to 60 children. The site is located on Crescent Road, an unclassified road subject to a speed restriction of 30 mph.

Following an inspection of the application documents, WSCC in its role as Local Highway Authority (LHA) requests more information from the applicant, subject to the following comments.

The applicant proposes to increase the capacity from 34 to 60 children. As this is nearly double of the existing capacity, the LHA requests the applicant to submit a Transport Statement outlining the impacts that the proposals will have on the local highway network. Specifically, the Transport Statement should provide details of trip generation for both the existing and proposed child capacities, to ascertain the net increase of vehicular movements. In addition, details of the anticipated impacts on on-street parking should also be provided.

Please raise this with the applicant and re-consult. Upon receiving this information, the LHA will assess the application further.

Further comments following the receipt of the requested Transport Statement

Summary and Context

This application seeks to increase the children's day nursery capacity from 34 to 60 children. The site is located on Crescent Road, an unclassified road subject to a speed restriction of 30 mph. WSCC in its role as Local Highway Authority (LHA) previously provided comment on this application, dated 21/06/2022, requesting additional information regarding trip generation. The applicant has submitted a Transport Report prepared by Reeves Transport Planning. As such, the LHA has been reconsulted and can provide the following updated comments.

Access: The site is served by two existing accesses on Crescent Road, forming an in-out arrangement. From inspection of WSCC mapping, there are no apparent visibility issues with the existing points of access on to Crescent Road. An inspection of collision data provided to WSCC by Sussex Police from a period of the last five years reveals no recorded injury accidents attributed to road layout within the vicinity of the site. Therefore, there is no evidence to suggest the existing access arrangement is operating unsafely or that the proposals would exacerbate an existing safety concern.

Capacity: The Transport Report includes trip generation data, ascertained from the TRICS Database, as well as the applicant's own estimations. As no additional floorspace is proposed, the TRICS Database indicates that a site of this size and use would generate 69 movements per day, of which 13 movements would take place during the morning peaks and 14 movements during the afternoon peaks.

The applicants themselves estimate more generous numbers, with 33 movements in the morning peak and 20 movements in the afternoon peak, forming an overall increase of 27 movements per day, 69 in total.

The LHA acknowledge this to be more reflective of what would be anticipated at the site, given the change in child capacity.

Whilst the proposals will likely result in a material intensification of movements to and from the site, the LHA is satisfied that this number of trips can be accommodated into the local highway network and is not anticipated to give rise to any adverse

impacts on highway safety. The site benefits from four spaces on-site for pick up and drop off, which will be managed by nursery staff in 5 minute slots.

Parking: The site currently has six car parking spaces. However, these will be utilised for the picking up and dropping off of children, and staff will be required to park off site.

Whilst on-street parking is limited in the area, there are comprehensive parking restrictions in place on Crescent Road and other nearby roads, prohibiting vehicles from parking in places that would be detrimental to highway safety.

The LHA does not anticipate that the proposed development would result in a detrimental highway safety impact, nor give rise to a parking capacity issue. The site does benefit from being situated in a sustainable location, within walking distance of various public transport links and public car parks.

This application includes a Travel Plan Statement which includes a subsidised staff public car parking scheme, as well as various benefits for those who are looking to travel to the site sustainably.

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 (initial comment)

With reference to the above application a Management Plan for Children in the Outside Space (dated 2022) has been submitted. This document details how the applicants intend to manage the use of the garden to minimise disturbance to neighbours.

This plan limits the number of children who can use the garden at any one time to 34.

I do have concerns about the continued use of the garden daily from 9am - 5pm with potentially 34 children using this area at all times. I appreciate the Management Plan discusses how they intend to minimise disturbance to local residences by the use of organised and supervised outdoor activities with dedicated outdoor leaders and the location of noisier activities furthest from neighbouring premises. However, the duration and continued use of the garden with this number of children could result in loss of amenity to surround residents

I would suggest the incorporation of a couple of hours in the day when the garden will not be used to give the residents some break from noise, for example at lunch time between 12:00 and 14:00 hrs.

The Management Plan mentions the use of bikes on rubber flooring, but the location of this activity is not marked on the site plan. Please could the location of this activity be confirmed?

Applicant's response:

I appreciate the concerns of noise but I would have to say that to close the outside space off to the children for 2 hours in the middle of the day would be an unacceptable restriction on their learning experience, access to fresh air and undermines not only our approach to Early Years learning but likely that of all outstanding Early Years providers.

