

## **Proposed Disposal of Public Open Space Land South of Aquarena**

### **Report by Executive Head of Technical Services**

#### **1.0 Summary**

- 1.1 The Council is considering disposing of land south of the Aquarena site in Brighton Road, Worthing. The land is designated Public Open Space. In accordance with s123 Local Government Act 1972 the Council has recently advertised the proposed disposal of the land and invited representations and objections. This report sets out the responses received and asks the Leader for a decision.

#### **2.0 Background**

- 2.1 This matter came before Joint Strategic Committee on 27<sup>th</sup> March 2012. It was decided to pursue discussions with a preferred developer in respect of the proposed sale of the Aquarena site. Authority was delegated to the Executive Head of Technical Services in consultation with the Leader, to progress the matter.
- 2.2 Part of the proposed site being considered for disposal, includes a small area of land of 2,320 square metres, at the southern end of the Aquarena, which has been designated public open space. This was previously a boating lake, but in more recent years the lake has been filled and the land is maintained by the Council's parks team.
- 2.3 In accordance with s123(2A) Local Government Act 1972, it is a statutory requirement that a local authority must advertise their intention to dispose of land designated public open space, by placing notice of their intention for two consecutive weeks in a local newspaper, and considering any objections made to them.
- 2.4 The Council must carry out these procedures before making any final decisions about disposal as the public response to the notices may be material to any such decision.

#### **3.0 Proposals**

- 3.1 A notice was placed on 28<sup>th</sup> February 2013, for 2 consecutive weeks in a local newspaper, in accordance with s123 (2a) Local Government Act 1972, advising that the Council proposes to dispose of land to the South of the Aquarena which is public open space, to facilitate the redevelopment of the former Aquarena swimming pool site. Objections and representations were invited, to be received by the Council by 21<sup>st</sup> March 2013.

- 3.2 The advertising of the Council's intention to dispose of the land resulted in 260 objections being received on or before 21<sup>st</sup> March 2013.
- 3.3 The responses should be viewed by the Leader of the Council in making his decision. Although not an exhaustive list, they can be summarised as follows:
- The land should not be disposed of because it is public open space
  - The land is not surplus to requirements but provides an important amenity for children, families, residents, senior citizens, disabled people.
  - The land is a popular tourist and visitor area
  - The land is an environmental asset
  - The open space is accessible to the disabled
  - The land has the burden of a restrictive covenant upon it, protecting the land from being developed upon
  - The land is in a very special location and has unique and important qualities
  - The land has the benefit of bordering the beach, the seafront, the sea and the new Leisure Centre
  - The proposal disregards the National Planning Policy Framework
  - The proposal does not respect the Worthing Core Strategy
  - The Council's planning policy is not based on a robust and up to date assessment, as required by the National Planning Policy Framework
  - Any existing Robust Assessment does not take account of the new Splashpoint Leisure Centre
  - The land makes an important contribution to the health and wellbeing of the community
  - There is a health and safety issue because the land is protected from the afternoon sun, and provides shade from harmful UV rays. If disposed of it will increase the risk of sunburn and skin cancer to the public.
- 3.4 It is important that all objections received are given due consideration by the Leader prior to any decision being made as to whether to dispose of the land or not.

#### **4. Policy Background**

- 4.1 The 2006 Open Space, Sport and Recreation Study identified the former boating lake as an outdoor sports facility. Attached to this report as **Appendix 1** are relevant extracts from the 2006 report. The study which also included a survey of users of the boating lake noted that it scored highly in usage and accessibility terms. As such the report recommended that the site should be protected and it recommended that priority should be given to improving the site. However, the Cabinet Member for Cultural Leisure and Sport also considered a report in 2006 which set out future options for the former boating lake. At that time the Cabinet Member agreed that the pool should be fenced off for safety reasons and that Officers should investigate alternative uses of the lake with potential operators.
- 4.2 At the same time work was progressing on the Town Centre and Seafront Masterplan which was also adopted in 2006 following considerable public consultation including workshops and exhibitions. The Masterplan was prepared to provide a framework to reverse the decline of the town centre and seafront and to create a town which is *'attractive to businesses and investors, caters for a wide*

