Expiry Date - 30/04/2024

Development Control – Delegated Officer Report

Application Number: AWDM/0287/24 **Recommendation – REFUSE**

Site: **123 Montague Street Worthing West Sussex BN11 3BP**

Proposal: **Change of use at ground floor (rear) from retail (Use Class E) to one self-contained residential unit (Use Class C3) including creation of terrace**

Date of site visit: Various

Neighbours checked: y

Additional neighbour notifications: N

Site and Surroundings

The application relates to a terraced shop with formerly storage above, on the pedestrianised area of Montague Street towards the western end.

The property is white/cream rendered and is an older style building with a glazed shop front at ground floor and two sash windows above. The shop unit was formerly occupied by the 'Early Learning Centre.' It has a pitched roof to the front. It has a flat roof single storey projection to the rear which projects to the boundary with properties in New Street.

To the east is a restaurant with storage/residential above occupying a corner position with New Street. It has a gable front.

To the west is a further shop with storage/residential above. It occupies a narrower plan with single window at first floor.

To the south/rear of the property are residential buildings and a rear yard of properties off New Street.

Montague Street at this point is part of the town centre secondary shopping frontage as defined in the Worthing Local Plan and is pedestrianised. The property is within the Montague Street Conservation Area, there are a variety of building types and ages.

Proposal

The application is for the change of use of the rear element of the ground floor shop to a one bedroom flat. The proposal would involve the removal of a roof at the rear to form an enclosed open courtyard.

The proposed unit would be 44sqm and would comprise an 'L' shaped living/kitchen, one bedroom and a shower room. The flat would be accessed through the existing hall to the bin enclosure. The flat would have a south facing patio/terrace with its living and bedroom facing onto the terrace.

The remaining shop would be 43.9sqm accessed from Montague Street.

The entirety of the ground floor commercial space has been on the market for some time since the unit was vacated by the Early Learning Centre and a copy of a marketing brochure is submitted with the application.

The applicant's agent indicates that there has been no significant interest in the letting of this ground floor space for commercial purposes and as a result the applicant seeks to reduce the size of the commercial unit by removing its "secondary trading area" towards the rear of the ground floor to form a single apartment.

Relevant Planning History:

AWDM/1936/19- Application for Certificate of Lawfulness for Proposed use of first floor ancillary storage of ground floor retail (Use Class A1) to 2no. one bedroom flats- REFUSED

AWDM/0659/20- Extension of 1st floor storage space to the rear and addition of second floor to create 1no. two bedroom flat and 1no one bedroom flat at first floor and 2no. studio flats on second floor. New shop- APPROVED

AWDM/1633/22- Extension of 1st floor storage space to the rear and addition of second floor to create 1no. two bedroom flat and 1no one bedroom flat at first floor and 2no. studio flats on second floor. New shop front with separate access to flats, new gable to front with associated works. Application to vary condition 1 (approved plans) of AWDM/0659/20 for addition of dormer to rear studio flat- APPROVED

AWDM/1298/22- Approval of Details Reserved by Condition 3 (Details of Materials and Finishes) and Condition 5 (Details of Noise Mitigation) of approved application AWDM/0659/20.PENDING

AWDM/0471/23- Extension of 1st floor storage space to the rear and addition of second floor to create 1no. two bedroom flat and 1no one bedroom flat at first floor and 2no. studio flats on second floor. New shop front with separate access to flats, new gable to front with associated works. Application to vary Condition 1 of approved AWDM/0659/20: Amendment: Alterations to The approved internal entrance and alterations to shopfront not shown on original planning approval. APPROVED

Consultations:

West Sussex County Council – Highways

This application seeks change of use of part of ground floor from retail (Use Class E) to self-contained residential unit (Use Class C3) with creation of terrace. The site is located on Montague Street, an E-classified road.

No vehicular access is associated with this site. Pedestrian access to the proposed unit will utilise the existing access from Montague Street. The proposed change of use is not anticipated to give rise to a material intensification of movements to or from the site.

No vehicular parking is proposed. The WSCC Car Parking Demand Calculator indicates that the proposed dwelling would require one car parking space. Therefore, vehicular parking would have to be accommodated on-street or within nearby paid-for provision.

There are comprehensive parking restrictions in place on the nearby roads that prohibit parking in places that would be detrimental to highway safety. The LHA does not anticipate that the proposed nil car parking provision would give rise to a highway safety concern or parking capacity issue, but the LPA may wish to consider the potential amenity impacts. Weight is given to the fact the site is situated in a sustainable town centre location whereby residents need not necessarily rely on the private car for travel.