I'm not aware of any such condition in the existing planning. Currently, the permission allows for 34 children at the setting with no number restrictions in the outside space. I'm not aware of any other nursery having such a condition. We have 4 other nurseries including one in Worthing and none of those have such a restriction nor has any such restriction ever been requested as I think it understood that access into outside spaces are regarded as essential. We have a very strong belief in children playing and learning outside and this is so very important where nurseries are located in town centres where there is likely to be a higher level of deprivation and/or children coming from homes with little or no outside space. Shutting off the garden is not the answer to concerns about noise. It's also important to appreciate that we are extremely unlikely to have 34 children continually in the garden from 9am to 5pm. Numbers will generally be lower at the beginning, middle and end of the day. If the numbers did ever reach 34 in the garden that would be for a short period of the day and then only if we were running at full capacity.

It should also be noted that we will be taking approximately 12 children from the nursery 3 times a week to our Forest School site. We have our own minibus that will collect and pick up in our own car park during off peak times and so will not impact on local parking in any way whilst at the same time reducing the numbers of children in attendance on those days. This will naturally affect the numbers in the garden. We will also be visiting the beach by foot for our Beach School activities.

We are happy to install acoustic fencing which we have at our existing nurseries. This would be placed on top of the existing wall and result in an overall height of 2.4m. We will also speak to our one direct neighbour and ask if they would be happy for us to go ahead and put up such a fence.

Primary schools have playtimes - set times when children leave the confines of the classroom and run around to let off steam which is more likely to result in a high level of noise. We, on the other hand, have organised learning activities similar to the activities indoors and supervised by dedicated outdoor leaders. The outside spaces are more outdoor learning environments rather than playgrounds. I would say stopping the children from using the outside space is more likely to lead to more noisy outside play with children having to wait to get outside.

Just a few yards from our outside space is the playground and sports pitches of the Sion Senior school. Just around the corner is the Sion Junior school with its own play areas. The noise from these two areas will likely exceed anything you'll hear from

our outside space. (Please see attached map). I would say also that any noise reduction achieved by the 12-2pm closure of our nursery garden will surely be more than replaced by the noise from the school playgrounds close by filling up over the same period.

I hope I've set out above why closing the garden off during the day would be unacceptable on a number of levels to the operation of the nursery and the experience for the children while at the same time, I hope I've set out why there should be no concerns of any increase in noise.

There has been a nursery here for a number of years and we must be able to carry out our business activities in a responsible way as per the permission and the established use of the site over the past decades. Our request to increase capacity to 60 does not affect the garden.

Regarding the rubber flooring - The garden will now be largely artificial grass. There will be no hard ground / tarmac that children on bikes/ride-ons will have access to.

We do take very seriously our responsibility to our neighbours and of course we believe that residents have every right to expect to be able to live without excessive noise. Staff are reminded that the nursery is their place of work but for our neighbours it is their home so we must always be sensitive to our surroundings. The restrictions we have ourselves requested, I believe, ensure that there should be no increased noise even with the increase to 60 spaces overall. Shutting off the outside space to children in the manner suggested would be such a serious restriction as to make it untenable to operate a nursery at all.

Environmental Health (further response)

I appreciate the applicant's thoughts regarding the site's proximity to the surrounding schools and their lunchtime noise cancelling out any benefit from closing the nursery garden over this period. I do feel that the residents should have some break in the noise. Although the level of noise may not be excessively high, the regularity and duration of the noise (8 hours a day, 5 days a week) could cause disturbance, particularly in the warmer months when more children are likely to use the garden area and residents' windows are more likely to be open. I have considered the applicant's thoughts concerning the impact of closure of the garden and as a compromise I would suggest restricting the noisier activities such as the water play, mud kitchen, bikes/trikes for two hours of the day. I would suggest between 09:00hrs and 10:00hrs and an hour in the afternoon.

With reference to the use of the bikes/trikes, if a number of children are using this equipment this could potentially be a noisy activity. I would suggest locating the bikes and trikes area to the west of the garden, leaving the east side for quiet activities.

Southern Water

No objection

Representations

11 letters of objection have been received during the course of the application from 7 different residents with 4 re-iterating their objection after further information was submitted.

The grounds of objection are:

- the previous use of the building was as a Day Centre catering for all age groups and did not generate excessive disturbance
- The proposed opening hours represent an increase over the previous usage as the building was not open on Fridays and operated less opening hours on other days
- The previous capacity of 34 children was hardly ever reached and this therefore represents a significant increase in the use of the premises
- Adverse impact upon highway safety. There is little available parking and the existing highway infrastructure for parents to be dropping off children. Many requests for traffic calming have been made. Increased congestion
- The unauthorised erection of the fence does not suggest the applicant will be a considerate neighbour.

Relevant Planning Policies and Guidance

Worthing Core Strategy (2011):

Policy 11 Protecting and Enhancing Recreation and Community Uses, Policy 12 New Infrastructure, Policy 16 Built Environment and Design and Policy 19 Sustainable Travel

Submission Draft Local Plan

DM5 Quality of the Built Environment, DM8 Planning for Sustainable Communities, DM9 Delivering Infrastructure, DM15 Sustainable Transport and Active Travel

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 issues in the determination of the application are whether the principle of the development is acceptable, the impact upon the amenities of neighbouring properties and the character of the surrounding area and highway safety.

