Development Control – Delegated Officer Report

Application Number: **Recommendation**
WB/10/0806/FULL **Refuse**

Site: **8 Bath Place Worthing West Sussex BN11 3BA**

Proposal: **Construction of internal staircase from ground floor to first floor in connection with change of use from class A1 (shop) to class A2 (Financial and Professional Services)**

Application Number: **Recommendation – Approve**
WB/10/0807/LBC

Site: **8 Bath Place Worthing West Sussex BN11 3BA**

Proposal: **Application for Listed Building Consent for construction of internal staircase from ground floor to first floor in connection with change of use from class A1 (shop) to class A2 (Financial and Professional Services).**

Proposal

The property was last used as a travel agency and the application simply seeks to recycle the existing layouts, save that there would be a reinstatement of a stairs from the ground floor to first floor, using a style and form based on the original stairs which remain on the upper floors.

As the change of use covers the upper floors (first, second and third), the proposal also includes 8A.

There has been extensive dialogue between the applicant, planning officers and the Economic Development Team since submission and the identified end users (property letting agency) have since submission found alternative premises in the town and the application is now speculative.

Date of Site Visit: **10.1.11**

Neighbours Checked : **Y / ~~N~~**

Additional Neighbour Notifications (List Addresses):

Site and Surroundings:

The property which is the subject of this application is a three storey (with attic) mid terraced Georgian building, last used as a travel agents at ground floor with independent rear access to the upper floors. The ground floor shopfront is modern. The building is grade II listed and described as follows on the register:

Bath Place (6 to 8 consec.)	BATH PLACE 1. 5406 (East Side) Nos 6 to 8 (consec.) TQ 1402 SE 4/156 II GV 2. Early C19. 3 terraced houses, forming part of scheme with Nos 4 and 5. 3 storeys and attic. A 3-light bay window to each house, alternately bowed (ie No 7). No 7 has glazing bars, but not original sashes. Elsewhere Victorian sashes or modern windows. No 8 has added decorative tiles between storeys of bays, and no right-hand door as the others have. All have modern shopfronts, and modillion eaves cornice below slate roofs, with one dormer (Nos 6 and 7 with sashes and glazing bars). Stucco front. Nos 4 to 8 (consec.) form a group. Listing NGR: TQ1489502430	II	21-MAY-1976

The building is rendered with slate roof.

The property faces Bath Place, a short pedestrianised street in the heart of the town centre linking the main shopping street (Montague St) with the seafront and is adjoined by shops with flats or commercial above (elsewhere in Bath Place there is a hairdresser, two jewellers, nail and eyebrow studios; flea market/antiques shop; games shop and two café/restaurants with a amusement centre on the corner of Bath Place and the seafront). Opposite is the dead return side of new H&M shops and Top Man. The rear of the terrace is accessed by a narrow twitten which faces commercial buildings. The rear of the terrace has seen some alteration.

The ground floor unit is vacant and has been so for since August 2006 according to the applicants, though retail surveys indicate occupation to at least July 2007. It was last occupied by Going Places, part of Thomas Cooke travel agency (A1) (who still own the unit) since at least 1991.

The interior of the building was refurbished in 2009 following damage and deterioration sustained during periods of vacancy and occupation by squatters. Works were completed in November of that year. Little of the original interior detailing remains, apart from the layout and stairs on upper floors. The ground floor shop is effectively a shell. The shopfront is modern.

The property sits in a Conservation Area and Controlled Parking Zone. The Saved Worthing Local Plan designates Bath Pace as part Zone B of the Central shopping Area and is covered by Policy S8.

