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BOROUGH OF WORTHING
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Composite Design & Access Statement and Heritage Statement for 43 Warwick Street, Worthing

The Site and Surrounding Area

The appeal site premises is an early 19th century unlisted three storey terraced building, typical of that period, and is located on the north side of Warwick Street, backing on to Ann Street, in the South Street Conservation Area of Central Worthing. It is currently in restaurant use on the ground floor with its main customer access off Warwick Street whilst Ann Street serves as the service road for the restaurant's kitchen and access to the residential apartments in the process of being formed, mainly by conversion, in the floors above the restaurant.

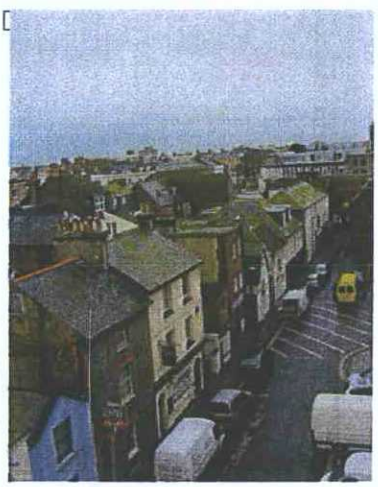
Warwick Street boasts a variety of shops, restaurants and other commercial premises producing a colourful, diverse and lively street scene with an eclectic mix of fascia boards, facades (generally appropriate to the function carried on in the buildings) along with normal paraphernalia common to a busy street in a town centre location.

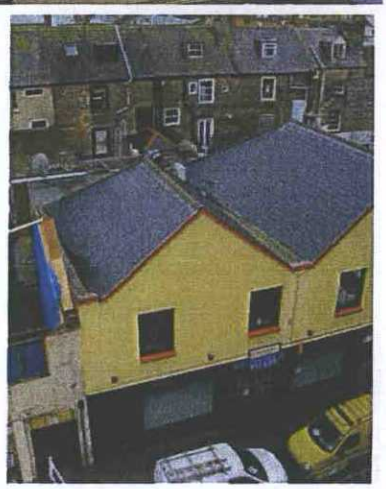
Save for the restaurant entrance detail, the Enforcement Notice affects mainly that part of the building facing Ann Street, the north side of which was redeveloped in the 1970s with the Guildbourne Centre and its large multi-storey car park. This overbearing and unsightly development has had a serious effect on Ann Street. Worthing Borough Council's **South Street Conservation Area Appraisal** states:

"The historic north side of Ann Street was lost to development of the Guildbourne Centre and Ann Street unfortunately acquired the character and nature of a service road."









Above left: Garages in eastern part of Ann Street.

Above right: Shop and access at eastern end of Ann Street with rear of Warwick Street in the background.

Bottom left: View to the west along Ann Street from the multi-storey carpark.

Bottom right: view of vacant shops from the multi-storey carpark with the rear of Warwick street in the background.

The photographs shown above illustrate the view expressed in Worthing Borough Council's South Street Conservation Area Appraisal that Ann Street now has the character of a service road. There are buildings that are of indisputable merit in the Street, but the street scene in general, with the muddled, grubby and untidy backs of the Warwick Street properties in the background, is not particularly attractive and contributes little to the setting of the two listed buildings within it.

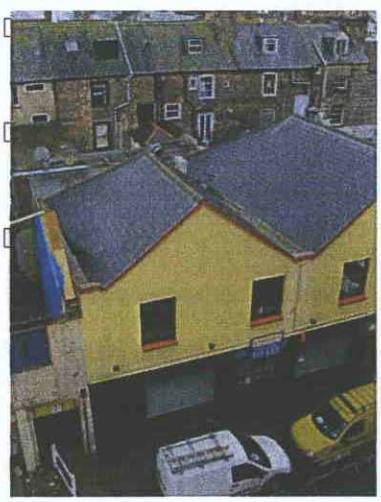
The two photographs below show roughly the same scene taken at different times, the picture on the right being the earlier. Both photographs were taken from the north side of Ann Street on its corner with the High Street. An aerial view or even the view from the top of the multi-storey show very clearly the jumble of extensions, back addition outbuildings and other structures to the rear or the Warwick Street properties, most of which are clearly visible from the ground at points along Ann Street. Roof lights are common in the area and some examples are shown below



Left: eastern end of Ann Street.

