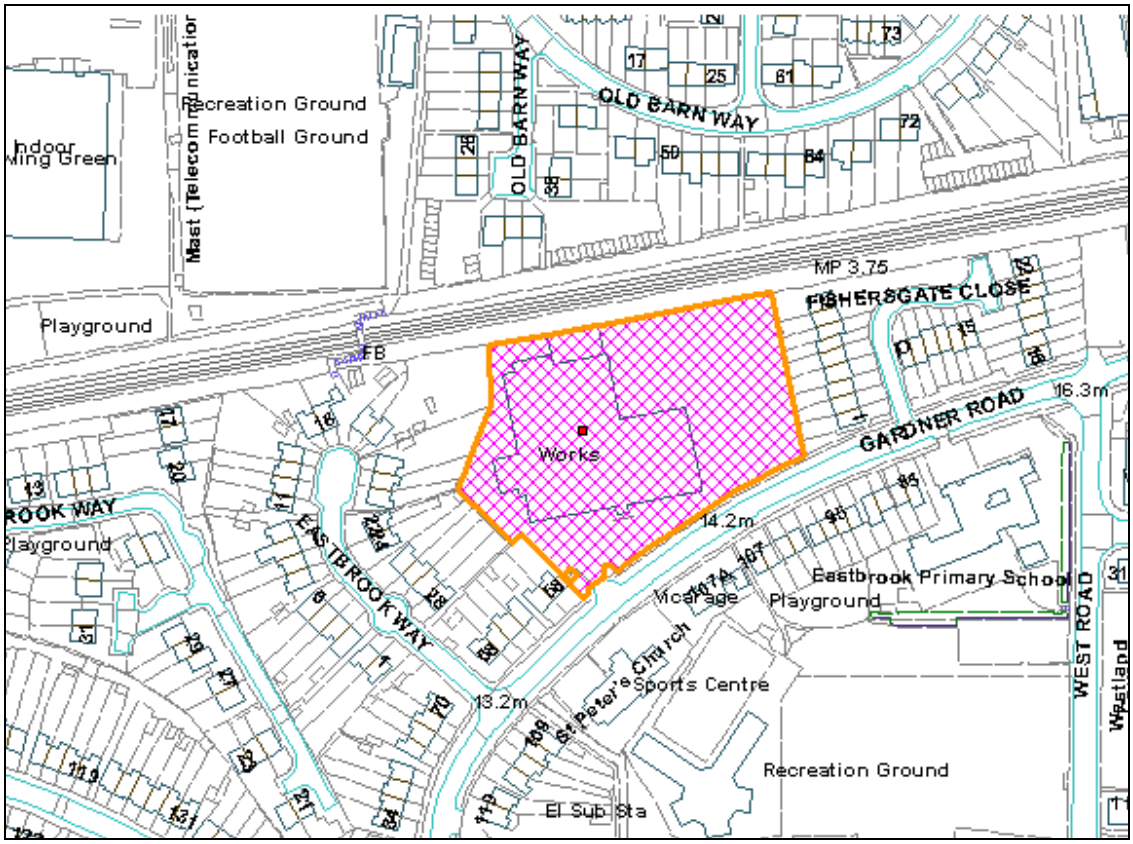
Application Number: AWDM/1626/14 **Recommendation – Refuse**

Site: **NTL Limited (Nynex House), Gardner Road, Southwick West Sussex, BN41 1QP**

Proposal: **Change of use from office (B1a) and warehouse (B8) to non-residential institution (D1) and Assembly and Leisure (D2) including internal alterations and external painting**

Applicant: Stiles Harrold Williams Ward: Eastbrook
Case Officer: Peter Barnett



Not to Scale

Reproduced from OS Mapping with the permission of HMSO © Crown Copyright Licence number LA100024321

Proposal, Site and Surroundings

The application relates to a 2 storey building formerly occupied by Virgin Media with offices on the ground floor and storage/warehousing on the upper floor. It has a part flat roof with a pitched glazed roof over its central area. It has an internal floor area of 5316sqm and the building is located towards the western end of the site. The eastern

part of the site is given over to car parking and there are 132 parking spaces on the site as a whole. It has been vacant since June 2012.

