Expiry Date - 29/10/2025

Development Management – Delegated Officer Report

Application Number: AWDM/1123/25 Recommendation – REFUSE

Site: The Drive Mill Lane Worthing West Sussex

Proposal: Application to vary Condition 12 (No occupation of plots 1, 2 or 3a or 3b shall commence unless and until The Drive has been demolished) of approved AWDM/0692/20 to No occupation of plots 1 or 2 shall commence unless and until The Drive has been demolished.

Site and Surroundings

'The Drive' is a large detached, inter war chalet bungalow which, together with its large garden, is situated on the west side of Mill Lane behind the frontage development.

The Drive' Mill Lane Comprises 5 permitted dwellings under application numbers AWDM/0692/20 and AWDM/1442/21. There is a long history of applications on the site since 2011. The dwellings are in the process of being constructed. Plot 4 is complete as are Plot 3A and 3B. Plots 1 and 2 are not started and were subject to a further application (AWDM/0448/22) and appeal (dismissed) for 4 x 3 bedroom semi-detached houses. A recent application AWDM/0530/25 seeks 3 x 3 bedroom detached houses on the site of plots 1 and 2 which is currently undetermined.

Plots 3A, 3B and 4 are occupied. The occupation of the plots triggers a number of planning conditions.

To the south west of plot 3A is a modern bungalow 12A Woodland Avenue, which is set on lower ground and the bungalow cut into the slope. There are windows in the north elevation facing onto a sloping garden. The rear garden is lawned with boundary planting to the north and east. There is a fence and mature planting on the north of this property which serves as the boundary with plot 3a.

To the west of the site is the residential early post-war cul-de-sac of Hayling Gardens comprising chalet/bungalows. The modest rear gardens of Nos 12 to 16 either adjoin or sit close-by and their common boundary with the application site is largely marked by fencing and trees/shrubs/hedges.

Mill Lane is an unmetalled, unadopted narrow road at this point. Combined with the extensive vegetation of the Gallops, the area has a distinct semi-rural character.

Proposal

The application is to vary condition 12 (No occupation of plots 1, 2 or 3a or 3b shall commence unless and until The Drive has been demolished) of approved AWDM/0692/20 to No occupation of plots 1 or 2 shall commence unless and until The Drive has been demolished.

The application includes the following reason for the condition to be varied:

Variation of condition 12 required to avoid amenity harm associated with the demolition of The Drive while plots 3a, 3b and 4 are occupied in accordance with the current condition and before work has commenced on plots 1 and 2. It is now proposed that The Drive will be demolished at the same time as work begins on site to construct plots 1 and 2 and not before this time, to avoid unnecessary "stop start" periods of machinery entering the site and associated disturbance to residents

Relevant Planning History:

AWDM/0262/11-Outline application for the development of 1 No. detached chalet-style house and 1 No. detached bungalow (including partial re-plan of planning permission WB/05/0216/FULL encompassing chalet-style house) on land comprising part of rear garden of Dunloran Mill Lane; land to the north of Dunloran the subject of planning permission WB/05/0216/FULL and southern part of The Drive and allied driveway off Mill Lane.

AWDM/0784/12-Development of 1 no. detached dropped-eaves house following planning permission AWDM/0262/11

AWDM/0615/13; *Demolition of 'The Drive' and redevelopment to provide four detached houses, together with access road, parking and landscaping (including felling of trees/replacement planting)* which was granted in October 2013. This comprised the redevelopment of the (still existing and occupied) inter war chalet house known as 'The Drive' and its large woody plot by building four new large detached houses in a cul de sac off Mill Lane.

AWDM/1566/13-Redevelopment to provide 4 detached houses (AWDM/0615/13); Amendments to Plot 4 (variation of conditions 2, 3, 4 and 8) including removal of garage and provision of car port; extension to ground floor (south elevation) and pergola; creation of porch and solar panels on roof ; insertion of two fixed shut obscure glazed windows in upper floor of west flank and rooflight in front slope and resiting chimney to east flank AWDM/1566/13)

AWDM/1678/16; Amendment to previously approved AWDM/1566/13. Amendments to approved four bedroom detached house with single garage (plot 4) to a four bedroom detached house of a different form with double garage- refused

AWDM/1107/15-Redevelopment to provide 4 detached houses as amended under AWDM/1566/13; New Amendments to replace 1 x four bed house on Plot 3 at western end of site with 2 x four bed detached houses and allied variation of conditions 2, 6 and 14.

