Development Management – Delegated Officer Report

Application Number: AWDM/1718/23 Recommendation: APPROVE

Site: **The Montague Centre, Liverpool Road. Worthing West Sussex**

Proposal: **Application for a non-material amendment to previously approved AWDM/1624/22. Change of development description to:**

Full planning permission for a maximum of three additional floors above the montague quarter shopping centre to provide self contained residential units on the upper floors

Neighbours consulted: N

Site,Surroundings & History

The Montague Centre is a two and three storey Georgian-style commercial building on a 0.4ha site in the town centre. It contains retail and food and drink uses in the ground floor of its eastern side and a listed sculpture arcade to the west. It is within and adjoining the South Street and Chapel Road Conservation Areas respectively.

Planning permission was granted on 6th October 2023 following Committee resolution of 7th June 2023 for:

Full planning permission for a maximum of three additional floors above the Montague Quarter Shopping centre to provide 42 No. residential units.

This was subject to a legal agreement, covering matters such as affordable housing and open space contributions, connection to the town centre district heating system and site management.

Proposed amendments

This non-material amendment application (NMA) is sought to amend the description to:

Full planning permission for a maximum of three additional floors above the Montague Quarter Shopping Centre to provide self contained residential units on the upper floors

The application form explains that this is in order to allow the number of dwellings to be moved into a planning condition, still not exceeding 42no.

Representations:

No notifications

Policies & Guidance:

Worthing Local Plan 2020-2036:
DM1 Housing Mix; DM2 Density; DM3 Affordable Housing
DM5 Quality of the Built Environment; DM6 Public Realm
DM7 Open Space, Recreation and Leisure; DM8 Delivering Infrastructure
DM13 Retail & Town Centre Uses; DM15 Sustainable Transport & Active Travel
DM16 Sustainable Design: DM17 Energy: DM18 Biodiversity: DM19 Green Infrastructure
DM20 Flood Risk and Sustainable Drainage: DM21 Sustainable Water Use & Quality: DM22 Pollution
DM23 Strategic Approach To The Historic Environment: DM24 The Historic Environment

Supplementary Planning Document 'Space Standards' (WBC 2012)
Supplementary Planning Document 'Sustainable Economy' (WBC 2012)
'Infrastructure Delivery Plan' (WBC 2010)
Open Space, Recreation & Leisure - Guidance Note (WBC, 2021)

Planning Assessment

Section 96A of the Act allows a non-material amendment to be made via application. There is no statutory definition of 'non-material', which depends on the nature and context of a particular development. There is no definition of non-material; the Local Planning Authority must be satisfied that the definition is not material. The NPPG advises that regard should be had to the effect of the change. Provisions relating to statutory consultation and publicity do not apply. Therefore local planning authorities have discretion in whether and how they choose to inform other interested parties or seek their views.

Although it is not an application for planning permission and therefore s.38 (6) of the Planning Act 2004 does not apply it is material to consider the extent to which the proposed amendments comply with the Development Plan policies.

Amended Description

The proposed description would remove the reference to the quantum of dwellings but seeks to make this the subject of a planning condition, which will have the effect of limiting the number of dwellings to that of the planning permission as issued.

There are no changes to approved plans nor the location of the approved apartments, which are at upper floors, with some upper floor commercial space and servicing. The planning agent explains that the addition of the words' self contained' and 'upper floors' does not change the development, for instance in terms of access arrangements.

Additional Condition

As the proposal does not change the amount and detail of the development, it makes no material change and has no material effect. Accordingly it is considered to adhere to the Non-Material Amendment procedure and does not raise the need for publicity

and consultations. A planning condition as follows would continue the limitation on the amount of development as stated in the original description. There is no change to approved plans, which are stated under conditions of the planning permission, nor are other conditions of the permission affected.

'Condition 28

The number of residential units shall not exceed 42 (forty two) in number and these shall be laid out in accordance with the plans approved for this permission AWDM/1624/22.

Reason: In the interests of clarity, to ensure that the amount of development is in accordance with this planning permission'.

Recommendation: **APPROVE**

Subject to additional planning condition no.34 as follows:

'Condition 28

The number of residential units shall not exceed 42 (forty two) in number and these shall be laid out in accordance with the plans approved for this permission AWDM/1624/22.

Reason: In the interests of clarity, to ensure that the amount of development is in accordance with this planning permission'.

Informatives

Informative 1.

The application satisfies Section 96A of the Town and Country Planning Act (1990) as amended. The proposed amendments constitute non-material changes to that planning permission, and will result in a development that is substantially the same as was originally granted planning permission.

This decision notice only relates to the non-material amendment sought. It is not a reissue of the original planning permission, which still stands. This decision notice must be read in conjunction with the planning permission AWDM/1624/22 referred to in the description above. All conditions and the s.106 Agreement dated 5th October 2023 remain fully applicable to the development to which this non-material amendment relates.

Informative 2.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and

subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Is recommendation contrary to letter(s) of representation? N

Case Officer: Stephen Cantwell Date: 14/02/24

Authorised by: Gary Peck Date: 14 February 2024