

Adur and Worthing Councils
Worthing Town Hall
Chapel Road
Worthing
West Sussex
BN11 1HA



8 June 2026

Block 5- Fulbeck Avenue, Worthing- S96A application for proposed amendments to extant planning permission with reference AWDM/0528/22

Dear Sirs

Introduction to proposals

1. As you are aware, Cross Stone Properties Ltd has recently acquired Block 5 Fulbeck Avenue from BoKlok following water damage and subsequent demolition of the part constructed block. Cross Stone has instructed Frost Lomax Architects in order to amend the scheme to reflect non-modular construction technique and optimise the design accordingly.
2. The enclosed document prepared by Frost Lomax Architects provides detail on the proposed changes and the rationale behind the revised proposals.
3. In summary the external changes comprise:
 - i. Improvements to the façade treatment to balance harmonisation with the adjacent modular buildings by retaining the metal and timber palette whilst improving visual interest by introducing a refined mechanical fix system with standing seams.
 - ii. Reorientation of balconies (whilst preserving privacy screening) to optimise internal layouts improving habitability.
 - iii. Changes to the number, size and positioning of external windows to correspond with internal layout optimisation (for the avoidance of doubt obscure glazing is retained where previously required).
 - iv. Limited infill of central cut outs at upper floor levels, again to optimise internal layouts and maximise living space for residents.
 - v. Removal of external air source heat pump plant and communal boiler flue (heating is now provided by internal exhaust air heat pumps)
4. Consenting the proposed changes under S96A would allow for swift delivery of the development. This benefits all parties, ensuring the prompt completion of the wider Fulbeck Avenue development. Prompt completion of the development minimises disruption for local residents, secures housing delivery and allows completion of the wider landscaping surrounding the block.

5. For the avoidance of doubt, the amended building would retain the same number of approved units and unit mix as proposed in Block 5 under BoKlok's plans – 23 x 1 bedroom units and 9x 2 bedroom units. Whilst previously BoKlok proposed to deliver 8x 1 bed units at ground floor level as shared ownership units, those units have been provided in Block 4 by BoKlok and the S106 Agreement and related plans have been updated by BoKlok with your approval.
6. During pre-application discussions, a reduction in the building height was discussed. Following advice from Cross Stone's technical team, the building height is to remain unchanged in these amendments. This is because the detailed design process has not yet been undertaken to underpin this and Cross Stone wishes to avoid the need to subsequently increase the height of the building. It is however anticipated that once the detailed design process has been carried out, a further S96A application will be made to reduce the building height.
7. As part of the pre-application advice, concern was raised by officers that the removal of the rear entrance to Block 5 as a result of the reconfiguration of the ground floor would greatly reduce the convenience/ desirability of cycle parking. Cross Stone and the design team have explored retention of the rear exit in order to address these concerns, but due to the layout of the communal areas, in particular the lift location, it is unfortunately not possible to retain the rear exit.
8. In Cross Stone's view the loss of the rear entrance is unlikely to impact the take up of cycling and use of the cycle store. Residents using cycle transport with the physical exertion that entails, are unlikely to be dissuaded from cycling by a slightly longer walk on a landscaped path to the store. By way of illustration, residents would need to walk approximately 65m from the front door of Block 5 to the cycle store. This equates to a 45 second to 1 minute walk. Cross Stone also notes that by way of comparison residents of Block 4 would need to walk approximately 45m to the Block 4 cycle store, which was found to be an acceptable distance and is only a matter of seconds faster.
9. In any event, it is noted that the materiality of the impacts arising from the loss of the rear entrance needs to be assessed against the scheme (i.e. the entire Fulbeck Avenue development) as a whole together with the impact of the other amendments sought.
10. As noted in the summary above, Cross Stone's amended design replaces the air source heat pump and communal boiler plant with exhaust air heat pumps for both hot water and heating as detailed in the energy statement. This ensures that: a) there are no onsite carbon dioxide emissions; b) Block 5 can take full advantage of the ongoing decarbonisation of the electricity grid; c) the waste heat from domestic activities is captured and recycled; d) the need for unsightly and noisy external plant is avoided.

Materiality of proposed changes - statutory framework

11. The S96A mechanism can only be used where the local planning authority is satisfied that the change is not material (S96A(1)). In deciding whether a change is material, a local planning authority must have regard to the effect of the change, together with any previous changes made under this section, on the planning permission as originally granted (S96A(2)). The S96A power includes the power to make a change to a planning permission to impose new conditions or remove or alter existing conditions (S96A(3)).
12. Subject to the statutory restrictions contained in S96A, the most pertinent of which are set out above, the local planning authority has wide discretion when determining whether a change is material or not subject to exercising their planning permission in a reasonable and rational manner and of course following the correct process. There is no statutory definition of a material (or non-material)

change. An amendment that is non-material in one context may be material in another. There can be no one size fits all approach to assessing materiality given the scale and context of developments can vary hugely.

