CONTENTS

1 INTRODUCTION 4

2 SITE AND SURROUNDING AREA 5

3 THE APPEAL PROPOSALS 6

4 PLANNING POLICY 7

5 PLANNING HISTORY 9

6 AMPLIFICATION OF THE GROUNDS OF APPEAL 11

7 CONCLUSION AND SUMMARY 14

1 INTRODUCTION

1.1 This statement by Sunkist Homes Limited relates to a planning appeal under Section 78 of the Town and Country Planning Act 1990 (as amended) by the same against the decision of Worthing Borough Council (the LPA) to refuse planning permission for demolition of an existing outbuilding and erection of a conservatory at Ravenswood, 18 Winchester Road, Worthing, West Sussex BN11 4DJ.

2 SITE AND SURROUNDING AREA

2.1 In summary the appeal site comprises a roughly rectangular plot on the northern side of Winchester Road in a well established area west of Worthing Town Centre. The site is occupied by a three storey former Victorian dwelling whose last and lawful use is as a residential care home (Use Class C2). The area has a development form comprising largely detached or semidetached dwellings late Victorian in origin.

3 THE APPEAL PROPOSALS

3.1 In summary, the appeal proposal is to demolish a small unremarkable outbuilding (below the threshold of that requiring conservation area consent) and erect a conservatory extension to the existing residential care home building.

3.2 The existing lawful use of the site is as residential care home (Use Class C2). It is not believed that there are any planning restrictions for example on the use of the building and grounds. The premises were last used before closing in 2008 as a residential care home for up to 15 residents. This use may resume at any time with no planning control over the number of residents.

3.3 The appellant's intention if the proposed development is approved and completed to seek re-registration of the care home for up to 18 residents. The decision to re-register would be with the relevant authority and is not a concern for planning control.

4 PLANNING POLICY

National Planning Policy

4.1 The LPA has not referred to any national planning policy documents in its reasons for refusal.

Development Plan Policy

4.2 The Development Plan comprises the South East Plan (May 2009) and the Worthing Core Strategy (adopted April 2011) and a handful of saved policies from the Worthing Local Plan (2003) which have yet to be superceded.

South East Plan

4.3 It its reason for refusal the LPA claim that the appeal proposal would be contrary to South East Plan policies BE1, BE6 and CC6.

4.4 Policy **BE1** aims for opportunities associated with new development to help provide significant improvements to the built environment. The policy provides a checklist of actions for Local Authorities however it is difficult to see any being directly applicable to the text of the reason for refusal.

4.5 Policy **BE6** refers to the management of the historic environment. Given this it does not appear to be relevant to the text of the reason for refusal.

4.6 Policy **CC6** aims to "actively promote the creation of sustainable and distinctive communities" to be achieved "by developing and implementing a local shared vision". As above it is difficult to see how the assertion of the reason for refusal results in the proposal contravening this policy.

Core Strategy

4.7 The Core Strategy has been adopted since the decision was made and thus LPA do not refer to any policies from the Core Strategy in its reason for refusal. The LPA do claim the proposal to be contrary to Local Plan policy BE1 which has now been superceded by

Core Strategy Policy 16 and thus it is appropriate to examine this new policy for its relevance.

4.8 Policy 16 provides a general design policy which does not mention protecting residential living conditions and thus does not appear to be relevant to the reason for refusal.

Local Plan

4.9 In its reason for refusal the LPA assert that the appeal proposal would be contrary to Local Plan policies BE1 and H18. Policy BE1 has been superceded by the Core Strategy and no longer should carry weight.

4.10 Policy H18 states:

> *"Development, including changes of use and intensification, which would result in an unacceptable reduction in amenity for local residents will not be permitted"*

4.11 It is quite apparent that this policy is the only one of those quoted that is directly relevant to the stated reason for refusal and the only one the LPA had any need to refer to.

4.12 The key point to make is that the term "unacceptable" requires a judgement to be made rather than there being a requirement to avoid any reduction in amenity no matter how small.

5 PLANNING HISTORY

5.1 In 2005 and 2006 there were three applications made to erect a conservatory on this site to the side of the main building. All applications were refused for the impact on the character and appearance of the Conservation Area.

Application reference WB/09/0932/FULL

5.2 This application was identical in all respects to that subject of the present appeal. The application was approved by Committee in December 2009 in line with the officer's recommendation and consent issued on 08 December 2009. Unfortunately the decision notice was defective in failing to provide a summary of their reasons for the grant and a summary of the policies and proposals in the development plan which are relevant to the decision as required by article 22 of the Town and Country Planning (General Development Procedure) Order 1995 (as then amended and in force but now revoked).

