

11 January 2017

## Worthing Planning Committee

<b>Date:</b>	<b>Thursday 19 January 2017</b>
<b>Time:</b>	<b>6:30pm</b>
<b>Venue:</b>	<b>Worthing Assembly Hall, Stoke Abbott Road</b>

**Committee Membership:** Councillors Kevin Jenkins (Chairman), Vicky Vaughan (Vice-Chair), Noel Atkins, Edward Crouch, Diane Guest, Hazel Thorpe, Paul Westover, and Paul Yallop

**NOTE:**

Anyone wishing to speak at this meeting on a planning application before the Committee should register by telephone (01903 221006) or e-mail

[heather.kingston@adur-worthing.gov.uk](mailto:heather.kingston@adur-worthing.gov.uk) before noon on Monday 16 January 2017.

## Agenda

### Part A

#### 1. Substitute Members

Any substitute members should declare their substitution.

#### 2. Declarations of Interest

Members and Officers must declare any disclosable pecuniary interests in relation to any business on the agenda. Declarations should also be made at any stage such an interest becomes apparent during the meeting.

If in doubt contact the Legal or Democratic Services representative for this meeting.

Members and Officers may seek advice upon any relevant interest from the Monitoring Officer prior to the meeting.

**3. Confirmation of Minutes**

None to confirm.

**4. Items Raised Under Urgency Provisions**

To consider any items the Chair of the meeting considers urgent.

**5. Planning Application**

To consider the report by the Director for the Economy, attached as Item 5.

**6. Public Question Time**

To receive any questions from Members of the public in accordance with Council procedure Rule 11.2.

(**Note:** Public Question Time will last for a maximum of 30 minutes)

**Part B - Not for publication - Exempt Information Reports**

None

**Recording of this meeting**  
The Council will be voice recording the meeting, including public question time. The recording will be available on the Council’s website as soon as practicable after the meeting. The Council will not be recording any discussions in Part B of the agenda (where the press and public have been excluded).

<b>For Democratic Services enquiries relating to this meeting please contact:</b>	<b>For Legal Services enquiries relating to this meeting please contact:</b>
Heather Kingston Democratic Services Officer 01903 221006 heather.kingston@adur-worthing.gov.uk	Caroline Perry Solicitor 01903 221086 caroline.perry@adur-worthing.gov.uk

**Duration of the Meeting:** Four hours after the commencement of the meeting the Chairperson will adjourn the meeting to consider if it wishes to continue. A vote will be taken and a simple majority in favour will be necessary for the meeting to continue.



Planning Committee  
19 January 2017

Agenda Item 5

Ward: ALL

Key Decision: Yes / No

**Report by the Director for Economy**

**Planning Application**

1

**Application Number: AWDM/1633/16**

**Recommendation – Approve  
Conditionally subject to S106**

**Site: The Aquarena, Brighton Road, Worthing, West Sussex BN11 2EN**

**Proposal: Demolition of the former Worthing Aquarena and car park. Erection of 141 residential apartments within blocks ranging from 4-15 storeys in height, including affordable housing, a 641 sq.m (unspecified use class) commercial unit, a 138 sq.m Pavilion/Cafe, public and private open space, 172 resident's parking spaces and 51 public car parking spaces, with associated landscaping and access arrangements. The application is accompanied by an Environmental Impact Assessment.**





ancillary basement parking including public parking spaces. 42 units (30%) are proposed for affordable housing comprising 20 units for social rent, and 22 shared ownership units. An Environmental Statement (ES) accompanies the scheme.

The development is set out in two parts. Firstly, a “seafront square” comprises 102 apartments set out over 6 storeys (ground plus 5) which fronts the north, east and west boundaries of the site. Secondly, 39 apartments in a 15 storey (48.4m) tall tower on the south-western corner of the site.

The tower will be the tallest building in Worthing, and aims to form a landmark or focal point marking the eastern entrance to Worthing town centre in line with the aspirations for the site in Worthing Core Strategy’s Area of Change 1.

The building would redevelop a site which is currently dilapidated and in disrepair, will improve the public realm along Brighton Road, and provide substantial new housing, including affordable housing, in a sustainable location. The proposal includes an area of public open space on the south-east corner to improve the seafront promenade, and public realm improvements to complete a public square at the entrance to Splashpoint. These public benefits are critical to the acceptability of this major development.

A petition opposing the application signed by 2,318 people and 1,045 letters of objection were received to the proposals citing a variety of issues, principally citing opposition to tall buildings on the seafront, the harm caused to heritage assets, the impact on traffic and parking, and the impact on adjoining residences and users of the beach. 222 letters were received supporting the application citing the need for new homes, the need to regenerate a run-down site, and the positive economic effect of new development.

As the report considers that the proposed development causes harm to heritage assets (albeit less than substantial harm) section 66(1) and 72(1) of the Planning (Listed buildings and Conservation Areas) Act 1990, imposes a duty on decision makers to give considerable weight and importance to the desirability of preserving the setting of listed buildings, and to the desirability of preserving or enhancing the character or appearance of a conservation area. However, in accordance with paragraph 134 of the National Planning Policy Framework, the many and varied benefits set out, including social, economic and regenerative benefits of the proposal are considered collectively to be public benefits, which outweigh the less than substantial harm to heritage assets

It is concluded that the proposal accords with the development plan as a whole, and that it is acceptable subject to the imposition of conditions and to a Section 106 agreement.

