

Development Management– Delegated Officer Report

Application Number: AWD/0077/26 **Recommendation – Approve**

Site: Hampton Court Brighton Road Worthing West Sussex

Proposal: Application for Certificate of Lawfulness for Proposed refurbishment of building facade render and cladding as a result of fire safety works

Site visit: Y, 17 June 2025

Proposal

The development proposes removal of the render and cladding and replacing with new fire rated materials. The application form describes the development as follows:

After carrying out of an FRAEW to the external walls of Hampton Court. Findings noted that the primary external wall component is solid masonry walls, with brickwork and insulated rendered masonry wall finishes. EW-1 was determined to be a brickwork cavity wall construction with EPS insulation boards installed over the external masonry leaf, finished with a cementitious render layer. The cavity between the brickwork and internal blockwork substrate was found to be fully filled with blown EPS insulation. The proposed works include full removal of the existing EPS-insulated render system, and the underlying brickwork to enable removing the loose fill EPS insulation behind it, replaced with a system that comprises materials that achieve a fire rating European Classification A2-s1, d0 (i.e. of limited combustibility) or Class A1 (non-combustible). As part of the remediation, adequate cavity barrier provision will be provided at key junctions in order to create adequate compartmentation. The proposed external render works will be undertaken on a like-for-like basis, replicating the existing material, finish, and appearance. The works will not result in any increase to the building's external dimensions in height or footprint. As such we believe this applications is suitable. The use of the private site will include an external site welfare cabin within the car park to the rear of the property and erection of a scaffold within the properties grounds to access the external walls. No use of the roads or streets surrounding the property will be required due to the size of the Hampton Court site areas.

The application form states the following for why they believe the works are permitted development:

We believe that the proposed external wall works constitute lawful development under the relevant provisions of planning legislation. The works involve the replacement of an existing combustible cladding system with a

new non-combustible system on a like-for-like basis in terms of material placement and overall design. No alterations to the building's height, footprint, or external appearance (beyond material compliance) are proposed. The proposed works are necessary and proportionate in response to the findings of a recent Fire Risk Appraisal of External Wall construction (FRAEW), which identified the building as high risk under the PAS 9980 methodology. The current cladding system poses a significant fire safety hazard, and its replacement is critical to ensure resident safety and ongoing building compliance with current fire safety regulations. Given the urgent need to address the identified fire risk, and the fact that the works do not materially affect the external appearance of the building beyond upgrading the materials to meet fire safety standards, we respectfully request that Worthing Council confirms that the proposed works are lawful and do not require planning permission.

No works are proposed to the external balconies.

Site and Surroundings

The site is located on the northern side of Brighton Road. It contains a six-storey detached block of flats. The building is largely rendered with a setback tiled mansard roof. The cladding is limited to the northern elevation around the staircase. It is green in colour.

The northern side of the Brighton Road is predominantly residential with commercial uses to the south.

Planning history

AWDM/0598/25: Application for certificate of lawfulness for refurbishment of building facade render and cladding as a result of fire safety works Permitted 26/09/2025

Since the application was approved it has been found that works to replicate the render banding can not be achieved. This new application with a revised design has been submitted instead.

Planning Assessment

Principle

As with the previous LDC, this application relates to whether the proposed works amount to development. It is noted that the application form for this application also refers erroneously to Schedule 2, Part 1 of the GPDO.

In assessing a certificate of lawfulness of a proposed development the onus is on the applicant to demonstrate that, on the balance of probabilities, the development would not amount to development.

The definition of development is contained within section 55 of the Town and Country Planning Act 1990 (as amended).

Section 55 (1) defines development as: 'The carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.'

Section 55 (1A) clarifies this by stating that development includes the demolition of buildings, rebuilding, structural alterations to buildings and other operations normally undertaken by a person carrying on business as a builder.

Officers consider that the proposed works would represent 'other operations normally undertaken by a person carrying on business as a builder'

However, Section 55 (2) clarifies this matter in the following way:

The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—

- (a) the carrying out for the maintenance, improvement or other alteration of any building of works which—
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building

It is therefore necessary to consider whether the change in materials and banding would be considered to materially affect the external appearance of the building.

In this case the applicants have stated, in the submitted drawings, the proposed external render / cladding works will be undertaken on a like-for-like basis, replicating the existing material, finish, and appearance.

The proposed replacement render would be of a similar style and colour. There is one difference from the previous application as it was not possible to provide the denting from the concrete banding under the warranty for the render system. The applicant explored alternative options and the proposal to provide small indents with a rougher finish for the bands to differentiate them from the rest of the render.

As previously, the cladding would be a Hardie panel in soft green. This would have a similar appearance and would not materially affect the external appearance of the building.

It is considered that, on the balance of probabilities, the development is not considered to materially affect the appearance of the building and therefore does not represent development within the meaning of the Town and Country Planning Act 1990 (as amended)

Recommendation

Issue a Certificate of Lawfulness for Proposed Development, the submission of a planning application for the works will not be required.

Reasons for Recommendation

The proposal does not constitute 'development' as defined by Section 55 of the Town and Country Planning Act 1990; the submission of a planning application would not be required.

Case Officer: Louise Prew

Date: 26/02/2026

Authorised by: Jo Morin

Date: 26.02.2026