*range of visitors beyond the traditional summer season and provides a high quality living environment for existing and future residents'. Of significance is that the Masterplan provided a co-ordinated strategy to deliver change and assessed existing open space along the town centre and seafront.*

- 4.3 The Masterplan identified Beach House grounds, the Aquarena site and this part of the seafront area as an Active Beach Zone where the emphasis would be on sports and active leisure facilities. The redevelopment of the Aquarena site was identified as playing a key role in the delivery of this objective. It was recognised at that time that the redevelopment of the Aquarena site should form part of a comprehensive redevelopment with the potential for a hotel and associated facilities.
- 4.4 The subsequent Seafront Strategy adopted in 2007 developed the initial Masterplanning thoughts for the Active Beach Zone and included two options for the area – one with a new pool being built adjacent to the existing Aquarena and the other option with the replacement pool built elsewhere. Under both options it was noted that the redevelopment of the existing Aquarena would attract new private investment and the potential to secure developer contributions towards enhancement of the seafront.
- 4.5 In 2008, a further report was considered in relation to the former boating lake. For two years the boating lake had been fenced off and complaints had been received that the area was an eyesore and was attracting anti-social behaviour and vandalism. Despite initial expressions of interest no operators were prepared to take on the facility and problems of retaining water within the lake prevented its use without significant investment. As a result Cabinet agreed that the boating lake should be filled and seeded to provide an additional grassed area for use by the public. At the time the report highlighted that in the longer term the area was likely to be affected by the redevelopment of the Aquarena site.
- 4.6 Following the Councils decision to site the new pool next to the existing Aquarena a Development Brief was prepared to assist the comprehensive redevelopment of the site. Consultants GVA Grimley were commissioned to assist the Council in preparing this document and a number of workshops were undertaken with local stakeholders to develop the Brief. The Development Brief was completed in 2009.
- 4.7 A key consideration for the Development Brief was the viability of delivering the new pool and maximising the development potential of the existing site. In this respect the development brief commented that, *'it is important that a degree of flexibility is retained within planning policy and guidance to allow the market to deliver a viable mixed use development that meets the aspirations of the Council'*. The Brief highlighted the potential of the site to deliver a high quality residential development, a higher end hotel as well as the highest quality materials and public realm (on site and in the wider area). The Development Brief also recognised that any development must give regard to the local views including from New Parade to Splash Point and beyond. It is important to note that the development site included the boating lake area of open space.
- 4.8 The Development Brief, various studies and strategies all informed the Area of Change policy for the Aquarena site including the former boating lake contained within the emerging Worthing Core Strategy. The adopted Core Strategy sets out the development principles for the redevelopment of the Aquarena site, including

the boating lake, in particular to deliver a mix of uses to include the development of a public leisure centre along side residential, commercial and cultural uses. The approved policy for the Aquarena site stresses the importance of a phased development to ensure that the existing pool remains open during the construction of the replacement facility. This policy does not specifically require the retention of the area of open space on the former boating lake.

- 4.9 In resolving that the Core Strategy was “sound”, the Planning Inspector considered the Council’s Open Space, Sport and Recreation Study undertaken in 2006 and the subsequent Masterplan and Seafront Strategies and endorsed the Area of Change policies included in the plan. The Inspector was also satisfied that the Open Space, Sport and Recreation Study and a subsequent review in 2009 were up to date for the purposes of setting out the overall vision and strategy for place making and providing the context for all subsequent policies and plans. However, it was recognised, at the time, that a further review of the Open Space, Sport and Recreation Study would be required.
- 4.10 Since that time a review of playing pitches has been undertaken in 2011 and the Council has recently engaged Consultants to undertake a review of the 2006 study and subsequent reports. This review work is underway and should be completed by the autumn.