The application is proposing to change the use of the premises from B1 and B8 to D1 and D2 comprising the following uses:

Ground Floor - Workshop for seminars and teaching, children's nursery and play area, sports hall/performance hall. Kitchen/café, gymnasium and toilets/changing rooms

First Floor – Baptistery Room, sacristy, church hall, conference hall, study area, library, conference rooms and toilets

No extensions are proposed and there are to be only minor external changes such as painting of external walls. There are two vehicular accesses off Gardner Road serving the site.

The site is located within a largely residential area, with houses to the north, south, east and west. The Brighton-Worthing railway line runs immediately to the north.

Relevant Planning History

SW/55/92 - Change of use from industrial to warehouse and offices with demolition of part of existing premises to form parking areas– approved 28/9/92.

Consultations

West Sussex County Council: No objection from a transport/highways aspect subject to conditions to secure pedestrian visibility and car/cycle parking. Comments that the site has two existing access points which are set back from the main carriageway and provide good visibility in both directions of Gardner Road. The applicant may wish to consider using one access for the IN movement and the other for the OUT movement as the access widths are only wide enough for one car to pass at a time.

The site is in a sustainable location with good bus, rail and cycle links (the train station is only 6 minutes away, bus stops are located along Gardner Road, and the West Sussex cycle route is a few minutes cycle from the site). There is a dedicated footpath running across the front of the site, and consideration should be given to pedestrians once they enter the site. Cycle storage should be provided for staff and visitors. Guidance for this type of development is 1 space for every 4 members of staff, with no specific guidance given for visitors.

Parking for the proposed use is located within the site, and offers 132 spaces and 5 disabled parking spaces. WSCC Maximum car parking standards for D1/D2 use is calculated at 1 space per 22sqm, which would equate to 246 spaces. This is double the actual number of spaces the site has to offer, but considering the site will be used mainly as a community venue it is likely that travel options to the site will be mixed.

In summary; WSCC raise no objection to the change of use from B1/B8 to D1/D2 as it is considered that the proposed use is ideally located to encourage sustainable forms of travel to and from the site and has ample parking provision, with limited on-street parking options, and enforceable on-street parking restrictions in place to keep parking associated with the use within the site.

Adur & Worthing Councils: The ***Environmental Health*** officer recommends restricting opening hours to 08:00 – 23:00 Monday-Saturday and 09:00 – 22:00 on Sundays. If external plant or lighting is proposed then details should be required by condition. No details of kitchen extracts have been submitted and such information is required prior to installation. As the premises will only be open during day time hours it would be acceptable to allow the playing of amplified music, however it may be advisable to set a noise limit: The level of noise emitted from the site shall not exceed 50dB(A) Leq,10 min at the eastern boundary of the site and 70dB(A) Leq, 10min at the northern boundary of the site.

The **Economic Development** Officer strongly objects. Nynex House is 57,228 sq ft of B1/B8 floor space with 132 car parking spaces on site, which has been vacant for a number of years, with marketing of the ground floor commencing in 2012. This site is situated in close proximity to the A259 with good rail and bus links and is located within an area of deprivation. The ground floor currently comprises of good quality office accommodation and has the capacity to be returned to industrial use. The first floor has been unoccupied for many years and has been stripped out leaving an open plan shell.

In Adur there is 3,778,132 sq ft of B Class employment floor space of which 94.7% is currently occupied or under offer. Please note that 97.8% of Industrial/Warehousing floor space is currently occupied or under offer in Adur and Economic Development (ED) is struggling to identify suitable industrial sites, to accommodate inward investment and indigenous business expansion.

In May 2014 ED met with the commercial agents for the site and a representative of Virgin Media who currently hold an existing lease on the ground floor. ED expressed concern that the site was perceived as being marketed at above market value and this was deterring interest in the site. ED was encouraged to hear that the price aspiration had recently reduced and agreed to help promote this site to businesses to secure employment occupation.

Since this meeting ED have been working to encourage full employment occupation of this site and have been working with 5 large scale B1/B8 occupiers, who have all expressed leasehold or freehold interest in the site, however, the reduction in price has not fully addressed concerns regarding the market value and 4 of the potential businesses have decided not to pursue the site at this stage. ED is currently working with the remaining B1/B8 occupier whose offer was recently rejected, but who are still keen to bring their operation and 190 employees to this site.