The planning history of the site is slightly unusual in that the previous permission, having been granted by the County Council when they owned the premises, does not run with the land and hence this is a completely new application rather than a variation of the existing. Nonetheless, the previous use of the building is considered to be a relevant material consideration in the determination of the application and given the length of time the building has been used for similar purposes to that proposed here, it is not considered any objection can be raised to the principle of development. The existing Core Strategy identified pre-schools as *important focal points for communities which meet an essential local need* while the emerging Local Plan also supports improvements to educational facilities.

The emerging Local Plan policy, DM8, states that the improvement of such facilities will be supported provided there is no unacceptable impact upon adjoining properties.

It is noted that the representations received state the existing limit of 34 children was rarely reached and moreover the previous use as a Children and Family Centre was seemingly not considered by nearby residents to cause undue disturbance. The proposed increase in capacity to 60 children, therefore, clearly needs to be carefully considered.

A Management Plan, in respect of the outdoor space has been submitted which states that access to outside areas will be restricted to 34 children at any one time. This reflects the previous situation, therefore, and it is considered that the imposition of a condition to this effect would be an adequate safeguard. While a control of numbers is easily achievable and enforceable, the comments of the Environmental Health Officer regarding the hours of use of the garden, and the applicant's response are both noted. It is considered that, in light of the additional opening hours, compared to that of the previous Day Centre, and added to the potential difference in usage of the premises as a Nursery, further provision should be made which may, for example, specify the area of the garden to be used or the hours of its usage. This could be secured by a condition requiring a revised Management Plan.

Your Officers note that the Management Plan needs to be amended in any case. The Plan states that a 2.4 metre high acoustic fence will be erected to restrict noise to adjacent properties. It is highly regrettable that the applicant proceeded to erect this fence in advance of a planning application being submitted, planning permission

being required for any fence above 1 metre in height where adjacent to the road. The subsequent retrospective application seeking to retain the fence has been refused and in your officers view, it is quite clear that the fence adversely affects the visual character of the Conservation Area. The application is the subject of an appeal which if successful will allow the retention of the fence, but if, as your officers hope and anticipate, it is dismissed then the applicant will need to investigate alternative options with the Council. In terms of this specific proposal upon the Conservation Area, there is no increase in floor space and the external areas will be used for similar purposes as previously permitted (and the maximum number using such space would be conditioned, at 34, to be the same number as previously permitted). It is considered that the proposed use would have less than substantial harm on the Conservation Area.

Whether the fence is allowed to remain or not, it will need to be accompanied by adequate planting. A quite substantial hedge previously existed at the site, as well as a tree, although it had become overgrown and certainly from previous images appears to have adversely affected vehicular visibility from Westbrooke along Crescent Road as well as often at least partially obscuring the Controlled Zone road sign. As such, it is not surprising that the Highways Authority required the hedge to be at least cut back, but its replacement with a fence (albeit not attracting any adverse comments from the Highways Authority in terms of highway visibility) is not felt to be an acceptable solution. The ideal solution is likely to be adequate and maintained planting to the boundary maintaining adequate visibility with a fence screened and set behind such planting. This could be considered more fully in any future revised management plan.

A number of representations relate to the highways impacts of the proposal and concerns are understandable given the difficulty of parking in the immediate area with the area immediately outside of the site containing double yellow lines. The application has been with the Council for determination for some time since the Highways Authority required a Transport Statement to be submitted which has now been submitted and assessed. As stated in the consultation section above, the Highways Authority note that the proposal is likely to result in an increase of 27 movements per day which will result in a *'material intensification of movements to and from the site'*.

However, the Highways Authority considers *'that this number of trips can be accommodated into the local highway network and is not anticipated to give rise to any adverse impacts on highway safety'*. They further go on to note that there are comprehensive parking restrictions in the area and the site is within a sustainable location within walking distance of public transport links and public car parks.

The near town centre location of the site can certainly be considered to be in a sustainable location and therefore having regard to central government policy which not only directs development to such locations but also stresses that development should not be refused on highways grounds unless such impacts are severe, it is not considered there are any grounds to resist the development on such grounds especially in the absence of any objection from the Highways Authority. It is noted that from the Transport Statement that staggered drop off times have been used at other nurseries owned by the applicant which originally derived during the pandemic

to ensure social distancing but has been used subsequently. Again, it is considered that this system could be included within the Management Plan to ensure that it is retained as the impact of the development upon highways grounds appears dependent upon the effective management of drop off and pick ups by car given the constrained nature of the location for those providing by car. Such a Plan could also, for example, include a specific instruction for parents not to attempt to illegally park in Westbrooke and Crescent Roads.

On balance, therefore, it is considered that subject to the imposition of appropriate conditions, the application can be supported.