## **5. Planning Considerations**

- 5.1 Although any disposal to sell the site would be subject to the grant of planning permission, the Leader has to have due regard to Development Plan Policy and Central Government guidance in deciding whether to dispose of this area of open space.
- 5.2 In dealing with the planning application for the new pool, the loss of the paddling pool was justified on the basis of improved leisure facilities including the provision of an outside paddling pool. The application also included a masterplanning exercise to demonstrate that the new pool would not prejudice the remainder of the site for residential and/or commercial purposes and this included the former boating lake. As set out above Development Plan policy for the site and the subsequent planning permission for the replacement pool accepted the redevelopment of both the existing swimming pool site and adjoining open space as part of the overall objective to provide a new swimming and leisure facility for the town. The redevelopment of the existing swimming pool and open space is essential to meet this objective.
- 5.3 The National Planning Policy Framework (NPPF) recognises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and the wellbeing of communities. As quoted by a number of residents, making representations to the notice to dispose of the area of open space, Paragraph 73 and 74 of the NPPF refer to the importance of planning policies being based on robust and up to date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision.
- 5.4 The existing Open Space Sports Strategy does not indicate that any open space is surplus to requirements however in some wards there is a surplus of some types of Open Space and in others a deficit. To justify the loss of this area of open space

the Council would need to consider the loss of this amenity to local residents. Furthermore the Council would need to be satisfied that the loss resulting from the proposed development would be replaced by *'equivalent or better provision in terms of quantity and quality in a suitable location'* or that the development is for *'alternative sports and recreational provision, the needs of which clearly outweigh the loss'* to comply with Paragraph 74 of the NPPF.

- 5.5 The 2006 study highlighted that there is a surplus of amenity land (parks and gardens) in Central Ward. The loss of the informal area of open space on the former boating lake would not be significant or represent a loss of amenity to local residents.
- 5.6 As stated previously, the Government appointed Inspector considered that the Open Space Sports Strategy and subsequent review in 2009 were up to date in relation to the policy for the Aquarena site and this included the former boating lake. In terms of compliance with the above NPPF guidance, it is considered that the loss of the open space can be justified to meet the overall objective of providing an improved leisure facility.
- 5.7 Furthermore, there would be a requirement that any redevelopment proposal would have to contribute to further enhancement of existing open space in the vicinity of the site through a s106 development contribution. There is also the opportunity for the development to retain an area of open space or create a new enhanced area of public realm; possibly along the seafront and this would be the subject of negotiation as part of the normal planning process.

## **6.0 Legal**

- 6.1 s 123(1) Local Government Act 1972 provides the Council with the power to dispose of land held by them.
- 6.2 s123(2) Local Government Act 1972 provides that the Council may not dispose of land (other than for a short tenancy) for a consideration less than the best that can reasonably be obtained.
- 6.3 S123(2a) Local Government Act 1972 provides that the Council may not dispose of land held by them consisting of open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.

## **7.0 Financial implications**

- 7.1 The sale of the Aquarena site forms part of the funding strategy for the new 'Splashpoint' swimming pool. Overall the swimming pool has a construction budget of £19.7m. The Council has already sold a number of assets to pay for the new facility and has funded £10m of the cost to date. This leaves a substantial shortfall of £9.7m. The sale of the Aquarena site will make a significant contribution towards meeting this funding shortfall.

## **8.0 Recommendation**

- 8.1 The Leader is recommended to give due consideration to each of the 260 objections received and decide whether or not the Council will dispose of the 2320 square metres of land designated public open space land south of the Aquarena, Brighton Road, Worthing

### **Local Government Act 1972**

#### **Background Papers:**

Worthing Core Strategy  
Open Space and Recreation Study  
Town Centre and Seafront Masterplan  
Aquarena Development Brief

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## **Schedule of Other Matters**

### **1.0 Council Priority**

- 1.1 i) Supporting and improving the local economy.
- ii) Working in partnership to promote health and wellbeing in our communities.

### **2.0 Specific Action Plans**

- 2.1 The provision of the new leisure facility is a major regeneration project particularly during a recession creating local jobs and economic benefits to the town. This is only possible by maximising the development potential of the existing site.

The leisure facility aims to develop and promote healthy active lifestyles.

### **3.0 Sustainability Issues**

- 3.1 The swimming pool was built using sustainable construction techniques and has used renewable energy by utilising ground water heat pumps. Whilst an area of open space would be lost to help pay for the leisure facility it's loss would not be significant to the area given the surplus of amenity space in the area and that any redevelopment would be required to make further enhancements to public open space as part of the normal planning process.