No details of cycle parking provision have been provided. Cycling is a viable option in the area and the LHA would request that secure cycle parking provision be provided if there is space within the site to do so.

In summary, the LHA does not consider that this proposal would have an unacceptable impact on highway safety or result in ‘severe’ cumulative impacts on the operation of the highway network, therefore is not contrary to the National Planning Policy Framework (paragraph 115), and that there are no transport grounds to resist the proposal.

Southern Water-

Southern Water requires a formal application for any new connection to the public foul and surface water sewer to be made by the applicant or developer

Adur and Worthing Council:

Environmental Health:

Public Health

There are no adverse EH comments for this application

Private Sector Housing

The bedroom can only be accessed through the high risk kitchen/living area and so it is an inner room. Although the bedroom has a door, this only leads

to a small enclosed backyard which cannot be considered as a place of ultimate safety in that there is no prospect of escape or rescue from exposure to smoke or fire in the flat.

The outlook from the flat is poor and only has views over a small enclosed backyard.

I therefore object to the application on the grounds of fire safety and poor outlook.

I would ask that, should permission be granted, that my comments be included as an informative

Drainage Consultant

No objections

Worthing Society

I have now had the opportunity to discuss the application with our Heritage Team and we have the following observations. We have noted, in particular, the response from the Environmental Health Private Sector Housing Department who state, as follows, that:

“The bedroom can only be accessed through the high risk kitchen/living area and so it is an inner room. Although the bedroom has a door, this only leads to a small enclosed backyard which cannot be considered as a place of ultimate safety in that there is no prospect of escape or rescue from exposure to smoke or fire in the flat. The outlook from the flat is poor and only has views over a small enclosed backyard.”

Although this is somewhat outside our remit, we are concerned that there appears to be inadequate provision for escape in the event of fire. There would also seem to be a poor outlook and amenity for future residents of the proposed flat. In addition, residents of nearby properties are concerned about ‘noise nuisance’ from the inclusion of a terrace in a relatively compact area.

In summary it would appear that this proposal represents an ‘overdevelopment’ of the available site area and for the reasons stated the Society objects to this application

Representations:

Flat 1 23 New Street

I've been unable to find a view of the grd floor 'terrace' construction. Will this be situated on the ground floor level or will the 'terrace' be situated on the flat roof of the ground floor flat? The latter would create noise and privacy issues or New St residents.

The current roof drainage for this site (123 Montague St) is a gutter/pipe with a direct outlet into the courtyard of No. 23 New Street which has resulted in flooding of yard in heavy rain. I am sure this is not legal.

21 New Street (summary)

- The flat would have a blank outlook onto a wall
- Noise from the proposed outside terrace
- Drainage already insufficient, blocked drainpipe and water from the development draining into neighbouring properties
- Impact on foundations and damp

Relevant Planning Policies

National Planning Policy Framework (DLUHC 2023)
National Planning Practice Guidance
SPD 'Space Standards' (WBC 2012)
SDP 'A Guide to Residential Development' (WBC 2013)
CIL Charging Schedule (Aug 2021)

Montague Street Conservation Area Appraisal (WBC 2001)

Worthing Local Plan 2023

SP1 - Presumption in Favour of Sustainable Development
SP2 - Climate Change
SP3 - Healthy Communities
SS3 (Town Centre)
DM1 - Housing Mix
DM2 - Density
DM5 - Quality of the Built Environment
DM13 - Retail and Town Centre Uses
DM16 – Sustainable Design
DM17 – Energy
DM18 - Biodiversity
DM22 - Pollution
DM 24 – The Historic Environment

Planning Assessment

Principle of Development

The Worthing Local Plan was adopted on 28th March 2023. Policy SS1 sets out the Housing supply over the period 2020-2036 and gives a total figure of 3672 (an annual target of 230 dwellings per annum).

Paragraph 76 of the NPPF states that local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision-making purposes where:

a) The adopted plan is less than 5 years old; and
b) That adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.

Paragraph 77 goes on to state that where there has been a significant under delivery of housing over the previous three years, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the Plan period).

The most recent housing trajectory and 5 year housing land supply for Worthing can be found in the Annual Monitoring Report 2022-23. Table 9 indicates the Five Year Supply measured against the adopted WLP annual target of 230 dwellings plus a 20% buffer, and demonstrates a 7 year supply of deliverable sites.