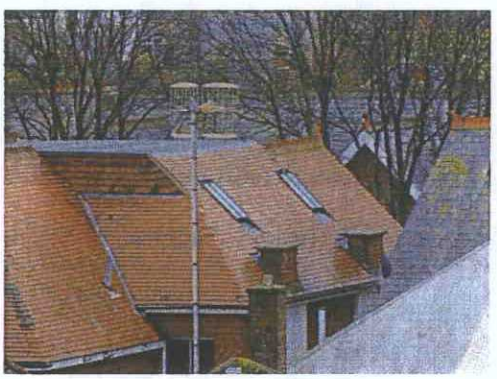
Right: approximately the same view, but taken some time later.





Left and right: examples of roof lights in the vicinity of Ann Street.

Below: aerial view of Ann Street with the rear of Warwick Street in the background.



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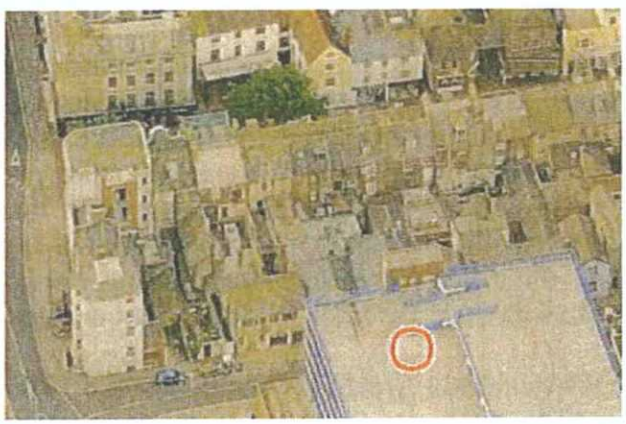

Background

As far as can be ascertained, the application property remained substantially unaltered for many years despite several properties around being altered or redeveloped etc. In these circumstances, the most relevant background to this site is planning permission WB/07/1451/FULL, which secured permission for:

> *Change of use of ground floor from Class A1 (Shops) to Class A3-A5 use (Food and Drink) including proposed extraction flue to the rear. Demolition of middle section of building and rebuilding; extension and conversion of upper floor levels into 5 x 1 bedroom self-contained flats. (Resubmission of WB/07/1096/FULL).*

Following commencement of works of conversion etc, an enforcement notice was served on 21st January 2009 alleging the following breaches of planning control:

1. The installation of a replacement shopfront
2. The replacement of the ridge tiles
3. The installation of three rooflight windows to the rear roof slope of 34 *(should refer to 43)* Warwick Street
4. The installation of more than two antennae (two mini satellite dishes and two tall television aerials)
5. The construction of a second floor flat roof rear extension
6. The installation of a replacement second floor window in the rear elevation of 43 Warwick Street
7. The rendering of the rear elevation
8. The breach of condition 5 of planning permission WB/07/1451/FULL by failing to submit a schedule and samples of materials and finishes to be used for the external walls and roof of the ground and first floor extension to the rear of 43 Warwick Street shown marked A on the extract of the attached plan

9. The breach of condition 12 of planning permission WB/07/1451/FULL by failing to make suitable and timely provision for the upgrading of local transport facilities to accommodate the travel demand generated by the proposal and mitigate its harmful effect.

The Notice was appealed but, for a variety of complicated reasons, including that there was doubt about whether the WB/07/1451/FULL permission had been implemented because of apparent failure to comply with various conditions precedent, and that further breaches had arisen since the Notice was served, albeit at the requirement of Building Control to remedy structurally deficient elements of the building, the Notice was withdrawn on the day of the Hearing, which was therefore cancelled, and the respective parties agreed, following subsequent meetings and discussions, the following general course of action with a view to resolving the various matters raised in the Notice:

1. That relevant details would be submitted to satisfy the conditions precedent on the WB/07/1451/FULL so there is no doubt in the future the permission has been implemented. Breaches relating to matters covered by conditions precedent would be regularised, either by the submission of appropriate details or alterations to the breaches, as part of this process.
2. That various applications would be submitted with a view to regularising a number of matters raised in the Notice and as a consequence of the rebuilding requirements of Building Control. Where there remains dispute about the acceptability of a feature, this forms part of a separate application.
3. That a number of matters raised in the Notice would be addressed by removal of the offending development.