AWDM/0216/17 *Replacement of approved four bedroom detached house with single garage (Plot 4) under Planning Permission AWDM/1566/13 with a four bedroom detached house of a different form with single garage. (Revised application to previously refused AWDM/1678/16)* was approved in January 2017

AWDM/0216/17 was identical to the approved scheme under AWDM/1566/13 except in respect of changes made to plot 4 (and that the changes agreed under AWDM/1107/15 to subdivide plot 3 to two detached houses were erroneously shown).

Under AWDM/0216/17, the changes to plot 4 compared to *AWDM/1566/13* were that the form of the house and enclosed parking were materially changed.

AWDM/1773/17- The changes to plot 4 are identical to that approved under AWDM/0216/17, save that the proposal now included retention of an upper floor window in its west elevation and proposed a new double garage, identical to that proposed under AWDM/1678/16. The application is presented as a free standing application to plot 4 only and not as an amendment to AWDM/0615/13.

AWDM/0090/19-Revisions to approved four-bedroom detached house with double garage (Plot 4). Amendment to planning permission AWDM/1773/17 Amendment: enlarged size and position of double garage and installation of window to south-east elevation of the garage –Approved

AWDM/0692/20-Amendment to planning permission AWDM/1107/15 to develop 2no. 4-bedroom detached houses on Plot 3 of consented scheme AWDM/1566/13. Amendments involve larger dwelling footprints - APPROVED

AWDM/0692/20- Amendment to planning permission AWDM/1107/15 to develop 2no. 4-bedroom detached houses on Plot 3 of consented scheme AWDM/1566/13. Amendments involve larger dwelling footprints -APPROVED

AWDM/1442/21- Application for variation of condition to Approved AWDM/0692/20; Condition 3 (landscaping)- APPROVED

AWDM/0448/22- Erection of 4no. 3-bedroom semi-detached houses on Plots 1 and 2 of previously consented scheme under reference AWDM/0615/13- REFUSED- DISMISSED ON APPEAL

1. The proposed four dwellings on the site of approved two dwellings would by reason of their height, bulk, massing, design and siting on this constrained backland site result in a cramped, overdevelopment and have a detrimental effect on the character and visual amenity of this small group of houses off Mill Lane. The proposal would therefore be contrary to Policies, 8 and 16 of the Worthing Core Strategy, the Guide to Residential Development SPD 2013, DM1, DM2 and DM5 of the

Submission Draft Worthing Local Plan (As Modified) and the relevant paragraphs of the National Planning Policy Framework

2. Taking account of the topography of the site the proposed dwellings by reason of their size, siting, form, massing and design would unacceptably harm the amenity of the neighbouring residents in terms of overlooking, loss of light, overbearing effect and general noise and disturbance from domestic activities associated with the intensity of development, in particular, Raddison House, Plot 4, Plot 3B Mill Lane, as well as 1 and 2 High View. The proposal would therefore be contrary to saved policy H18 of the Worthing Local Plan, Policy 16 of the Worthing Core Strategy, the Guide to Residential Development SPD 2013, Policy DM5 of the Submission Draft Worthing Local Plan (As Modified) and relevant policies of the National Planning Policy Framework.

Enforcement Report September 2023

The recommendations in the report:

i) A Breach of Condition Notice (BCN) is served to require the developer to rectify the breaches of conditions 3,4,8,9, and 11.

ii) The developer is requested to apply to vary condition 12 to remove the requirement for off site biodiversity improvements and to meet the requirements of the first part of the condition in the meantime..

iii) An enforcement notice is served requiring the removal of the unauthorised double garage

iv) Members to note that subject to satisfactory evidence and consultation with the Head of Legal prosecution action to be pursued in relation to damage to the preserved tree.