To maintain the supply of housing paragraph 79 of the NPPF requires local planning authorities to monitor progress in building out sites with planning permission. Where the Housing Delivery test indicates delivery has fallen below 75% of the local planning authorities housing requirement over the previous three years, the presumption in favour of sustainable development applies, in addition to the requirement for an Action plan and 20% buffer.

The latest Housing Delivery Test was published in December 2023 and Worthing Borough Council scored 33%. Therefore the presumption in favour of sustainable development applies as the delivery of housing was less than 75% of the housing requirement over the previous three years.

The adopted Development Plan comprises the Worthing Local Plan 2023 and relevant supporting documents.

DM1 of the WLP states amongst other things that: a) In order to deliver sustainable, mixed and balanced communities, the Council will expect all applications for new housing to consider the most up-to-date evidence of housing needs and demands.

c) Housing developments should provide flexible, socially inclusive and adaptable accommodation to help meet the diverse needs of the community and the changing needs of occupants over time. The Council will expect all new build dwellings to meet the optional higher Building Regulations Standard M4(2) for Accessible and Adaptable dwellings.

DM2 - DENSITY states

a) Development proposals must make the most efficient use of land, which will usually mean developing at densities above those of the surrounding area. The optimum density of a development should result from a design-led approach to determine the capacity of the site. Particular consideration must be given to:

i) the site context and character of the surrounding area in which it is located, and including consideration of any nearby heritage assets or important landscape;

ii) its current and future level of accessibility by walking, cycling and public transport; Social Policies

iii) the need to achieve high quality design;

iv) the need to minimise environmental impacts, including detrimental impacts on the amenities of adjoining occupiers;

v) and the capacity of surrounding infrastructure.

d) New dwellings across all tenures will be expected to meet as a minimum, the nationally described space standards (or any subsequent Government update) for internal floor areas and storage space. These standards will apply to all open market dwellings and affordable housing, including those created through subdivision and conversion. The Council's local standards will continue to apply for external space.

Policy DM5 of the WLP requires all new development to be:

i) of a high architectural and design quality and respect and enhance the character of the site and the prevailing character of the area (including consideration of proportion, form, design, context, massing, siting, layout, density, height, size, scale, materials, detailed design features and landscaping);

ii) enhance the local environment by way of its appearance and character, with particular attention being paid to the architectural form, height, materials, density, scale, orientation, landscaping, impact on street scene and layout of the development;

iii) make a positive contribution to the sense of place, local character and distinctiveness of an area;

iv) respect, preserve and enhance heritage assets and settings;

v) be well built, accessible, fit for purpose, and adaptable to changing lifestyle, demography and climate;

vi) include a layout and design which: take account of potential users of the site; create safe conditions for access, egress and active travel (walking and cycling) between all locations; provide good links to integrated public transport; and have acceptable parking arrangements (in terms of amount and layout);

vii) make a positive contribution to creating a safe and secure environment by integrating measures for security and designing out opportunities for crime;

viii) not have an unacceptable impact on the occupiers of adjacent properties, particularly of residential dwellings, including unacceptable loss of privacy, daylight/sunlight, outlook, an unacceptable increase in noise or vehicular movements or loss of important open space;

ix) respect the existing natural features of the site, including landform, trees and biodiversity and contribute positively to biodiversity net gain;

x) ensure that lighting incorporated into developments provides the minimum for public safety, is energy efficient and avoids light pollution

DM13 - RETAIL AND TOWN CENTRE USES

a) The Local Plan will support the vitality and viability of Worthing's town centres by seeking to meet the identified floorspace needs for retail and other town centre uses up to 2026

Changes of use and redevelopments within town, district and local centres will be carefully controlled to ensure that they support, rather than detract from, the successful functioning of the centres and their ability to meet local needs according to their function in the hierarchy. When considering all such proposals regard will be had as to whether they would amongst other things: Make a positive contribution to the vitality, viability and diversity of the centre; Not unacceptably impact on daytime footfall; Maintain the continuity of active frontages; Ensure that any proposal will cause no significant adverse effects for the occupiers of neighbouring properties; Retain or re-provides ancillary facilities within individual premises, (such as loading, storage, staff or administrative facilities), unless it is demonstrated that these are no longer necessary for appropriate future use of the premises;