5.3 The neighbouring residents of 51 Richmond Road made a claim for Judicial Review of the decision on the basis of this omission. On Counsel's advice the LPA agreed to quash the decision by way of a consent order on the basis that the LPA, in granting planning permission, had primarily failed to give the required reasons for approval together with a summary of the Development Plan policies relevant to the decision.

5.4 It is unclear why the LPA did not then simply remake that decision and give the relevant reasons and policies. It would appear that, following the quashing of the decision, this application remains undetermined.

Application reference WB/10/0648/FULL

5.5 Instead the appellant was advised by the LPA to resubmit a fresh planning application and this is subject to the current appeal.

5.6 The application was reported to planning committee in December 2010 with the officer's recommendation to grant consent subject to conditions. Contrary to the decision they made a year earlier, the members overturned the recommendation. Members appeared to

be solely concerned with the size of the proposed conservatory and subsequent alleged amenity loss resulting from it.

6 AMPLIFICATION OF THE GROUNDS OF APPEAL

Whether the proposal would cause an unacceptable reduction in amenity for local residents

6.1 In the reason for refusal the LPA asserts that the proposal *"by reason of its size, siting and design, together with its intended use as a communal lounge, would result in an overdevelopment of the site which would result in harm to neighbours' living conditions by virtue of noise, general disturbance and light pollution".*

6.2 The care home use may resume at any time with no planning control over the number of residents. In practical terms the extension may allow the care home to house up to three additional residents than were permitted under the last registration. This is however subject to the decision of the relevant registration authority.

6.3 The fallback position is that the care home may re-register and reopen with a very similar number of residents. The site of the proposed conservatory would in that scenario largely be a garden area which would most likely be utilised by residents.

6.4 The question therefore is whether the proposed conservatory would result in an unacceptable reduction in the amenity for local residents when compared to the above lawful situation.

6.5 Dealing first with the issue of noise and disturbance. The LPA consulted its own Executive Head of Health, Housing and Community Safety (the person with responsibility for Environmental Health). It would appear that initially this officer raised no objection to the proposal subject to a condition on the hours of construction and a precautionary condition on contamination. According to the officer's report (there being no written comments to this effect within the Appeal Questionnaire) this officer having considered the neighbour representations recommended a condition to prevent any amplified music or voices (i.e. radio or television or similar) from being transmitted within the conservatory. The appellant would be content with such a condition.

6.6 The appellant considers that such a condition would ensure that the proposal would not increase noise levels above the use of the garden by residents and thus avoid an unacceptable reduction in amenity for neighbours.

6.7 In terms of the wider issue of disturbance, in addition to the physical aspect of the proposal, the potential resultant increase in resident numbers can be considered. It should be born in mind that as with any residential home there is an inevitable vacancy rate to allow for the turnover of residents. In this type of home the vacancy rate is typically high and the home being occupied at capacity would be the exception rather than the norm. The appellant therefore considers that the potential (unconfirmed) increase of up to three residents would have no discernable (and hence material) impact on the potential for disturbance from the site.

6.8 Turning finally to the issue of potential light disturbance. No details of lighting to the proposed conservatory have been provided. Typically conservatories being largely rooms utilised in daylight, have low level lighting if any. In this case one can foresee that the conservatory will be utilised in the evening although with a television being prevented by condition perhaps less intensively than in the day. The operators are likely to wish to include lighting within the conservatory however this need not be to the same lighting level as a typical internal room. The appellant considers that a lighting scheme can be designed using downward directing shades, avoiding lighting at above a certain height level and restricting luminescence levels which would keep any light spillage to a minimum. The appellant considers that if the Inspector were concerned about light pollution then a condition could be imposed requiring prior to commencement such a scheme of internal lighting to be provided to and approved by the LPA. The appellant considers that with a sensitive lighting scheme the proposal would avoid an unacceptable reduction in amenity for neighbours by virtue of undue light pollution.

6.9 The planning officer recommended a condition be attached requiring a scheme of screen planting to be carried out along the rear boundary (as indeed it was on the quashed consent WB/09/0392/FULL). The appellant is more than willing to carry out such planting. It is considered that such planting would provide an additional level of protection against potential noise and light pollution such that the net result of this proposal

would be to, at the very worst case, have a neutral impact on residential amenity above the lawful situation and most likely would improve amenity.

7 CONCLUSION AND SUMMARY

7.1 The appeal proposal seeks the erection of a conservatory extension to the existing residential care home at Ravenswood, 18 Winchester Road, Worthing, West Sussex BN11 4DJ.

7.2 The appellant has specifically demonstrated that the proposal would cause no unacceptable reduction in amenity for local residents above the lawful situation and with the planting scheme offered may actually improve amenity.

7.3 The appellant therefore considers that there is no reason to withhold planning consent for the proposal and respectfully ask the Inspector to allow the appeal.