13. Consideration of whether the proposed changes are material therefore requires the local planning authority to determine whether previous amendments have been made under S96A. The purpose of this is to prevent an applicant from achieving a series of, in isolation, non-material amendments piecemeal that are cumulatively material.
14. This assessment is straightforward for Block 5:
 - i. The S73 planning permission AWDM/0528/22 has not been amended by way of application under S96A or otherwise.
 - ii. The 'parent' permission AWDM/0166/20 has not been amended by S96A. Whilst a S96A application was made under reference AWDM/1861/21 for the repositioning of parking spaces, this was withdrawn (presumably because the changes were then included in the subsequently submitted S73 application).
15. Given there are no previous S96A amendments, the assessment therefore needs to consider the effect of the proposed changes on the planning permission as originally granted.
16. At Fulbeck Avenue, the '*planning permission as originally granted*' is the S73 permission AWDM/0528/22. Although S73 planning permissions are colloquially referred to as minor material amendments, Section 73 of the Town and Country Planning Act 1990 is clear that the result of an application made under that section is a new planning permission with varied/ removed planning conditions. In other words, an approval given under S73 is a planning permission.
17. Amendments previously secured under S73 do not need to be taken into account in assessment of materiality of changes proposed using S96A. The statute is clear that only changes previously made under S96A need to be taken into account. This is entirely sensible, as otherwise the use of S96A would typically be ruled out by previous, by definition, material amendments approved under S73.
18. The consideration of proposed amendments to the design of Block 5 therefore needs to be against AWDM/0528/22 together with any S96A amendments previously granted in respect of that permission (of which there are none).
19. The assessment of materiality must be made against the entirety of the development permitted under AWDM/0528/22- i.e. the entirety of the Fulbeck Avenue development rather than against the previous proposals for Block 5 only. This is a key distinction as it sets the scale and context of the proposals against which the question of materiality is assessed. Of course the proposed changes do need to be assessed collectively rather than in isolation.
20. We understand from pre-application discussions that Adur and Worthing DC's preferred approach is for the effects of prospective amendments to collectively be the same as originally assessed or superior when compared to the original permission.

Planning conditions

21. The approval of details under the following conditions under AWDM/528/22 need to be updated to reflect the revised Block 5 proposals. Accordingly, information is submitted as part of this S96A application to enable officers to update the relevant conditions where required.
 - i. **Condition 1- Approved Plans** – please refer to the register of submitted documents for previously approved plans to be updated in relation to Block 5.
 - ii. **Condition 2- Phasing** – an updated phasing plan is required to reflect the fact that Block 5 is now coming forward after Block 4. The revised phasing plan has the construction of Block 5 and related landscaping as Phase 2A.
 - iii. **Condition 4- Sustainable Design and Energy**- as mentioned above and set out in the submitted Energy Statement, heating will now be provided by exhaust air heat pumps. Accordingly, Condition 4 needs to be updated to reflect this.
 - iv. **Condition 6- External Materials** - details of the proposed cladding system are included in Frost Lomax's S96A comparison document and noted on the amended elevations. It is proposed to use Prefalz standing steam cladding in a combination of dark grey, light grey and moss green with timber and anthracite details.
 - v. **Condition 27- Balcony Screens** - whilst balcony screening is retained in line with the original application, the location and materials used have been updated and are shown on the proposed elevations.
 - vi. **Condition 28 Obscure Glazing** - obscured glazing is retained in line with the original application, however the window location has changed therefore these details need to be reapproved as part of this application. The location of the obscured windows is shown on the revised elevations marked FX.
 - vii. **Condition 34- Construction Management Plan** – given the shift to traditional construction technique a new Block 5/ Phase 2A specific Construction Management Plan has been prepared.
22. Preapplication advice suggested that Cross Stone consider whether the details approved in respect of lighting, access control and secure by design. Cross Stone intends to replicate the details approved under BoKlok's original planning permission therefore no amendments are sought in respect of these conditions.
23. Similarly, preapplication advice suggested Cross Stone consider whether amendments were required in respect of a sales suite. No sales suite is proposed therefore no amendment to condition 36 is sought.
24. Cross Stone wishes to move forward with the development of Block 5 as soon as possible. Minimising delay whilst revised planning condition submissions are made and considered is therefore important.
25. Accordingly, Cross Stone wishes to understand whether Adur and Worthing would in principle be willing to give prior written approval for variations to the approved details under these conditions as part of (or alongside) the issue of a S96A decision on the proposed amendments. The details to be approved would be submitted as part of the S96A application. The 'tail piece' of each of the above

conditions clearly envisages the possibility of future changes to the details submitted under the conditions.

Register of submitted documents

- Site Location & Block Plan – 25487-FLA-ZZ-ZZ-DR-A-00001
- Proposed Ground Floor Plan- 25487-FLA-ZZ-00-DR-A-01100
- Proposed First Floor Plan- 25487-FLA-ZZ-00-DR-A-01101
- Proposed Second Floor Plan- 25487-FLA-ZZ-00-DR-A-01102
- Proposed Third Floor Plan- 25487-FLA-ZZ-00-DR-A-01103
- Proposed Roof Plan- 25487-FLA-ZZ-00-DR-A-01104
- Proposed Elevations- 25487-FLA-ZZ-00-DR-A-01300
- Phasing Plan- 25487-FLA-ZZ-ZZ-DR-A-05000
- Energy Statement – A30-01-ENS Ver 01
- Phase 2A Block 5 Fulbeck Avenue Construction management Plan
- S96A supporting statement (containing inter alia external material samples)

Yours faithfully,

Beatriz Huezo | Managing Director

For & On behalf of **Frost Lomax LLP**