The First Action
Relevant details to satisfy conditions precedent 3, 4, 5, 6, 7, 8, 9 and 12 were submitted on 22nd April 2010 and these are being considered by officers. It is anticipated these will resolve Breaches 7, 8 and 9 referred to above. Officers subsequently indicated that Breach 7 (retention of rendering on the rear elevation) cannot be dealt with by way of condition on the original permission and therefore this is now included within application Application 4 referred to below.

The Second Action
These current applications deal with the following breaches:

Application 1 – Breach 1 (shopfront) *(Two applications for an illuminated fascia sign and an illuminated projecting sign on the Warwick Street frontage were refused and the subsequent appeals dismissed (WB/09/0190 & 0191/ADV). Officers are currently considering draft details for a revised illuminated fascia sign. A projecting sign is not being pursued.)*

Application 2 – Breach 3. Retention of three roof lights.

Application 3 - Breach 5. Retention of two storey rear extension.

Application 4 – Not referred to in Notice. Retention and completion of two storey building fronting Ann Street (It is this building that was required to be partly reconstructed by Building Control) This application now includes the retention of the rendering on the rear elevation of the main building identified as Breach 7 in the Notice.

No action or application is proposed regarding the replacement second floor window and the ridge tiles (Breaches 2 & 6) because these works are not considered to require planning permission but in any case cause no harm to the building and area etc. The full case in support of these arguments is set out in the Appellant's Grounds of Appeal submitted to the enforcement appeal. The following extracts are relevant.

Breach 2 *(ridge tiles)*
Grounds A
My simple case with this breach is that the ridge tiles represent such an insignificant detail high on the building, which are not noticeable in the street scene and do not detract from the character of the building or the area in general. There is no inherent reason why ridge tiles should be of a particular style and colour on an unlisted building bearing in mind they are standard tiles used in building operations.

Ground C
Section 55 of the 1990 Act sets out the definition of development for the purposes of planning control and excludes the maintenance and repair of buildings that do not materially affect their external appearance. The external appearance of this property has not, considered on a fact and degree basis, been affected by the replacement of the ridge tiles. Their replacement did not constitute development requiring planning permission.

Breach 6 *(replacement second floor window)*
Grounds A
The window reflects the eclectic mix of windows on the rear elevations of properties in the locality and harmonises well with the appeal building and its various window styles. It causes no demonstrable harm to the character of the building or the area in general.

Ground C
Assessed on a fact and degree basis, the replacement of the window did not constitute development under the repair and maintenance regime of Section 55 of the 1990 Act because the replacement window is not materially different from that which used to exist. Accordingly, it has not resulted in a material change in the external appearance of the building. Since the Notice was served, the masking tape on the internal face of the window has been removed. I accept this masking tape emphasised the width of the glazing bars to such an extent that the overall window appeared out of place. However, now that the masking place has been removed,

the window sits comfortably in this elevation. Nevertheless, there has been no breach of planning control by providing the replacement window.

The Third Action
The various antennae will be removed that will satisfy breach 4.

THE APPLICANT'S CASE IN RESPECT OF THE 4 CURRENT PLANNING APPLICATIONS SUBMITTED FOR CONSIDERATION

Application 1 - Breach 1 ("shopfront")
Probably originally constructed entirely for residential purposes, with a ground floor front extension added to facilitate retail use in early Victorian times, the LPA has permitted the function of the ground floor of this unlisted building to change from shop to restaurant.

A shopfront devoid of a window display appear contrived and the LPA will be familiar with the concept of a condition that seeks to maintain a shopfront display where there is concern that shopfront windows will be demeaned with the rear of storage shelves being the primary feature of the shopfront.

The shopfronts in the street generally respect the use that is carried on inside the building. The entrance details that have been provided to serve this restaurant use are acceptable in their own right and represent an improvement over the original picture window shopfront. This is an acceptable approach within this Conservation Area albeit that it might not represent the optimum solution required by the LPA. However, an approach that pursues the optimum solution is not supported by policy. Because of the requirements of the LPA regarding the development of the rear part of the premises, the consequence is that the original shopfront, unlike the front that has been installed, would not allow satisfactory means of escape under the Building Regulations in the event of fire. This is therefore a case of Double Jeopardy in that compliance with the Notice in the manner required by the LPA would necessitate breach of the Building Regulations relative to means of escape from a restaurant in the event of fire. The LPA has in-house expertise to comment on means of escape and it should have resolved the front of these premises before granting permission for the restaurant use rather than leaving it to chance. It has also approved a very similar approach on a listed building almost directly opposite the appeal site in Warwick Street. The ground floor façade maintains and causes no demonstrable harm to the character of the street scene or the conservation area in general. It should be permitted to be retained.