Relevant Planning History:

Application Number	Development Description	Decision	Decision Date	Appeal Decision	Appeal Decision Date
1310/73/A	INSTALLATION OF INTERNALLY ILLUMINATED DOUBLE-SIDED PROJECTING BOX SIGN FIXED AT FASCIA LEVEL. 8 BATH PLACE	APPROVED WITH CONDITIONS	20-11-1973		
390/86/A	INSTALLATION OF AN INTERNALLY-ILLUMINATED FASCIA SIGN. 8 BATH PLACE	APPROVED WITH CONDITIONS	10-06-1986		
489/67/A	INSTALLATION OF INTERNALLY ILLUMINATED DOUBLE SIDED PROJECTING	APPROVED WITH	14-07-1967		

	BOX SIGN WIDTH 2'6" HEIGHT 1'9" TO READ SIDE 1 "PICKFORDS - REMOVAL AND STORAGE - SERVICE" SIDE 2 "PICKFORDS TRAVEL SERVICE" AND END "PICKFORDS" FIXED TO FASCIA. 8 BATH PLACE	CONDITIONS	
534/86/LB	APPLICATION FOR LISTED BUILDING CONSENT FOR INSTALLATION OF AN INTERNALLY- ILLUMINATED FASCIA SIGN. 8 BATH PLACE	APPROVED WITH CONDITIONS	22-07-1986
57/68/A	INSTALLATION OF INTERNALLY ILLUMINATED DOUBLE SIDED PROJECTING BOXSIGN, LENGTH 2'4 1/4" HEIGHT 9 1/2" TO READ "APPOINTED AGENTS - CUNARD" FIXED TO SIDE PIER OF SHOPFRONT. 8 BATH PLACE	APPROVED WITH CONDITIONS	16-02-1968
589/64	INSTALLATION OF NEW FRONT TO GRD FLOOR OF BLDG AND ALTERATIONS TO OFFICE ACCOMMODATION ON GRD FLOOR AND LIVING ACCOMMODATION ON THE 1ST FLOOR. 8 BATH PLACE	APPROVED WITH CONDITIONS	06-10-1964
94/0115/A	INSTALLATION OF ONE EXTERNALLY-ILLUMINATED FASCIA SIGN AND ONE NON-ILLUMINATED PROJECTING SWING SIGN AT FASCIA LEVEL : 8 BATH PLACE	APPROVED WITH CONDITIONS	28-03-1994
94/0116/LB	APPLICATION FOR LISTED BUILDING CONSENT FOR THE INSTALLATION OF ONE EXTERNALLY ILLUMINATED FASCIA SIGN AND ONE NON-ILLUMINATED SWING SIGN AT FASCIA LEVEL : 8 BATH PLACE	APPROVED WITH CONDITIONS	28-03-1994
ADVT/591	INSTALLATION OF ILLUMINATED DOUBLE-SIDED OVERHANGING BOX-SIGN AFFIXED TO MAIN WALL OF BUILDING ADVERTISING `PICKFORDS'. 8 BATH PLACE	REFUSED	06-05-1958

Applicants supporting statement

I write to express my concern at the decision taken to refuse planning consent for a change of use from A1 to A2 to a potential occupier of the above premises.

The property has lain empty since it closed as a Going Places travel agency in October 2007.

Since closure extensive marketing has taken place and whilst several parties have expressed interest it was only in August 2010 that serious interest was secured from Tudor Equity Ltd to take a sub-lease of the premises and the matter was placed in Solicitors hands.

The interested party had intended to use the premises as an Estate Agents and Property Management business, and had received initial advice from your help desk that an application to change the use to A2 (from A1) would be likely to be approved and would be a 'formality'. Matters have been progressing since this time – and costs have been incurred in relation to legal fees by all parties – the prospective tenant, the Landlord and Thomas Cook.

We now find that consent for change of use has been denied – based upon some kind of aspirational desire on the part of Worthing Borough Council to achieve a 'café culture' quarter in this area.

I find it unacceptable that in these straitened times it is not possible to adopt a more practical approach to permit this type of use – after all it's a non contentious use – and to allow the business to move forward. From our perspective – this shop has lain

empty now for in excess of three years. We still have to pay full rent and Business Rates – and are now denied the prospect of securing a tenant who appeared to have an established local business employing local people and with a potential for real growth. To deny this type of business the opportunity to expand and to effectively oblige Thomas Cook to continue to support these premises with no further interest strikes me as a very short sighted policy.