Recommendation

To APPROVE the application subject to the following conditions

Subject to Conditions:-

1. Approved Plans
2. Full Permission
3. Upon the first commencement of use, the Applicant shall implement the measures incorporated within the approved Travel Plan. The Applicant shall thereafter monitor, report and subsequently revise the travel plan as specified within the approved document.

Reason: To encourage and promote sustainable transport.

4. Prior to first use of the premises a Management Plan dated shall be submitted including details of, but not restricted to, the use of outdoor spaces (including the areas and times of such spaces to be used), measures to ensure adequate noise prevention to neighbouring properties including the provision of additional planting where required, and details of measures to be sent to all nursery users to encourage alternative forms of transport to the site and ensuring that a staggered drop off and pick up system is in place. The approved details shall be maintained thereafter.

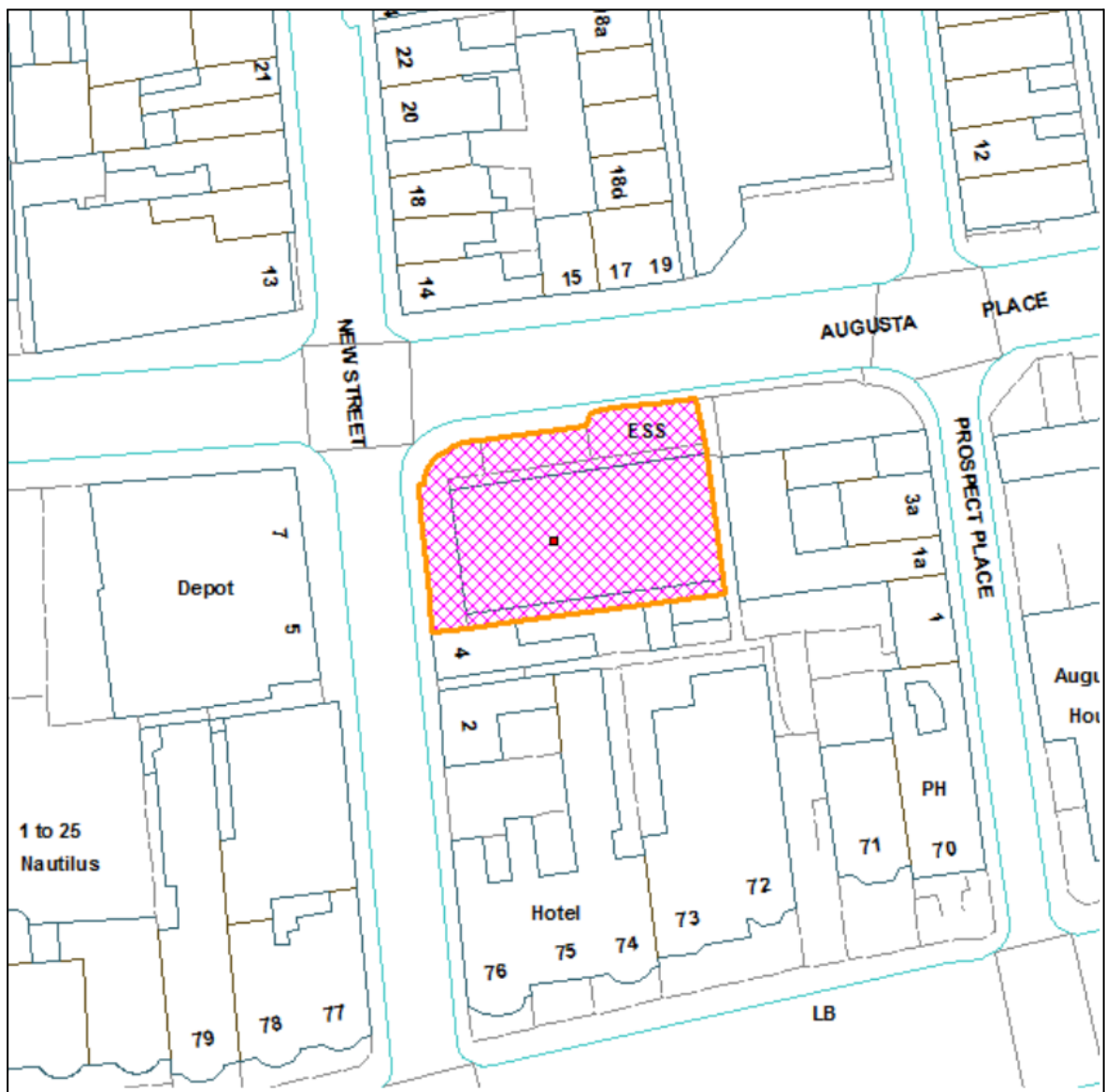
5. The number of children attending the premises for the purposes hereby permitted, shall at no time exceed a total of 60 including no more than 34 in any external space at any one time without the prior written permission of the Local Planning Authority.