The original shopfront included a retractable cloth canopy that is not necessary to reinstate to achieve the effect the LPA seeks. The timber of the shopfront that was removed to facilitate the new entrance detail was rotten and the stallriser stained through time and lack of maintenance etc. It is unrealistic and unreasonable to expect all the weathering detail and rot etc to match "exactly" that which used to exist.

With modern painting techniques, colours and materials, it would be perfectly feasible to paint all the timber to create, if desired, the impression of an independent stallriser and entrance doors that are recessed, in whatever position the LPA desires, be that centrally located or offset to one side. If the oak finish is considered unacceptable in principle, it could be painted a colour to be agreed.

Application 2 - Breach 3 (roof lights)
The roof lights cause no demonstrable harm to the character of the building or the area in general and reflect other similar windows in the vicinity of the site. The western light is required to satisfy the new fire regulations introduced after approval of the WD/07/1451/FULL development. The light serves the stairwell to the apartments that must now be provided with mechanical ventilation that can be opened from the bottom of the stairwell. This is a further case of double jeopardy in that removal of this particular light will result in breach of the Building Regulations. The approved scheme includes provision of a dormer window on this elevation of the roof. The three roof lights have less impact than the dormer window and merely add to the eclectic mix of windows that face Ann Street that the LPA acknowledges has the character of a service road. Roof lights are not out of character with this style of building and the building sits as comfortably in the street scene and area generally as it always has.

Application 3 - Breach 5 (flat roof extension)
This extension was created by enlarging an existing flat roofed extension of similar scale. It reflects other flat roof elements in the immediate vicinity of the site and causes no demonstrable harm to the eclectic character of this terrace of buildings or the area in general. The fascia will be kept painted grey or black to mellow its appearance because it is a white fascia that would be the most prominent feature of the extension.

In the light of the Mansi Doctrine, an enforcement notice could require no more than to reduce the extent of the extension to that which existed immediately prior to the extension works and which was lawful, as far as I can ascertain, through time expired. In any case, the LPA has permitted the retention of the former flat roofed extension so it should not object to the application extension being reduced to that size. The removal of the entire extension will leave a gaping whole on the ground floor. A further point in favour of not removing the extension entirely is that the LPA has not assessed the extent of openings that exist behind the extension such that if infilled with brickwork, it cannot be certain the resultant elevation will cause less harm than purportedly arises from the extension.

Application 4 – Not identified in Enf Notice (Rebuilding of parts of building fronting Ann Street) Remedy to Breach 7 – retention of rendering on rear elevation of main building.
The flint flank wall of this building was required to be rebuilt by Building Control due to the structural inadequacies of the structure that was determined following commencement of conversion works. As building works commenced, it was determined that nearly all the structure requires rebuilding from the first floor. Works of replacement have stopped

at the present time because Party Wall Agreements are still being resolved relative to the western boundary. However, the intention is to replace like for like although there are minor departures from the original design around the entrance to the new flats. However, the current scheme is considered to retain the character of this part of the premises and will cause no harm to the character of the street scene or the area generally.

Regarding the rendering on the rear elevation of the main building, there is an eclectic mix of wall finishes in the locality such that this render does not look out of place. It reflects the render on the front elevation of the building and other elevations around and causes no harm to the character of the building itself, this terrace of buildings or the locality in general. The render was applied in the usual way with the use of PVA glue to assist with bonding. In these circumstances, removal of the render is likely to damage the brickwork beneath to the extent that it could not reasonably be restored to its original condition. The exposed elevation that would inevitably involve a considerable number of damaged bricks and pointing would appear unsightly and harmful to the building and the street scene. It would reduce the structural quality of the building that has been renovated. Although considered unnecessary, painting the render in a colour to be agreed with the LPA would address any purported harm arising from the development

End