I should add that this property has been the subject of illegal occupation on more than one occasion – and that the cost of dealing with squatters is a further cost that could have been avoided if this matter had been allowed to progress.

I would be very grateful if you could re-examine this case and provide me with a clear understanding as to why the proposed use is deemed unacceptable.

As per earlier correspondence - this property was closed in October 2007

Since this time it has been marketed by our agents Tushingham Moore, and I attach an email detailing the enquiries that they have received for it. You will note that it isn't extensive - and this suggests that the attractiveness of this location for pure retail has reduced. The short nature of Bath Row, and its use as a cut through to the seafront suggest that there needs to be consideration to alternative users. We have had applications from Employment Agencies and Estate Agents to support this.

We also carried out a major dilapidations programme at the property to reinstate the flat and to ensure that the shop is as attractive to potential occupiers as it might be. A schedule of works was undertaken and was completed back in 2010. I attach a copy of the works requested.

Since this date - our agents have only managed to secure interest from

Tudor Estates

nearby Cafe operator who then pulled out due to family problems

Consequently I do feel that we've explored every opportunity to let this for retail space, but that consideration should no be given to allowing there to be a change of use to allow alternative user.

It's not the rent that puts people off - as we recognise that we will need to offer suitable incentives. Our own lease goes on to 2016, at a rent of £21600pa which is clearly well ahead of what the property is currently worth.

If we can usefully get an income of at least 50% of this through change of use - then coupled with the reduction of Business Rates liability (as we'd have a sub tenant) this is a major assistance to us. Therefore any opportunity to reduce the current impasse and allow a change of use would be appreciated.

Representations and Relevant Consultation Responses:

Conservation Area Advisory Committee

No objections

Empty Properties Officer

I have had dealings with Thomas Cook and the police with this property. I was contact by the Police in June this year about the property causing ASB issues, including many attempted break-ins and the owners (Thomas Cook) about trying to sell it unsuccessfully. I did speak to a contact at Thomas Cook about it who said they had no interested from anyone in leasing it and they had no plans to use it themselves.

The Police have said the break-ins have subsided now there is a metal gate and the property is boarded. But still have concerns about the area especially the back alleyway access.

The Executive Head of Health and Community Safety: No objections

Economic Development Manager:

Further to our meeting on Monday with the applicant and his business partner, please find below our ED comments:

The application states that 8 Bath Place was last in operation for A1 use until May 2010. This property was in a poor state until November 2010, when investment was made to improve the inside of the premises.

Bath Place is designated as a town centre primary retail area (B) with its main purpose being to support and enhance the primary (A) retail provision. The Worthing Masterplan (2006) highlighted the need for 'public realm works to improve linkages between the seafront and the town centre'. Bath Place is ideally positioned to help link the seafront to the main retail area, by providing a pedestrian friendly retail/cafe culture environment, which would encourage footfall between the seafront and town centre. The Town Centre Initiative are considering a BID project to restrict vehicular access between 10am and 4pm along Bath Place, to encourage a vibrate retail/cafe culture similar to Warwick Street.

The Economic Development team would strongly object to this change of use to A2 for the following reasons:

- Bath Place has good occupation and this property is one, of only two retail units currently available in this road.
- Various A2 ground floor units are currently available within the town centre e.g. Chapel Road
- This property has only been marketed in this current improved state for a few months and full marketing evidence has not been provided, to demonstrated that this unit is no longer viable for A1 use
- The application does not provide evidence that this property has been actively marketed for suitable alternative employment use such as A3, which would help support the primary (A) retail area and compliment the Worthing Masterplan.