Economic Development therefore strongly object to this application for change of use to D1/D2 as the application does not demonstrate that this site is no longer viable for B1/B8 use and does not maximise employment potential within a deprived area.

Shoreham Harbour Regeneration Partnership: Whilst the Partnership would welcome the provision of additional community facilities for the Fishersgate area, the proposal does not demonstrate that another such facility is required. Nor does it demonstrate that the benefits of such a facility would outweigh the loss of employment land or the risk associated with locating the development within the HSE consultation zones. As such the Partnership would urge that the application is refused.

Network Rail: No comment

Health & Safety Executive: Advise against development. The site of the proposed development is in close proximity to the fuel storage facility at Texaco Wharf. As it handles potentially hazardous substances, the Health and Safety Executive (HSE) has designated consultation zones around the facility. Within these zones the HSE would advise against certain types of development according to their level of sensitivity. The proposed uses of the site would be classified as Indoor Use by the Public. The proposed development would provide a total of 5,316 sqm floorspace for these uses. Developments for use by the general public with more than 5000 sqm total floor space are Sensitivity Level 3 due to the substantial increase in numbers of people at risk. Due to the location, uses and size of the proposal it is likely that HSE would advise against development.

The HSE's role in the planning process is an advisory one and it is for planning authorities to take all relevant factors and advice into account in deciding whether or not planning permission should be granted. However, the Department for Communities and Local Government has advised planning authorities that any advice from HSE that planning permission should be refused for development at, or near to, a major hazard site or major accident hazard pipeline, should not be overridden without the most careful consideration. If a planning authority is minded to grant approval to a development where HSE has 'advised against' (AA) it then the planning authority is required to give HSE 21 days advance notice of this intention. HSE will then consider whether or not to request that the Secretary of State call-in the application for his/her own determination.

Representations

4 letters of objection received:

- Unnecessary development because all of the proposed uses are already available locally.
- Building has been vacant for a long period of time and does need to be changed but this proposal will result in it remaining vacant as local residents will continue to use existing facilities, or existing facilities will close due to competition from the site.

- Site should be used for residential purposes instead as that would provide much needed lift to the area, or as offices
- Coach loads of people will be coming and going, including asylum seekers seeking refuge
- Adverse impact on neighbourhood
- Increased traffic
- Increased crime

Relevant Planning Policies and Guidance

Adur District Local Plan 1993-2006 (ADC 1996) (saved policies): AG1, ACS5
Proposed Submission Adur Local Plan (2014)
National Planning Policy Framework (March 2012) Policy 26

Relevant Legislation

The Committee should consider the planning application in accordance with:
Section 70 of the Town and Country Planning Act 1990 (as amended) that provides 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; and
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 and loss of employment land

The site is not identified for any particular use in the Local Plan. Saved Policy ACS5 supports proposals to develop, extend or improve community facilities within the built up area.

However, emerging policy in the form of Policy 26 of the Proposed Submission Adur Local Plan seeks to protect and enhance existing employment sites and premises. It states that "*the conversion or redevelopment of land or buildings, currently or last in class B1, B2 or B8, for other uses will be resisted unless it can be satisfactorily demonstrated that the site or premises is/are genuinely redundant and unlikely to be re-used for B1, B2 or B8 uses within the Plan period, having regard to the following factors:*
(i) No effective demand exists or is likely to exist in the future to use the land or buildings for employment generating activities. Consideration should include the length of time the property has remained vacant, the attempts made to sell/let it, and the demand for the size and type of employment premises in the area; or
(ii) The loss of a small proportion of employment floorspace would lead to a significant upgrade of the remaining employment floorspace.

Where either of the above criteria has been satisfied, a reduced amount of employment on the site as part of a mix of uses will be considered. Employment generating uses should be considered as part of this mix of uses. Complete loss of employment uses will only be acceptable where it has been demonstrated to the satisfaction of the Local Planning Authority that partial employment use cannot realistically be achieved."

The Adur Employment Land Review Update (2014) found that existing employment areas in Adur are reasonably well occupied. Any loss of employment land to other uses such as residential is likely to have a detrimental impact on the economy in the longer term.

The Council's Economic Development Officer has advised that the site is perceived as being marketed at above market value and this has been deterring interest in the site. The price offered has recently been reduced and the Economic Development Officers have been helping to promote this site to businesses to secure employment occupation.