Upper Floor Uses

f) The efficient and effective use of the upper floors that add to the vitality and viability of centres will be encouraged subject to:

i) the proposed use of the upper floor will not undermine the viability of the unit on the ground floor particularly those retail uses;

Policy DM16 regarding – sustainable design indicates

a) All development (excluding householder applications) will be required to achieve the relevant minimum standards below unless superseded by national planning policy or Building Regulations. Applications for major development must be supported by a Sustainability Statement demonstrating that the minimum standards are met and where possible exceeded. All development is encouraged to exceed these minimum standards where possible

Policy DM17 – ENERGY

a) All new housing and major non-residential development should incorporate renewable and low carbon energy production equipment to meet at least 10% of predicted total energy requirements (after Co2 reductions from energy efficiency measures).

DM18 – BIODIVERSITY

b)All development should ensure the protection, conservation, and enhancement of biodiversity. If significant harm cannot be avoided (by locating development on an alternative site with less harmful impacts or through design), then such harm should be adequately mitigated. Where it cannot be adequately mitigated then as a last resort such harm must be compensated for. Where it cannot be compensated for, then planning permission should be refused. This process is known as the mitigation hierarchy.

DM24- The Historic Environment

e) Development in Conservation Areas will be required to be of a high standard of design and materials so as to respect, preserve and enhance the character and appearance of that area, and preserve important features. Conservation Area Character Appraisals will be used to assess applications within designated Conservation Areas and opportunities will

be taken to preserve and enhance these areas, and to implement the recommendations of Conservation Area Management Plans

The ‘Guide for residential Development (SPD) October 2013 seeks to outline the key elements for achieving these objectives when considering all new residential developments in Worthing. The aim of this SPD is to interpret policy as well as to include design-led good practice guidance.

Paragraph 3.1 of the SPD states that ‘To retain the quality of the local environment, it is essential that development proposals are designed to respond positively to their context. New development should relate well to its surroundings. It should not ignore the existing environment but should respond to it, exploiting site features and incorporating them into the process.

Para 3.3 states ‘A key element to the achievement of good design is an appreciation of the context in which it is situated. During the design process of any new development consideration will need to be given to its local setting, the surrounding densities, local building heights and other local features.’

At para 3.11 the SPD indicates that new residential development should seek to incorporate the principles of Lifetime Homes Standards, new dwellings including extensions and conversions should comply with the requirements of the Space Standards SPD. Where proposals do not comply a clear justification will need to be set out in the planning application. It is important to ensure that dwellings are capable of providing a suitable layout and adequate room sizes that reflect the use and type. All new dwellings including extensions and conversions should comply with the requirements of the Space Standards SPD. Where proposals do not comply a clear justification will need to be set out in the planning application. Guide for Residential Development (SPD) - October 2013 16 of accommodation.

It should be noted that the Worthing Local Plan (WLP) (2023) now endorses the nationally described space standards (or any subsequent Government update) for internal floor areas and storage space (policy DM2 and supporting text properties, and amongst other things contribute towards an overall improvement in the quality of the living environment.

The creation of a residential unit is acceptable in principle in this sustainable location, the proposal retains a commercial unit at the frontage which can be serviced from the frontage. The retail units ancillary facilities have been moved application site to within the main retail unit.

The accompanying Design and Access statement indicates that the unit is vacant and was last occupied by ‘Early Learning Centre’ a retail shop which previously occupied all floors with retail and storage. The marketing statement indicates that since marketing the premises, they have received very little interest in the premises and any feedback we have received to date has identified that as a result of the shop’s somewhat irregular shape and also its

perceived secondary location that it is not of particular interest to commercial operators for any uses which would fall within Class E including retail.

The agents consider that a smaller retail unit would be far more attractive to let within the market place in a location such as this."

The information submitted with the application on marketing the larger unit in terms of interest and feedback or marketing of a potential smaller is limited The site lies within a pedestrianised part of the town centre and although a smaller unit may be acceptable without evidence to the contrary that the unit has been marketed adequately the reduction in size may have an impact on the viability of the unit and the viability and vitality of this part of the Town Centre. The proposal is therefore contrary policy DM13 of the Worthing local plan.

Heritage and Visual Amenity

The starting point is whether the development would preserve or enhance the established character and appearance of the Conservation Area.

The property would comprise a mid-terraced property which has been extended at the rear at ground floor to the boundaries.