Town Centre Manager

No objections

Policy Manager

The application property lies within the South Street Conservation Area and is a listed building extract of listing below;

"BATH PLACE 1. 5406 (East Side) Nos 6 to 8 (consec.) TQ 1402 SE 4/156 II GV 2. Early C19. 3 terraced houses, forming part of scheme with Nos 4 and 5. 3 storeys and attic. A 3-light bay window to each house, alternately bowed (ie No 7). No 7 has glazing bars, but not original sashes. Elsewhere Victorian sashes or modern windows. No 8 has added decorative tiles between storeys of bays, and no right-hand door as the others have. All have modern shopfronts, and modillion eaves cornice below slate roofs, with one dormer (Nos 6 and 7 with sashes and glazing bars). Stucco front. Nos 4 to 8 (consec.) form a group. Listing NGR: TQ1489502430"

The South street Conservation Area Appraisal states that one of the enhancement opportunities is the replacement of unsympathetic shop fronts and signs with shop fronts and signs that respect the individual buildings and the character and appearance of the street scene.

<u>History</u>

The application property is situated within the Zone B area of the Primary area of the central shopping area. According to our survey records number 8 has been used as a Travel agent from at least 1991 through to at least July 2007. It is not clear what happened between July 2007 to June 2010 when it was indicated as being vacant A1. No surveys were carried out between July 2007 and June 2010.

In Bath Place there are 11 units (although 14 and 16 are occupied by Wheelers jewellers). The 2010 survey indicated that of these 11 units 8 were in A1 use. 2 units were vacant including the application property (2 and 8).

In the whole of this zone in 2010 64% was A1, 4% A2, 26% A3 and 6% other. The vacancy rate excluding the 1st floor of Guildbourne centre was 13%.

Local Plan/ LDF Policies

Saved Local Plan Policy S8 –Zone B of the Primary Area – permission will 'not normally' be granted for the change of use of the ground floor of a shop (A1) to any other use. An exception maybe made where the use is an A3 use.

LDF Core Strategy will not supersede this policy however, policy CS 6 Retail – seeks to identify, protect and enhance the retail hierarchy. It goes on to state that this would be achieved through 'identifying Primary and Secondary shopping zones …where Primary Zone A protects A1 uses and Primary zone B allows a more flexible approach to A3/A4 uses. The Secondary area provides even more flexibility allowing A1/A3/A4 and A2. This approach is supported in the evidence base produced by GVA Grimley Oct 2009.

There is a policy objection to the proposal.

Other material considerations

Whilst I have seen any evidence myself I understand that the applicants have argued that the property has been vacant since August 2006 (does not accord with our records). They state it has been marketed for nearly 2 years without any success. They state the retail is very poor in this area and that location is not critical to them. There is also a suggestion that some £70k has been spent on refurbishing the entire building and that there have been problems with squatters for some time.

I have not seen any evidence to substantiate these claims and a number of questions/ issues are raised;

- What refurbishment work was undertaken and when was this done?
- Was the property marketed after refurbishment was undertaken and for how long?
- Has there not been any interest from A1 or A3 at the reduced rent/deal?
- The applicants/occupiers have stated that location is not important to them and the nearby Secondary Area of the Central Shopping Area offers opportunities for A2 uses as supported in policy.
- The purpose of the Zone B is to support the Zone A main retail zone by offering cafes/restaurant to help the retail function and serve both shoppers and tourists. It is secondary zone that offers even more flexibility.
- There are no apparent benefits to the listed building or the conservation area of this particular proposal i.e. and opportunity would have been to see the

reinstatement of the original design of shopfront to replace the out of character aluminium shopfront.
- This part of the zone B only has 2 units vacant (2010 survey) including the application property. There have been some recent additions in particular 'Parklife' and the Hairdressers that seem to pull in more trade and make this area a little more vibrant.

I would be concerned that without sufficient other material considerations to justify a departure from policy there is a risk of precedent being set that could undermine the objectives of the retail function.