The committee agreed the recommendation and approved that a Breach of Condition Notice be served and an enforcement notice in relation to the unauthorised construction of a double garage and to delegate possible prosecution action

Prosecution action was successful and a further breach of conditions has been issued.

AWDM/1395/24- Application to partially vary condition 4 of AWDM/0692/20 to remove requirement for obscure glazed and non-openable south facing roof light windows within Plot 3a. [Planning permission AWDM/0692/20: Amendment to planning permission AWDM/1107/15 to develop 2no. 4-bedroom detached houses on Plot 3 of consented scheme AWDM/1566/13. Amendments involve larger dwelling footprints.]- REFUSED

‘Without evidence the contrary the south facing roof light windows to plot 3A without being obscure glazed and non-openable would cause detrimental overlooking and loss of amenity of the residents of 12A Woodlands Avenue.

The proposal is therefore contrary to policy DM5 of the Worthing Local Plan and relevant policies of the NPPF'.

The application was dismissed on appeal

AWDM/1396/24- Application to vary condition 1 (approved plans) of AWDM/0692/20 to retain double garage on Plot 3a- REFUSED

1. The Turkey Oak Tree (T2 of 2013) is an established feature which contributes positively to the local character and landscape of the area. The retrospective garage is within close proximity of the tree and well within the root protection area. The position of the extended garage has an impact on the canopy, future growth and pressure on the tree and without evidence to the contrary potential damage to the tree roots and viability of the tree. The proposal is therefore contrary to policies DM5 and DM18 of the Worthing Local Plan (2023) and the relevant policies of the NPPF.

2. The retrospective extended garage by reason of its size and siting has resulted in a cramped overdevelopment of the plot having a detrimental impact on the character and visual amenity of this small group of houses off Mill Lane. The garage extension furthermore does not provide the TPO Turkey Oak its appropriate setting within its "sylvan character' as part of the original planning consent. The proposal would therefore be contrary to policies DM5 and DM18 of the Worthing Local Plan (2023) and the relevant paragraphs of the NPPF.

AWDM/0530/25- Erection of 3no. 3-bedroom detached dwellings with associated landscaping on Plots 1 and 2 of the previously consented scheme- Currently undetermined.

The site is currently subject to enforcement action

Consultations

None undertaken

Representations

Planning Liaison for High Salvington Residents' Association

I write as Planning Liaison for High Salvington Residents' Association. We have been asked by residents to add our voice in objecting to this application to amend planning permission previously given, so as to defer (indefinitely?) the demolition of the existing property The Drive.

I understand that plots 3a & 3b have already been occupied in breach of this condition, and at a court hearing last month the developers were fined for this

breach. In the circumstances it would seem perverse now to remove a condition which the Court has seen fit to enforce.

I understand also that the planning permission for the development includes a condition to create a turning head in front of 3b, essential for traffic management in the rather cramped confines of this development, & this does not seem possible without the demolition first of The Drive.

We would therefore object to the application, on the grounds of overdevelopment, road access, & effect on neighbours

12A Woodland Avenue

What is the purpose of this Application? According to the approved Plan AWDM/0692/20 Plots 1 and 2 are to be built on top of the Drive footprint. It would therefore be impossible for Plots 1 and 2 to be lived in as the houses could not be built until the Drive is demolished.

Condition 14 (concerning the occupation of Plots 1, 2 and 3) was in the original approved Plan for this site AWDM/0615/13 and subsequently became Condition 12 in approved Plan AWDM/0692/20. Why has it taken 12 years to seek to vary this Condition ?