### **4.0 Equality Issues**

- 4.1 The urgent redevelopment of the existing swimming pool was partly on the grounds that it was not accessible to those with mobility difficulties. The new pool by contrast has been designed to full accessibility standards.

### **5.0 Community Safety Issues (Section 17)**

- 5.1 Matter considered and no issues identified.

### **6.0 Human Rights Issues**

- 6.1 The loss of open space has to be assessed having regard to the overall benefits of providing an enhanced leisure facility for the town having regard to established planning policies and the NPPF as set out in the report.

### **7.0 Reputation**

- 7.1 The new swimming pool has been a significant success with a significant increase in users and redeveloping the existing pool and reducing the financial burden on the Council would enhance the Councils reputation.

### **8.0 Consultations**

- 8.1 Internal consultation and public consultation regarding the possible disposal and appropriation of the site.

## **9.0 Risk Assessment**

9.1 Matter considered and no issues identified.

## **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified.

## **11.0 Procurement Strategy**

11.1 There are no procurement issues with the report.

## **12.0 Partnership Working**

12.1 Matter considered and no issues identified.



## Appendix 1 – Extracts from the 2006 Open Space, Sport and Recreation Study.

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### KEY

Catchment - Outdoor Sports Facilities



Outdoor Sports Facilities



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### KEY

Catchment - Parks & Gardens (720m buffer)



Parks & Gardens



## Appendix 1 – Extracts from the 2006 Open Space, Sport and Recreation Study.

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Several sites scored highly in usage and accessibility, but low in quality. These are:

- Palantine Park (Site ID 61)
- Victoria Park (Site ID 401)
- Dominion Road Recreation Ground and Basketball Courts (Site ID 7 and 488)
- Aquarena Boating Lake (Site ID 47).

These sites are of value to users, but quality must be improved in order to improve user satisfaction, and maintenance should reflect the level of usage. As the value is high, protection of these sites is important.

***Table 9.1 Recommendations for outdoor sports facilities***

<b>OSF 1</b>	Protect and enhance the existing level of provision.
<b>OSF 2</b>	Seek to ensure the additional provision of outdoor sports facilities as part of new residential developments.
<b>OSF 2</b>	Encourage dual use of school facilities where possible.
<b>OSF 3</b>	Protect and maintain to existing standards the sites of high value to residents. These sites set the benchmark for other outdoor sports facilities in the borough and must be protected from any development.
<b>OSF 4</b>	Prioritise for improvement those sites that have a high usage but have quality or access issues and also all low quality sites. Sites of importance include Palatine Park, Victoria Park, Dominion Road Recreation Ground and Aquarena Boating Lake.

## Appendix 1 – Extracts from the 2006 Open Space, Sport and Recreation Study.

**Table 5.1 Recommendations for Worthing's parks and gardens**

<b>P&amp;G 1</b>	Protect the current level of provision of parks and gardens across Worthing Borough.
<b>P&amp;G 2</b>	Protect and improve local access to Denton Gardens, Roberts Marine Gardens and New Parade as a priority to increase usage levels. Specific improvements to be prioritised include increased signage and information for each site.
<b>P&amp;G 3</b>	Protect and improve quality at key sites such as Tarring Recreation Ground and Amelia Park, in order to increase user satisfaction and experience. Specific improvements include additional park seating, linkage of pathways and improvements to site entrances.
<b>P&amp;G 4</b>	Investigate and improve (where appropriate) the park and garden type function of amenity greenspaces within the borough in areas of park and garden deficiencies. Investigate the potential to re-designate and develop the Mowlems as a park and garden in West Durrington.

**Table 5.1 Current provision of parks and gardens per analysis area**

Analysis area	Existing total provision (ha)	Current provision level per 1,000 population (ha)	Balance (surplus, deficiency)
1) Castle, Durrington, Northbrook, Goring	3.61	0.14	0.46
2) Central, Selden, Heene, Marine	7.38	0.24	3.76
3) Tarring, Gaisford	1.28	0.08	-0.72
4) Salvington, Offington, Broadwater	0	0	-2.93
Overall	<b>12.27</b>	<b>0.13</b>	<b>0.56</b>