Letter of support form Bushey Heath Hertfordshire on grounds of:

- Length of vacancy and impact on commercial areas of allied graffiti and vandalism
- Benefits of occupied premises in general to the town centre
- Surprised Worthing Borough Council has policy contrary to Government police of supporting small businesses and crating jobs to rebalance the economy
- Refusal fails to create a better environment and adversely affects employment.
- Benefits of having estate agents in the town.
- Reconsider the decision in this light
- Will refer any refusal to David Cameron

Planning Policy Framework

Saved Worthing Local Plan Polices S8, BE1, H18, and TR9.
Core Strategy Policy 6
Supporting the retail sector in the town centre October 2009
Planning Policy Statement: 1 Delivering Sustainable Development
PPG13: Transport
PPS4: Planning for Sustainable Economic Growth
PPS5: Protecting the Historical Environment and Practice Guide
Planning and Listed Building and Conservation Areas Act 1990, including S. 16, 66 and 72.

Planning Assessment:

The principal issues raised by the planning application proposal are:-

- Principle of proposed use
- Impact on the amenity of neighbours
- Impact on the integrity of the design of the property and character of the townscape, in particular the character and appearance of the Conservation Area and the special character of the Listed Building.
- Access and parking

The principal issues raised by the Listed Building Consent application proposal are the impact on the special character of the Listed Building (architectural or historical

interest) as set out in S16 of Planning and Listed Building and Conservation Areas Act 1990.

Principle of proposed change of use from A1 to A2

Policy guidance in this area comprises the Development Plan in the form of;

- Policy S8 of the Saved Worthing Local Plan
- Core Strategy Policy 6

and also relevant are the 2012 Retail Health check and Retail Zone Review for Montague Street and the National Planning Policy Framework.

The site falls in Zone B of the Primary Area of the Central Shopping Area (of Worthing town centre) as designated in the Saved Worthing Local Plan and Proposals Map. The allied Policy 8 states of the Saved Worthing Local Plan (and carried forward in the Core Strategy Policy) states:

Within Zone B of the Primary Area of the Central Shopping Area, as shown on the Proposals Map, permission will not normally be granted for the change of use of the ground floor of a shop (A1) to any other use. An exception may be granted where:-

(i) the use proposed is an A3 use;
(ii) the proposal causes no significant adverse effects for the occupiers of neighbouring properties;
(iii) the proposal does not intensify car parking problems; and
(iv) the use does not extend or result in a block of non-shop uses with a frontage of more than 20 metres or result in the proportion of non-shop uses exceeding 35% within Zone B of the Primary Area as a whole.

Proposals for changes of non-shop premises to uses outside the A1, A2 or A3 Use Classes will not normally be permitted.

The more up to date Core Strategy reaffirms this approach in Policy 6. This states

The Council will work with organisations and the local community to identify, protect and enhance the following hierarchy of vital and viable town, district and local centres:

Town centre: To ensure that Worthing town centre continues to fulfill its sub-regional role, it is important to provide development that meets both quantitative and qualitative needs. New retail, leisure and office development will therefore, be directed to the town centre, although a significant amount of office development is expected to be out-of-centre.

This will be achieved through:

- *Developing the town centre and creating a new retail core by redeveloping the Guildbourne Centre and incorporating additional retail space in Union Place (Union Place Area of Change)*
- *Identifying Primary and Secondary Shopping Zones where Secondary zones are more flexible and encourage retail, commercial, leisure and cultural*

development. Primary Shopping Zones are divided into A and B where Primary Zone A protects A1 uses and Primary Zone B allows a more flexible approach to A3/A4 uses

- *Safeguarding the retail character and function of the town centre by resisting developments that detract from their vitality and viability*
- *Applying the sequential approach when considering proposals for new out-of-town uses*
- *Encouraging convenient and accessible district and local shopping facilities to meet day to day needs of residents, and contribute to social inclusion.*

To support the Core Strategy, a Retail study was undertaken by GVA for the Council and a subsequent heath check undertaken for the Montague Street area in 2012 which are very apposite to Bath Place. Relevant conclusions from the latter study are reproduced below;

GVA Grimley Recommendations;