Reason: In the interests of highway safety and residential amenity, having regard to policies 15, 17 and 33 of the Adur Local Plan.

6. The use hereby permitted shall not be open for business other than between the hours of 8am and 6pm Monday to Friday and arrival/departure times for children shall be staggered in accordance with the approved Management Plan.

Reason: In the interests of highway safety and residential amenity

Application Number:	AWDM/0408/22	Recommendation - REFUSE
Site:	6 New Street, Worthing (The Last Melon)	
Proposal:	Application to vary condition 7 of approved WB/05/0225/FULL (Change of use from retail to restaurant) to allow outdoor seating	
Applicant:	Mrs Carla Pankhania	Ward: Central
Agent:	Debbie Marriage	
Case Officer:	Gary Peck	



Not to Scale

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.

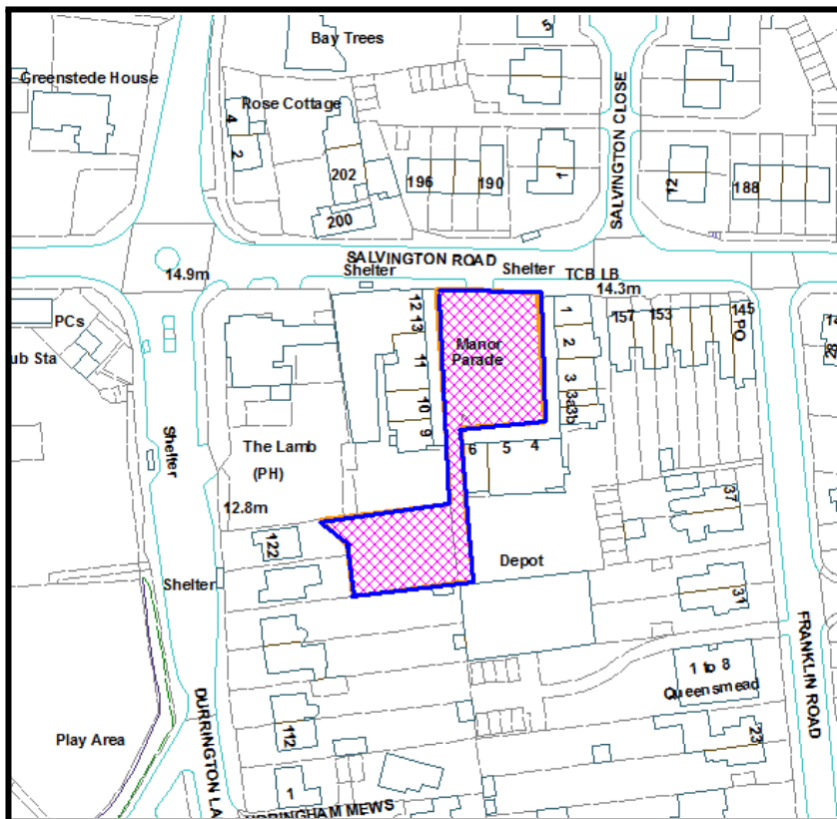
Your Officers are concerned, therefore, that the proximity of the seating area to neighbouring residential properties means that it is a difficult site to satisfactorily accommodate an outdoor seating area. While there is a desire to support an existing business in such difficult times, on balance it 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

Application Number:	AWDM/1210/22	Recommendation - REFUSE
Site:	Land East Of 120 And 122 Durrington Lane Salvington Road Worthing West Sussex	
Proposal:	Retrospective planning application for change use of land to a builders/storage yard including 2 no shipping containers	
Applicant:	Mr Jake Maplesden	Ward:Durrington
Agent:	N/A	
Case Officer:	Jackie Fox	



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Introduction

Cllr Silman has requested that the application come before the Committee for determination.

Site and Surroundings

The site comprises an area of green/open space at the rear of 120 and 122 Durrington Lane.

The site is partly overgrown with evidence of vehicle track marks. It is surrounded by fencing and walls to an approx. height of 2m. The site has a partly fenced area within the site. There is a summerhouse in the North West corner. There are two steel shipping containers on the site (erected by the applicant). There is evidence of open storage scattered about the site.

There are gates to the eastern boundary which leads onto a hard surfaced area which provides parking and turning area for an industrial building and garaging. The site is accessed through Manor Parade, a group of retail and other units with residential above off Salvington Road.

To the west of the site are two residential dwellings Nos 120 and 122 Durrington Lane built in the 1990s. They have short rear gardens which abut the site.

To the south side is the rear garden of 118 Durrington Lane.

To the north is a parking area, garden and rear access to The Lamb Public House (which is inside the Conservation Area although the application site itself is outside).

Proposal

The application which is retrospective is for the change of use of the land to a builders/storage yard including 2 shipping containers. The shipping containers are on the north and east of the site. The site also includes a timber summer house in the north west corner.