The Montague Street Conservation Area document identifies this section of Montague Street as an important part of the town centre shopping area. Wholly pedestrianised, it is a corridor type urban space enclosed by two to four storey buildings on both sides of the street. It indicates that the north side of the street especially has good townscape quality.

It indicates that architectural historic and townscape elements which should be preserved include:

• A common building line at the back of the pavement.
• Cohesive paving materials.
• A vertical emphasis to front elevations.
• Original architectural detailing on 19th century properties including string courses, parapets, slate roofs, quoins and timber sliding sash windows.
• Elevations in stucco or red brick.

The previous application under reference AWDM/0471/23 approved a new shop front elevation, the only new alteration are to the rear.

The rear alterations include the removal of a roof at ground floor and new windows into a patio area. The courtyard is enclosed and these alterations would not have an impact on the street scene or conservation area.

Residential Amenity

Future Occupants

The Guide for residential development SPD- Living above shops and other commercial premises indicates that the following points must be considered when assessing an application for living above shops or commercial properties:

- The amenity of residents and occupiers, or of the surrounding area.
- Sound proofing measures for the residential units.
- Design/space standards.
- Independent and safe access shall be provided to the residential unit which is separate from that of ground floor use.

In terms of size and layout the one bedroom unit is shown as 44.66 sqm which would comply with the National Space Standards for a one bedroom 1p unit. However the proposed property would provide a single aspect property looking into a small enclosed courtyard.

The Environmental Health (PSH) have raised concerns about the layout of the unit from a safety prospective and the poor outlook.

The internal changes have meant that an internal bin store has been located further into the site and off the long corridor to the bin store would be the entrance to the flat. As indicated by EHOPH the flat layout involves access to the bedroom being though a high risk room for potential fire.

The proposed single aspect flat would look out onto an enclosed approx. 3m in depth courtyard, although the courtyard would be facing south due to existing buildings including overlooking windows and the depth of the courtyard this would offer future occupants limited amenity. The single aspect unit would due to the depth of the required building have poor light, privacy and outlook.

The overall property has previously been extended and three units provided on the first and second floors, these units were on the margins of size and layout but still retained a good sized retail unit and suitable facilities.

The proposed additional unit squeezed at the rear of a reduced retail unit with poor accommodation and outlook would mean that an additional unit would be an overdevelopment of the site contrary to policies DM1 and DM2 of the WLP and the 'Guide for Residential Development' SPDs and the relevant policies of the National Planning Policy Framework.

Neighbour amenity

The application site is within a town centre location with a range of commercial units with residential above to some units including the application site. There are residential neighbours to the rear off New Street. These properties have small courtyards or partly overlook the space. Local residents have raised concerns in relation to noise from the courtyard and close proximity and drainage.

Although the courtyard area and the fact that the property has only got a single aspect has potential to create noise from an future residents it is not considered that it could be refused on this basis due to the town centre location, it does however support the concerns that the development is an overdevelopment of the site.

There is also a drainage concern from existing development. The drainage consultant has not raised concerns but in view of comments this can be raised with the applicant via an informative.

Parking and Accessibility

The site is situated in a sustainable location in easy walking distance of modes of transport other than the private car and local shops and facilities. The LHA have raised that cycle storage should be provided if there is space.

Recommendation

REFUSE for the reason:-

1. The proposed development in association with existing commercial and residential development on the site would result in an overdevelopment of the site and would provide accommodation with a poor unsafe layout and amenity for future residents, particularly in terms of outlook and light, with inferior access via a narrow passage leading to a bin store. The proposal would therefore be contrary to policy DM2 and DM5 of the Worthing Local plan, 'Guide for Residential Development' SPDs and the relevant policies of the National Planning Policy Framework**.**
2. Without evidence to the contrary that the unit has been marketed adequately, the reduction in size may have an impact on the viability of the unit and the viability and vitality of this part of the Town Centre. The proposal is therefore contrary policy DM13 of the Worthing Local plan and relevant policies of the National Planning Policy Framework

Informative

1. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and determining the application within a timely manner, clearly setting out the reason(s) for refusal, allowing the Applicant the opportunity to consider the harm caused and whether or not it can be remedied by a revision to the proposal. The Local Planning Authority is willing to meet with the Applicant to discuss the best course of action and is also willing to provide pre-application advice in respect of any future application for a revised development.

2. Drainage concerns

Expiry Date - 30/04/2024

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

Case Officer: Jackie Fox Date: 21.05.24

Authorised by: Louise Prew Date: 22/05/2024