Varying this Condition does not make sense as it has already been breached with Plots 3A and 3B being occupied by tenants for 2 years. Delaying the demolition of The Drive will cause disruption and loss of amenity to occupiers on site and neighbours

Raddison House 77 Mill Lane

We oppose the variation of planning condition.
The Kelly family concurs with the submission of our neighbours that this application makes little sense in light of enforcement action upheld by the court action earlier this Summer. I had deferred commenting anticipating further submissions by the landowner's planning agent to illustrate exactly how her son, a one man builder with very occasional day labourer, might feasibly demolish The Drive and build houses on Plots 1 and 2 in tandem. In the absence of clear details I believe the LPA should refuse this application.
The condition is only one of several recognised by the Planning Committee at the meeting in September 2023 when they voted unanimously to enforce the "Pre-Occupation" conditions; all of which were triggered in 2021 when plot 4 (79 Mill Lane) was occupied by the landowner and latterly when Plots 3A and 3B were occupied.
As stated previously, the syntax of these "pre-occupation" conditions renders them impossible to enforce proactively so I would go further than opposing this request to vary a condition that is already in breach and unremedied, to state that "Pre Build" conditions should now be substituted next time AWC grants permission for the land-owner's son's application. There has been no act of good faith to remedy any of these breaches and the length of time taken to enforce has not served this community adequately.

Following the expiration dates of the Breach of Condition Notices served since 2016, no compliance is possible now without a time machine, however an act of compliance in good faith might have supported the builder's representations. There have been no acts of good faith.
The applicant could have made this submission in November 2023 when the most recent raft of BCNs was served. This feels to local residents of High Salvington as a ruse to delay further enforcement action; to kick the can down the road. The fact that this application offers no plan for the achievement of this concurrent demolition and build, gives us no confidence in the agent's hollow throw-away promises of consideration for the amenity of near neighbours; actions for over a decade speak louder than empty promises. Ms Ronan's words:
"It is now proposed that The Drive will be demolished at the same time as work begins on site to construct plots 1 and 2 and not before this time, to avoid unnecessary "stop start" periods of machinery entering the site and associated disturbance to residents."
This statement is, at best, nonsensical. To careworn neighbours, it is disingenuous. The most recent stop period has lasted 2 years - an adequate time period during which The Drive could already have been demolished, the required turning head established and the two permitted houses built on plots 1 and 2.
I ask the council to refuse this variation because there has been no act of good faith to show that the builder is considerate of local neighbours. If and when the open application re Plots 1 and 2 (AWDM/0530/25) is determined, I would ask the LPA to revise the outstanding breached conditions to reword them as "Pre-Build conditions". Pre-occupation conditions are no longer sensible given the current and ongoing occupation of houses on site. This is to ensure that the requirement to complete the estate road, turning heads, visibility splays, supplementary planting etc are completed before the builder is able to build two more houses, install more tenants who are unaware that they are living in homes that breach planning, whilst keeping The Drive, for whatever purpose has prevented it's demolition from 2021 onwards. This house appears to still be occupied.
We would also ask for the builder to submit a comprehensive new Construction Method Statement to set out how this "simultaneous work" will be approached whilst fully maintaining access to and from the estate road on to Mill Lane throughout the build. Unfortunately, the CMS accepted under AWDM/0572/23 to vary a previous long-overdue condition was inadequate to cover the ever-changing complexion of this site.
In recognition of the bottle-neck exit to Mill Lane proper, by allowing houses on plots 4, 3A and 3B to be occupied when the LPA's intention was that the whole site (plots 1-4) would be completed and the estate road fully finished before occupation. Residents have justified concerns that there is insufficient room left on site to accommodate demolition work, site traffic, materials and equipment.
The proposed relaxation of another breached condition is incoherent and should be rejected by the Planning Department.

Pine View 83 Mill Lane

Not being familiar with the full history of these developments and lacking full understanding of what is going on, this comment made under the assumption/understanding that this variation seeks to permit continued occupation of 3a and 3b despite the fact that The Drive has not been demolished.

If this is correct then, as the tenants of 3B (Pine View) we support this variation. If this variation is not approved, as per the recent Council Enforcement Notice, we would be required to move out at short notice - effectively being evicted. Needless to say the loss of our home would be significant, never mind the considerable cost of moving and finding somewhere else to live. Additionally we have a child in his final year of A levels and the upheaval of a move now would negatively affect him and his studies.

We support this motion to avoid unaware bystanders of 3a and 3b becoming collateral damage.