The applicant statement indicates:

We are applying now for retrospective planning for this usage. When we took over the space, it was already being used as a storage yard, and we were hoping to continue with this.

The yard itself has front gates by Swandean meats, these open into a commercial area at the rear of Manor Parade shops. Our proposal for 2 shipping containers on the site will be located as far from the residential neighbours as possible on the boundary of the site as detailed in the plan.

These will also be covered with decorative fencing to obscure the view from the residential properties. These will be used to store perishable and more valuable building materials and tools.

There is an existing shed/summer house that needs some repair and maintenance to be less unsightly and our intention is to use this predominantly for dry storage of materials and paperwork.

The remaining areas of land are proposed to be used for outside storage of building excess materials, timber, insulation, bricks, blocks, construction equipment such as acrow props, cement mixer, scaffolding etc. All of this equipment is for use within our business and the yard will not be used as a retail/trade sales area.

All materials and equipment are for the use of our business and the yard will be solely for storage and all materials will be stored neatly in allocated areas. The intention is to put down a weed control membrane and cover with a gravel/hardcore hardstanding.

The land currently has a lot of builders' waste from the previous tenant that we have started to clear at great expense and will continue to do so in an effort to improve the image and environmental impact of the land.

We are willing to liaise with the residential neighbours with regards to their boundaries and what is in view of their houses so they are able to continue to enjoy their homes without undue disruption.

We do not intend to be trading from the site, it is solely for storage and access.

Relevant Planning History:

None relevant

Consultations:

WSCC Highways

This retrospective application seeks an approval for change use of land to a builders/storage yard including 2 no shipping containers. The works for this development were completed on 01/09/2019.

Vehicular access to the site is gained via Salvington Road which is a C-classified road subject to 30mph speed limit. There are no proposed alterations to the existing access onto Salvington Road.

The Local Highway Authority (LHA) has reviewed data supplied to WSCC by Sussex Police over a period of the last five years. There has been a recorded injury accident at the site access, from an inspection of accident data, it is clear that this was not due to any defect with the road layout.

The site has been used for storage purposes for quite some time and the traffic generated from the proposal is unlikely to result in material intensification of use onto Salvington Road or the wider road network.

No car parking is affected as a result of the proposal.

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.

Adur and Worthing Councils

Environmental Health Public Health

No objections, have suggested conditions relating to no external working, storage in compliance with the supporting statement and hours of working.

Representations:

Summary of representations

3 letters of objection have been received as set out below:

118 Durrington Road

- The site is now an unsightly mess
- Loss of wildlife
- Increased noise
- Increased dust

122 Durrington Lane

- The land has been vacant for 28 years
- Overlooking from the wooden office building
- Loss of privacy
- Increased noise from tools being used on the site
- Unsightly shipping containers
- Increased dust from aggregates
- Increased danger from pedestrian from trucks and delivery vehicles

120 Durrington Lane

- Loss of green space, biodiversity and impact on climate change
- Impact on wildlife

- Inaccuracies in the documentation submitted
- Impact on health and wellbeing
- Impact on security
- Overlooking of the boundary and loss of privacy
- Increased noise and disturbance
- Increased dust and aggregates
- Inadequate infrastructure to serve the development
- Contrary to the NPPF and Local Plan

Relevant Planning Policies

Saved Local Plan policies (WBC 2003): H18, TR9, RES7

Worthing Core Strategy (WBC 2011): Policy 3, 16,19

National Planning Policy Framework (HCLG 2021)

National Planning Practice Guidance

Submission Draft Worthing Local plan (as Modified) (SDWLP):

DM5 - QUALITY OF THE BUILT ENVIRONMENT

DM10 - ECONOMIC GROWTH AND SKILLS

DM16 - SUSTAINABLE DESIGN

DM18 – BIODIVERSITY

DM19 - GREEN INFRASTRUCTURE

DM22 - POLLUTION

DM24 - THE HISTORIC ENVIRONMENT

Relevant Legislation

The Committee should consider the planning application in accordance with:

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

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 issues are:

- Principle of the use
- Impact on the character of the area including the conservation area
- Loss of a green space and impacts on wildlife and biodiversity
- Highway impact, access and parking
- Impact on residential amenity
- Sustainability

Principle of the use

The National Planning Policy Framework supports building a strong, competitive economy, and advises that Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

The NPPF states that planning policies and decision makers should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future.

Policy 3 of the Worthing Core Strategy identifies a hierarchy of sustainable locations to provide for a range of employment space and conditions. Policy 4 identifies the key employment sites and opportunities. These policies are further reflected by emerging policies DM10 and DM11 within the Submission Draft Local Plan.

The site is not within an identified employment site and it also lies outside the Manor Parade Local Centre, although it would front onto a hardsurfaced area used by a commercial occupant, this unit is long standing and also outside an identified employment site.

