

## ADDENDUM

**Application Number:** AWDM/1636/14

**Recommendation – Approve**

**Site:** The Aquarena, Brighton Road, Worthing

**Proposal:** Revised application for demolition of the Worthing Aquarena and car park and the erection of 147 residential apartments including 39 affordable homes and a commercial unit (unspecified use class) within building blocks ranging from 4-21 storeys in height incorporating a basement car park comprising 69 public spaces and 150 private spaces plus areas of public and private open space with associated landscaping and access arrangements.

**Applicant:** Roffey Homes

**Ward:** Central

**Case**

**Officer:** Paul Pennicott

### Additional Consultation Responses

The Georgian Group comments that it,

*“remains concerned by the impact on the Grade II\* listed Beach House. The proposed development would be harmful to the setting of a Grade II\* listed building and would have a negative impact on the Conservation Area.*

*Beach House retains a garden setting, and although now in an area characterised by twentieth and twenty-first-century buildings the setting of Beach House from within the garden and from the public highway is appropriate to the historic use and setting of the Grade II\* villa and gives it an architectural significance which would be harmed by large scale development in its immediate context. It is proposed to build a new tower block beside Beach House, replacing a low rise 1980s structure known as the Aquarena.*

*The proposed development would harm the setting of Beach House by its visibility in views of the listed building and by its height and scale, which the opposite of the low-rise and open setting of the Grade II\* listed building.*

*Any new development on the Aquarena site should take its cue from the low rise existing building and the predominantly suburban character of this part of the town, which was initiated by the building of villas such as Beach House and The proposed development would be harmful to the setting of a Grade II\* listed building and would have a negative impact on the Conservation Area.*

*We endorse the advice given to your Authority by English Heritage and the Victorian Society and advise that the application should be refused consent.”*

## **Additional Representations**

A further 8 letters of objection have been received and 1 letter of support.

## **Planning Assessment**

Given the controversy surrounding this planning application the Committee report has been sent to external Solicitors to review. The external solicitor's advice has now been received in relation to the Planning Assessment section of the report and concern has been expressed about one matter relating to relevant financial considerations (last paragraph of page 127). External solicitors have advised that, whilst financial considerations can be a relevant material planning consideration, particularly where enabling development helps to deliver a public facility (or commonly the restoration of a listed building); in this case such financial considerations are *not* relevant considerations.

Whilst, the Council has publicly stated that the disposal of the Aquarena site would help to pay for the new leisure facility, the phased nature of the development makes the enabling argument invalid as the facility has already been provided. In the circumstances Members should disregard the financial consideration or benefit of helping to pay back the loan secured to build the adjoining leisure facility mentioned in the report at page no 127.

Whether financial considerations can be considered to be a material planning consideration is a complex area of law, but it is important to recognise that based on current legislation and the leading case law, it would not be appropriate for the potential capital receipt that could be realised to be considered as a material planning consideration in this case, and the application must be determined without reference to this particular matter.

Members will note that any financial benefit from the disposal of the site is not mentioned in the summary of public benefits on page 129 of the report and these are all still relevant. It should be noted, however, that there is no evidence to suggest that the viability of the leisure facility would be threatened by the public car parking proposed on the site not being available (last bullet point) but the Leisure Trust Manager does feel that the provision of such parking would be beneficial to its customers and its attractiveness as a leisure venue.

## **Impact on Heritage Assets**

The main report identifies that the development will cause harm to the setting of Beach House and the setting of the Conservation Area to the north and the conservation areas covering the historic seafront. The report states that there is a consensus that the harm is not substantial, as identified by the NPPF.

For clarification this addendum to the report is intended to ensure that it is understood that the word "substantial" is a reference to "substantial harm" as set out in the NPPF. It is stated that there is a consensus that the level of harm is not substantial for those purposes because none of the consultation responses refer to

the level of harm in that way. It is, however, clear that the consultation response of Historic England sets out that they consider there to be a high level of harm and that the Council's Design and Conservation Architect also identifies the ways in which he considers there to be harm from the proposals, but it is clear that none of the responses refer to "substantial harm" or the specific tests that would need to apply pursuant to paragraph 133 of the NPPF, if it was concluded that there was substantial harm.

In accordance with the NPPF, where there is harm but the harm is less than substantial harm, paragraphs 132 and 134 of the NPPF should be used in the consideration of the application and the public benefits of the scheme have been summarised on pages 129 – 130 of the main report, which should be used in balancing the positive benefits of the scheme against the harm that will be caused to heritage assets.

### **S106 Agreement**

The applicant has agreed to your Officers request to delete the subsidised market rent housing and has now agreed to meet the off-site affordable housing contribution of **£1,006,000**.

### **Design Changes**

The applicant has provided a computer generated 'fly through' of the proposed development which will be available for Members to view at the meeting.

Regarding the concerns about the design of the Seafront blocks (page 120) the agent has indicated that the architect is happy to review the effectiveness of the cowl feature and the appropriateness of the stepping forward of the upper floors. However, the agent has requested this be covered by way of a planning condition. The applicant is happy to deal with any redesign of public realm areas under a planning condition and Members may want to be involved in the discharge of some of the planning conditions relating to design details and materials.

### **Recommendation**

As per the Committee report but with the following additional planning conditions:

The design of the seafront blocks is not hereby approved. Prior to the commencement of development revised plans shall be submitted to and approved in writing seeking to reinforce the cowl effect (achieved more successfully on the adjoining tower) and the scope to provide a setback on the south elevation shall be re-assessed.

Prior to the commencement of development details of tower obstruction lighting for aircraft and the timing of its installation and operation shall be submitted to and approved in writing with the LPA. Thereafter the lighting shall be retained at all times on the building.