Relevant Planning Policies and Guidance

Worthing Local Plan 2020-2036:
DM1 Housing Mix;
DM2 Density;
DM5 Quality of the Built Environment;
DM6 Public Realm
DM7 Open Space, Recreation and Leisure;
DM16 Sustainable Design:
DM17 Energy:
DM18 Biodiversity
DM19 Green Infrastructure

Planning Assessment

The main issue is whether the Variation of Condition 12 (No occupation of plots 1, 2 or 3a or 3b shall commence unless and until The Drive has been demolished) of approved AWDM/0692/20 to No occupation of plots 1 or 2 shall commence unless and until The Drive has been demolished would have an impact on the reason for the condition.

The reason for the condition states:

Reason: In the interests of future occupiers amenity in compliance with The National Planning Policy Framework and saved policy H18 of the Worthing Local Plan.

Policy H18 of the Worthing Local plan has been superseded by policy DM5 of the Worthing Local Plan 2023 which states:

a) All new development (including extensions, residential annexes, alterations, ancillary development, change of use and intensification) should:

i) be of a high architectural and design quality and respect and enhance the character of the site and the prevailing character of the area. This will include 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, tree canopy, 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 where appropriate 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 giving rise in significant adverse impacts, or vehicular movements resulting in severe cumulative impacts on the road network, or loss of important open space of public value (unless it satisfies any of the exceptions set out under Policy DM7 – Open Space, Recreation and Leisure);

The condition was considered appropriate at the time of the determination of the application.

Residential Amenity/Impact

The extract from the layout plan and the photo illustrate how close ‘The Drive’ is to plot 3b resulting in an unsatisfactory relationship. There is a minimum

distance of approx. 5m from the front of plot 3b to the side/rear of ‘The Drive’ and the existing dwelling is across the whole front of plot 3b.





The applicant has indicated that the reason for the variation to condition 12 is to avoid amenity harm *associated with the demolition of The Drive on the existing occupied plots and demolish at the same time as work begins on site to construct plots 1 and 2 (or subsequent permissions on the site).*

The harm is however already occurring particularly to plot 3b (although this property should not be occupied due to the terms of the condition) in terms of the visual impact and loss of light. It is therefore considered that harm has already occurred and the demolition of ‘The Drive’ should be carried out in accordance with condition 12 in its original wording and that the reason for the condition is still relevant which was in the interests of future occupier’s amenity.

With regards to neighbouring plots and residences both on site and external to the site. The demolition has always been a condition for its removal. The demolition should have occurred prior to occupation of any of the plots. The applicant/owners are in breach of this condition and notice has recently been served.

Occupants of properties external to the site were also aware of the terms of the condition. It is not considered that grouping the work to demolish the dwelling and construct the plots would lessen the impact that has been ongoing for at least 8 years. The local residents would welcome its removal in accordance with the condition as originally set out.

Furthermore, there is no timescale for when work might commence on any future development of plots 1 and 2 to the further detriment of the occupants of plot 3b in particular.

The area in front of plot 3b within the footprint is also shown as a turning area, 'The Drives' continued siting therefore restricts this turning area and the full operation of the site for turning, access and traffic management.

Visual amenity

'The Drive' occupies a central position on the site, it is in a poor condition and does not relate to surrounding development which has been constructed. It has a detrimental impact on the visual amenity of the site.

Recommendation

REFUSE for the reason(s):-

The continued siting of 'The Drive' on the site not in accordance with condition 12 of AWDM/0692/20 has a detrimental impact on the amenities of the occupants of particularly plot 3b in terms of detrimental visual impact and loss of light but also plots 3a, 4 and Radisson House, 77 Mill Lane in terms of visual impact and use and operation of the site. The variation of the condition would protract the harm to the amenity of the occupants contrary to policy DM5 of the Worthing Local Plan and relevant policies of the NPPF

Informative

The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. Unfortunately, it has not been possible to resolve those matters within the timescale allocated for the determination of this planning application. However, the Local Planning Authority has clearly set out, within its report, the steps necessary to remedy the harm identified within the reasons for refusal - which may lead to the submission of a more acceptable proposal in the future. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development

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

Case Officer: Jackie Fox Date: 29.10.25

Expiry Date - 29/10/2025

Authorised by: Louise Prew Date: 29/10/2025