9.1 GVA Grimley have highlighted a number of key recommendations for Worthing Town Centre as a result of their analysis:

- *With regards to future development, the conclusions of GVA Grimley advise that primary and secondary frontages should not be altered until future development has occurred.*
- *GVA Grimley state with regards to changing the use of the Primary Shopping Areas, that a 'more flexible policy stance would erode the strong retail function to the detriment of the Primary Shopping Area as a whole.' Therefore, rather than changing the uses of the areas, focus should be put into improving and getting the most of the current areas. GVA Grimley recommends a 'proactive approach' to vacant units rather than the change of use, which would be a far more appropriate response to vacant units.*
- *One recommendation from GVA Grimley that is particularly useful is the suggestion that the health of Montague Street could be improved by creating A3/A4 eating and drinking destinations nearby to encourage people to encourage footfall on Montague Street and also to encourage people to visit the area beyond 9-5pm. Again, the proposed mixed-use development at the Grafton Site will help to realise this in the future.*
- *GVA Grimley also recommend producing a 'Shopfront Design Guide' to ensure consistent fascia appearance, enhancing the identity of the town centre. This is particularly important for the Secondary Shopping Area of Montague Street.*

Key Conclusions and Recommendations

9.2 As a result of the retail healthcheck, the report recommends that there be no amendments to the primary or secondary frontages as defined by the GVA Grimley report. This is for the following reasons:

- *The current boundary where the pedestrianisation of the Secondary Shopping Area stops is an appropriate location as it defines a clear change in character of the area. Moving the boundary further east would not create a clear enough boundary.*

- *Minimising the amount of available A1 units would be counterproductive when there is significant demand for A1 units in the town centre.*
- *By extending the Secondary Shopping Area you run the risk of further decreasing footfall in the area.*
- *The west of the Primary Shopping Area already has two A3/A5 uses, and further addition to this could change the character of the area.*

9.3 Maintaining high levels of footfall on Montague Street and increasing levels in the Secondary Shopping Area is one of the key challenges for the street as a whole. Future development at the Grafton Site will hopefully ensure increased levels of footfall, alongside improved access from the seafront. Access is hugely important in determining footfall numbers and from all direction both Shopping Areas need to look attractive and welcoming.

9.4 The report has made suggestions to improving the area without changing the primary and secondary frontages, as shown in the Site Visit Assessment Table above with regards to improving the overall street-scape and aesthetics of the street. These include the possibility of continuing the pedestrianisation of Montague Street into the Secondary Shopping Area, through the implementation of a shared-space in this area and creating 'entrances' into the Secondary Shopping Area.

9.5 Another recommendation that has arisen from the retail healthcheck is to identify how the Secondary Shopping Area in particular can improve its identity and image to bring people to the area. The promotion of the idea of a 'West End' and alternative shopping area is important and in time once it becomes more established it could become as successful as the alternative shopping area of the North Laines in Brighton if appropriate signage and marketing techniques are implemented .

The National Planning Policy Framework

Paragraphs 23 states, inter alia;

> *23. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. In drawing up Local Plans, local planning authorities should:*
>
> ●● *recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;*
>
> ●● *define a network and hierarchy of centres that is resilient to anticipated future economic changes;*
>
> ●● *define the extent of town centres and primary shopping areas, based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations;*
>
> ●● *promote competitive town centres that provide customer choice and a diverse retail offer and which reflect the individuality of town centres;*

- *retain and enhance existing markets and, where appropriate, re-introduce or create new ones, ensuring that markets remain attractive and competitive;*

- *allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability. Local planning authorities should therefore undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites;*

- *allocate appropriate edge of centre sites for main town centre uses that are well connected to the town centre where suitable and viable town centre sites are not available. If sufficient edge of centre sites cannot be identified, set policies for meeting the identified needs in other accessible locations that are well connected to the town centre;*

- *set policies for the consideration of proposals for main town centre uses which cannot be accommodated in or adjacent to town centres;*

and

- *where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity.*

Against this policy background, it is clear that the proposal for change of use to A2 is contrary to adopted Development Plan policy in Saved Worthing Local Plan 8 and Core Strategy Policy 6 which reaffirms the Primary Area of the Central Shopping Area and the need to safeguard this retail core to protect the retail vitality and character of this part of the town centre. The more recent Montague Street and Central Area Zone Review endorse the need to protect such retail core of the town centre and recommends no changes to the delineation of the existing zones or policy. The approach of the above is entirely consistent with The National Planning Policy Framework which emphasises the need to protect the vitality and viability of town centres and the importance of drawing up and applying relevant zonal policies to this end. The Core Strategy Policy has recently been assessed as in broad conformity with the National Planning Policy Framework and due weight should be afforded to its policies.