There is currently working a B1/B8 business which is keen to occupy the building but whose offer was recently rejected. This business would still like to bring their operation and 190 employees to this site. 4 other businesses have also expressed interest.

In view of this information, it is clear that there is demand for the re-use of the building for business purposes provided it is available at a realistic price.

The current application is supported by marketing information which suggests that the site has been marketed since June 2012 but that there has been no users identified. The report identified barriers to future business use, such as poor configuration, lack of local amenities for staff, need for costly works to make the building habitable, its lack of prominence and its proximity to residential properties.

The report concludes that "the outlook for the office or industrial demand in Portslade is not good and indicates the building will remain vacant if Nynex House is limited to office/industrial."

However, the Council's Economic Development Officer has advised that the site is perceived as being marketed at above market value and this has been deterring interest in the site. The price offered has recently been reduced and the Economic Development Officers have been helping to promote this site to businesses to secure employment occupation.

There is currently a B1/B8 business which is very keen to occupy the building but whose offer was recently rejected. This business would still like to bring their operation and 190 employees to this site. 4 other businesses have also expressed interest.

In view of this information, it is clear that there is demand for the re-use of the building for business purposes provided it is available at a realistic price. The conclusions of the

applicant's marketing report are flawed therefore and the future use of the building for office/industrial use is a real possibility.

The proposal would offer a range of community uses although it is unclear how these would be made available to the public. However, there are already a number of similar community uses available in the vicinity of the site, including Fishersgate Community Centre, Fishersgate Day Nursery and Southwick Leisure Centre, and it is not considered that there is a compelling need to allow this development in this location, particularly when there is a strong likelihood that the building will be occupied for business purposes in the near future.

The applicants are preparing a response to the objection from the Economic Development Officer and this shall be reported to Members at the Committee meeting.

Visual amenity

The application does not propose any significant external changes other than re-painting.

Residential amenity

The proposed uses would be limited to within the building and the potential for noise disturbance to residents is not expected to be significant. However, the Environmental Health Officer has recommended that the level of noise emitted from the site should not exceed 50dB at the eastern boundary and 70dB at the northern boundary.

Activity from vehicles coming and going should not be unduly harmful or unneighbourly to residents. However, the Environmental Health Officer has recommended restricting opening hours to between 08:00 – 23:00 Monday-Saturday and 09:00 – 22:00 on Sundays.

Accessibility and parking

The site is accessed from Gardner Road via two entrances. The site is also close to public transport, including Fishersgate Railway Station, bus stops and a cycle route. There is a large car park capable of accommodating up to 137 spaces. The West Sussex maximum parking standards for D1/D2 uses as proposed equates to 246 spaces. While this is a considerable shortfall, West Sussex Highways do not have an objection in view of the sustainable location, the limited on-street parking options and the likely variety of travel modes that people visiting the facility will use.

Proximity to health and safety hazard

The site is in close proximity to the fuel storage facility at Texaco Wharf. As it handles potentially hazardous substances, the Health and Safety Executive (HSE) has designated consultation zones around the facility. Within these zones the HSE would

advise against certain types of development according to their level of sensitivity. The proposed uses of the site would be classified as Indoor Use by the Public. The proposed development would provide a total of 5,316 sqm floorspace for these uses. The HSE advises that developments for use by the general public with more than 5000 sqm total floor space are Sensitivity Level 3 due to the substantial increase in numbers of people at risk.

Consequently, due to the location, uses and size of the proposal the HSE would advise against the development.

Recommendation

REFUSE for the reasons:-

1. The local planning authority is not satisfied that no effective demand exists or is likely to exist in the future to use the building for employment generating activities. Consequently, the proposed change of use of the unit to a non-business (Use Class B1, B2, B8) use would result in the loss of valuable employment land and is likely to have a detrimental impact on the local economy in the longer term, contrary to Policy 26 of the Proposed Submission Adur Local Plan 2014 and the relevant paragraphs of the National Planning Policy Framework which seek to support sustainable economic growth.

2. The site lies in close proximity to the fuel storage facility at Texaco Wharf and due to the substantial increase in number of people using the building, there would be an unacceptable increase in the risk to human health, contrary to the advice of the Health and Safety Executive.