The introduction of builders yard and store on this green site outside of an identified a suitable employment area would introduce inappropriate development out of character with the surrounding area and is accordingly considered contrary to policy.

Impact on the character of the area and the conservation area

The site lies to the rear of residential gardens of properties off Durrington Lane and an established local centre off a small rear service and parking area. The site is enclosed by fencing and walling and is currently overgrown but a largely green open space.

The proposal introduced 2 steel shipping containers and an open storage use for a building firm on this open site. From the site inspection the two shipping containers were divorced from one another and storage occurred randomly around the site. There was also a separate summerhouse building.

Policy 16 of the Worthing Core Strategy states:

Throughout the borough all new development will be expected to demonstrate good quality architectural and landscape design and use of materials that take account of local physical, historical and environmental characteristics of the area. In particular, new development should display a good quality of architectural composition and detailing as well as respond positively to the important aspects of local character, exploiting all reasonable opportunities for enhancement. Where appropriate, innovative and contemporary design solutions will be encouraged.

Development lay-outs, pedestrian environments and public spaces should be designed in a manner which maximises connectivity and actual and perceived safety. This will be achieved by carefully arranging buildings, spaces and access points to maximise natural surveillance, making good use of natural and artificial light and ensuring that the mix of uses and dwelling types contributes positively to the area.

DM5 of the Draft Worthing Local plan indicates that:

All new development (including extensions, residential annexes, alterations, ancillary development, change of use and intensification) should:

- i) be of a high architectural and design quality and respect and enhance the character of the site and the prevailing character of the area. This will include consideration of proportion, form, design, context, massing, siting, layout, density, height, size, scale, materials, detailed design features and landscaping;
- ii) enhance the local environment by way of its appearance and character, with particular attention being paid to the architectural form, height, materials, density, scale, orientation, landscaping, impact on street scene and layout of the development;
- iii) make a positive contribution to the sense of place, local character and distinctiveness of an area;
- v) be well built, accessible, fit for purpose, and adaptable to changing lifestyle, demography and climate;
- vi) include a layout and design which: take account of potential users of the site; create safe conditions for access, egress and active travel (walking and cycling)

between all locations; provide good links to integrated public transport; and have acceptable parking arrangements (in terms of amount and layout);

vii) make a positive contribution to creating a safe and secure environment by integrating measures for security and designing out opportunities for crime;

viii) not have an unacceptable impact on the occupiers of adjacent properties, particularly of residential dwellings, including unacceptable loss of privacy, daylight/sunlight, outlook, an unacceptable increase in noise or vehicular movements or loss of important open space;

ix) respect the existing natural features of the site, including landform, trees and biodiversity and contribute positively to biodiversity net gain;

x) ensure that lighting incorporated into developments provides the minimum for public safety, is energy efficient and avoids light pollution

National planning policy within the NPPF sets out policy for 'conserving and enhancing the historic environment'. NPPF advises that great weight should be given to an asset's conservation and the more important the asset the greater the weight should be. It further states that such assets are irreplaceable and any harm or loss should require clear and convincing justification.

The overarching duty imposed by s66 and s72 applies even where the harm to a heritage asset is found to be 'less than substantial'. This was set out in the Court of Appeal decision - Barnwell Manor Wind Energy Ltd v East Northants DC, English Heritage, National Trust and SSCLG [2014] EWCA Civ 137 (paragraph 29 of the judgment makes that clear). It stated that the decision maker must be careful not to equate 'less than substantial harm' with a less than substantial planning objection. The need, if harm is identified, to give considerable weight to the presumption that preservation is desirable should be expressly acknowledged in carrying out the balancing exercise.

Policy DM24 within the SDWLP requires that development affecting any designated or undesignated heritage asset must be of a high quality, respecting its context and demonstrating a strong sense of place. Development within Conservation Areas will be required to be of a high standard of design and materials so as to respect, preserve and enhance the character and appearance of that area, and preserve important features. It states that the importance to the local area of Buildings of Local Interest within Conservation Areas will be a material consideration in assessing an application of their demolition or development.

The application (being retrospective) has already introduced indiscriminate piecemeal development by erecting shipping containers on a green site and introducing open storage which would not provide for or make a positive contribution to the sense of place, local character and distinctiveness of an area; the metal shipping containers are visible above the fence line and the open storage would fill or partly fill and use the site with inappropriate materials and equipment.

Furthermore the site is situated abutting the Durrington Conservation Area to its northern side, The Lamb PH, although altered, retains some of its original

characteristics and is important within the character of the area and conservation area. Although there is some fencing which does not reflect the character of the Conservation Area to the east of the PH garden, the application site is glimpsed in views from the Conservation Area. The introduction of unsightly development on this application site would be inappropriate as indicated above however due to its siting and surrounding development cause less than substantial harm to the Conservation Area. This should be weighed against public benefit. The proposal would not have a public benefit in this case and should therefore be refused on the impact on the conservation area.