The case for a departure from such a clear and up to date policy stance rests on the future viability of the premises as a retail use and benefits of occupancy by an A2 use in the current economic climate and for this Listed Building.

The starting point for assessing retail viability is evidence of marketing. It is apparent that marketing by the owners has taken place since summer 2009 but full marketing history have not been submitted to demonstrate that this has been undertaken widely, or through use of local agents, nor that the terms have been adjusted to respond to the situation. For a good period (up until late 2009) the property is understood as having been in poor state/and /or occupied by squatters and so unlikely to have been attractive to potential purchasers. Moreover, whilst it is apparent that some interest has been shown from non traditional retail uses, no evidence of flexibility in terms of the range of commercial uses has been shown by re-marketing the property for A3 or

A5 use (consistent with the Local Development Framework Policy 6) for which it may be suitable.

A major apparent impediment to retail use appears to be the fact that the premises comprise not simply the ground floor (given as 56 sq metres) but three upper floors which have a floorspace twice that of the ground floor (106 sq metres) and this upper floor space is not self contained i.e. enjoys independent access. Such a large, un-self contained and difficult to access upper floor area is unlikely to be attractive to few, if any, retailers and marketing for such is considered somewhat unrealistic. Given the property has not been in offered as freehold, this feature is especially important as freehold sale would likely facilitate a more effective use of the property by a purchaser - i.e. allowing a developer to come forward with a scheme to convert the upper floors to residential (unprotected for retail use in the Development Plan) whilst converting the ground floor to retail or A3. The low level of interest elicited by the current form of marketing and terms of offer is disappointing but not entirely surprising given these circumstances, especially against the background of the prolonged recession.

Crucially, the original applicants have since submission of the application found other suitable premises in the town (assisted by the Economic Development Team) and any identified pressing need to meet a known end-users requirements no longer exists. The application is therefore now purely speculative.

It is recognised that the owners have clearly spent considerable resources on refurbishing the property. However, the refurbishment works were required in any event to make the property usable and the application was submitted without any formal written pre- application discussion on its compliance with planning policy.

There are clear short term benefits from securing the occupation of the premises to prevent further deterioration/squatting of the building and reintroduce an active use but this would be at the expense of Bath Place's function in the town centre and its potential within the Masterplan as outlined by the Economic Development Team and Policy manager. Linking the seafront and the main retail street and enjoying sea views and opportunities for alfresco dining /drinking and generally supporting the main retail street, this function and future would be compromised by an A2 use with limited footfall and whose locational requirements are reasonably flexible and do not rely on a town centre location. The health of Bath Place is not in such a condition that broader aims should be sacrificed for short term gain which could set a harmful precedent. Indeed, apart from the application property, only one other ground floor unit in Bath Place has been vacant for any length of time and the street continues to offer a good mix of retail and A3 uses. There currently are two A3 uses present and some niche retail as well as leisure uses and gym (on upper floor) and the street boasts a lively air. It is fair to say that this part of the town centre is faring reasonably well, given the prolonged economic downturn as is the Montague Street axis generally. This is attested by the recent Healthcheck, above. It would be difficult to argue that the site is unfavourably located, just off the main shopping street of Worthing town centre (a sub regional centre) and in a short and wide semi- pedestrianised street, leading from this prime shopping area to the sea front with sea views and virtually opposite the pier- the main focus of the sea front.

The proposal is strongly resisted by the Policy Manager and Economic Development Team.