Loss of a green space and impacts on wildlife and biodiversity

Residents who abut the development to the west and south have raised concerns about the loss of wildlife on the site and the impacts on biodiversity and climate change.

Policy 13 of the Core Strategy, 'The Natural Environment and Landscape Character' states all new development will respect the biodiversity and natural environment that surrounds the development and will contribute to the protection and, where applicable, the enhancement of the area.

A key Council priority is to provide better spaces for wildlife so development whose primary objective is to conserve or enhance biodiversity will be supported. Within the borough there are also a number of existing biodiversity assets that must be protected and, where possible, enhanced and policy DM18 of the SDWLP states that all development should ensure the protection, conservation, and enhancement of biodiversity.

The site is a green site with grass and shrubs, it has been undeveloped for a number of years and as such is likely to attract a rich array of wildlife, flora and fauna. The current application shows the site as covered in weed membrane with gravel on top. The site would be fully hardsurfaced. The proposal does not include any landscaping to soften the site or retain biodiversity. As such the proposal would be contrary to policy and would involve the loss of an important green space.

Highway impact, access and parking

The site is accessed through a parking and service area for some commercial units and residential units as well as the Lamb PH.

The applicant has indicated that the site would be serviced by light goods vehicles/public carrier vehicles. Trade waste would also be taken from the site via a skip located on site.

There is available space for vehicles to park whilst the gates are opened and a track has been created on site. No car parking is affected as a result of the proposal.

The LHA have not raised any objections to the proposal and 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,

Impact on residential amenity

The most affected properties are 118, 120 and 122 Durrington Lane all of which have raised objections to the proposal and abut the boundary of the site.

Nos 120 and 122 have small rear gardens in the region of 7-10m, although there is some vegetation to the rear boundary of No 122 both properties are clearly visible from the site and vice versa with an approx. 2m high fence to the boundary.

There is a wooden summerhouse close to the rear boundary with No 122 and a further small metal shed on the boundary with No 120. Building materials are evident near the boundary. Although the applicant has indicated that some of the material are as a result of previous occupants and will be cleared up, the existing summerhouse would remain and the application shows the site nearest the boundary closest to these properties as loose material storage. Although the applicant has offered to work with the neighbours and conditions could seek to control the siting and height of any material close the boundary, it is considered that an open builders storage area so close to the boundary with these residential properties would be inappropriate and the use would be likely and has caused detrimental visual impact, noise disturbance, dust and overlooking. Although the shipping containers are a further distance from the residential properties, the use of the site overall for closed and open storage would be inappropriate on a site with residential gardens surrounding the site to the south and west and the dwellings being in such close proximity

Although the dwelling at No 118 Durrington Lane is further from the boundary it shares much of its northern boundary with the application site most of which is shown as open storage, as such it is considered that the proposal would have similar impacts to 120 and 122 causing visual impact, noise, disturbance, dust and overlooking.

Sustainability

Although a suitability statement has not been included with the application, the applicant has highlighted that the main reason for wanting a material storage yard is to substantially reduce their wastage of building materials. Their aim is to reduce wastage and excess material consumption and re-use as many materials as possible by having a suitable place to store them until the need for their re-use.

Recommendation

Although it is appreciated that the applicant requires a site to store building materials and equipment and has offered to work with the LPA and residents to improve the scheme for local residents' amenity, it is considered that the location is inappropriate and should be located on a designated employment site. The development would also cause detrimental impact on the character of the area, biodiversity and impact on the amenity of adjoining residential properties.

REFUSE for the following reasons:-

1. The proposed use as open storage for builders materials and the erection of two shipping containers for further storage on this green open site outside a designated employment area would introduce inappropriate development and would have an impact on the character of the area and the conservation area. The proposal is therefore contrary to Policies 3 and 16 of the Worthing Core, policies DM5, DM10 and DM24 of the Submission Draft Worthing local Plan (as modified) and the relevant policies of the National Planning Policy Framework.

2. The use of the site for storage of builders materials and equipment by reason of the siting and buildings and activities associated with the use would cause unacceptable harm to the amenity of the neighbouring residents in terms of visual impact, general noise and disturbance and the potential for overlooking. The use is therefore contrary to saved policies H18 and RES7 of the Worthing Local Plan, Policy 16 of the Worthing Core Strategy, policy DM5 of the Submission Draft Worthing local Plan (as modified) and the relevant policies of the National Planning Policy Framework.

3. The proposed development would result in the loss of an open green space which would have an unacceptable impact on the local environment and biodiversity to the detriment of the character and visual amenities of the area contrary to policies 13 and 16 of the Worthing Core Strategy and policies DM5 and DM18 of the Submission Draft Worthing local Plan (as modified) and the relevant policies of the National Planning Policy Framework.