The long period of vacancy is regrettable and market signals cannot be ignored. However, there is no convincing evidence to indicate that planning policy is hampering the relet of the premises and no other A2 occupier has seemingly come forward to potentially occupy the premise since the original applicant found alternative premise. As a consequence, no compelling case to depart from established planning policy in respect of the proposed ground floor A2 use has been made and the development plan policy should prevail.

A temporary planning permission for less than 5 years as a compromise alternative is unrealistic due to capital costs and would fall foul of the tests of Circular 11/95.

Use of the upper floors of the premises by the proposed use would be acceptable in policy terms (as this does not prejudice the aspirations for Bath Place or affect vitality and viability) but would require independent stairs access via the shopfront. This does not form part of the current application.

An A3 use is considered to be the most appropriate use of the ground floor, generating significant footfall and activity and appropriate to the location and character of the area and would complement the main retail area. Moreover, with three upper floors, the property lends itself to such A3 use and this arrangement with upper floor seating on the first floor and kitchen on the second floor is not unusual (16 Warwick Street in the town centre for example). This has been raised with the applicants and marketing agents. A suitable leisure use may also be considered and/or use of the upper floors to residential. The above is subject to satisfactory impacts on the Listed Building.

The application has been the subject of protracted negotiations on the matter of its use, alternatives and marketing but no satisfactory resolution has been arrived at and no appeal against non determination lodged. Positive alternative uses have been suggested and the applicant found alternative premises. A swift conclusion to the application is long overdue and a determination therefore urgently required.

Impact on the amenity of neighbours

The change of use proposed raises no significant issues in this established commercial area.

Impact on the integrity of the design of the property and character of the townscape, in particular the character and appearance of the Conservation Area and the special character of the Listed Building.

Impact on the special character of the Listed Building (architectural or historical interest) as set out in S16 of Planning and Listed Building and Conservation Areas Act 1990.

The property is a very important heritage asset as a grade 2 Listed Building in a Conservation Area.

The National Planning Policy Framework states;

131. In determining planning applications, local planning authorities should take account of:

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *the desirability of new development making a positive contribution to local character and distinctiveness.*

132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

PPS5: Protecting the Historical Environment 5 Practice Guide indicates in respect of additions and alterations to Listed Buildings:

Retention of as much historic fabric as possible is therefore a fundamental part of any good alteration or conversion, together with the use of appropriate materials and methods of repair. It is not appropriate to sacrifice old work simply to accommodate the new.

In respect of building and structures it advises:

182. The plan form of a building is frequently one of its most important characteristics and internal partitions, staircases (whether decorated or plain, principal or secondary) and other features are likely to form part of its significance. Indeed they may be its most significant feature. Proposals to remove or modify internal arrangements, including the insertion of new openings or extension underground, will be subject to the same considerations of impact on significance (particularly architectural interest) as for externally visible alterations.

186. New features added to a building are less likely to have an impact on the significance if they follow the character of the building.

Against this background, the reinstated staircase, if it faithfully follows the form, materials and style of the original staircase, is acceptable and the details may be reserved by condition.

The proposed change of use could help secure the future of the building as an heritage asset, with its history of vacancy and damage by squatters and water ingress but needs to be balanced against wider impacts.

Access and parking

The site is in a highly sustainable location very close to local facilities and public transport. The absence of on site car and cycle parking is acceptable in this light, especially given the constraints posed by the building and its listed status.

Recommendation:

WB/10/0806/FULL

Refuse planning permission on grounds of

The proposal would entail the loss of an A1 use to the detriment of the vitality and character of Bath Place and the town centre and plans to revitalize this area and it has not been demonstrated that the premises are no longer viable for such use or other alternative suitable commercial uses. As such it is contrary to Saved Worthing Local Plan S8 and Core Strategy Policy 6.

WB/10/0807/LBC

Grant Listed Building Consent subject to conditions on time; detail of staircase; no damage to building:

Case Officer sign: P. Devonport. Date 23.4.13……

Authorising Officer sign: Gary Peck Date: 24 April 2013