## **Proposal, Site and Surroundings**

### Site & Surrounding

The site measures approximately 0.7 hectares in size and is located on the south side of Brighton Road and is bounded by the Splashpoint swimming pool to the west, Merton Road to the east, and the beach front esplanade to the south.

The surrounding area is predominantly residential in character with late Victorian properties located on the eastern side of Merton Road and along New Parade. Further existing residential dwellings are located to the north of Brighton Road, and along Madeira Avenue, Farncombe Road, as well as further to the north-east and north-west.

To the east of the site along Brighton Road is a parade of shops and local services. To the west of the application site, beyond the Splashpoint swimming pool is the Grade II\* listed Beach House with its associated landscaped gardens. The Farncombe Road Conservation Area is located to the north-east of the application site on the opposite side of Brighton Road.

The site is occupied by the former Aquarena swimming pool and integral car park with an area of vacant land on the south-east corner of the site currently used for car parking. While the Aquarena is no longer in use, the associated car park remains available for public parking. For the purposes of national planning policy the site is considered previously developed land (brownfield land).

Built in 1968 the existing building is a modern brutalist building characteristic of municipal buildings built around this time. The premise has fallen into disrepair and is boarded up and disused. The building sits upon a plinth above the level of Brighton road and Merton Road. The plinth creates a lower and mezzanine level car park to the east and internally a lower-ground level to the west which is still being used by staff and visitors to the adjoining Splashpoint leisure facility. .

### Proposal

The proposed development is for the redevelopment of the Aquarena site to provide 141 apartments in two buildings ranging from four to 15 stories above ground (48.4 metres tall) with a single basement level.

The buildings would provide residential units, an unspecified commercial unit, a café, public open space, private amenity space and underground public and private car parking.

The gross floor area would be 22,789 sq.m comprising:

- 99 open market residences
- 20 social rented homes
- 22 intermediate homes
- 614 sq.m commercial unit (fronting Brighton road)
- 138 sq.m café
- 172 private parking spaces for residents
- 51 public parking spaces

An Environmental Statement accompanies the scheme.

The proposed development would complete the comprehensive redevelopment of the Aquarena site and would meet the overall objectives for Area of Change 1 set out in the Worthing Core Strategy 2011 which are to “deliver a mix of uses to

include the development of a public leisure centre alongside residential, commercial and cultural uses.”

In support of the application the Applicant has submitted the following letter:

*As part of our recent planning application we submitted some very strong evidence supporting the economic benefits of our proposal. I wish to further substantiate some of these benefits.*

#### Public Car Park

*There is no policy requirement for us to provide a public car park on this site. Through discussions with South Downs Leisure we fully understand some of their concerns about future car park provision to support the very successful Splashpoint Leisure Centre. We understand that the Leisure Centre has been so successful that, going forward, its original parking provision would be unlikely to adequately support the number of users. We have therefore explored the provision of public car parking space alongside enough car parking to support the proposed re-development on the Aquarena site itself.*

*As you are aware, we have been able to provide 52 basement public car parking spaces. The cost of providing this car park is just over £2million and includes separate lift and stair access directly outside the Splashpoint entrance. Further, the electrical sub-station has to be relocated to enable this to happen (see separately below).*

*We have a valuation report from Chartered Surveyors Town Centre Parking Ltd, who specialise in car park valuations, which would value this public car parking at just over £500,000.*

*This therefore offers a clear public benefit to the value of £2million, at a net cost to the developer of £1.5million.*

#### Existing electrical sub-station

*Our scheme includes the relocation of the existing electrical substation, a building that currently sits to the existing and future detriment of the public space in front of the Splashpoint entrance. The cost to temporarily relocate this sub-station during construction and then place it in a new home within the development, alongside the legal work necessary due to the sub-station being in the freehold ownership of UKPN, has been calculated by us at £275,000.*

#### Public realm improvements including the provision of the new cafe

*We have agreed, at our cost, to fund the following public real improvements both on and around the site.*

- *New public realm space on the south-east, seafront portion of the site. This is the most valuable part of the site due to the views both to the east and south. Due to the whole site being excavated to provide parking for not only the new development but also new public car parking spaces mentioned previously, the cost of providing this public realm above a basement is £500,000. I would also confirm that this area of public realm shall be maintained by ourselves.*



- *New iconic seafront café. The provision of this architectural focal point is costed by us at £350,000 due to the complex engineering involved. As a new location, there is commercial risk in providing this café, particularly given the high cost of construction, and so its value will be significantly lower.*
- *Splashpoint Square. We have agreed to implement, subject to necessary consents, public realm improvements in front of Splashpoint entrance. Once again this is partially over our basement and this work has been costed at £100,000.*
- *Promenade. We are proposing, subject to necessary consents, to integrate the existing promenade into our development proposal through some amendments to the existing promenade and cycle path. This is estimated at £75,000.*
- *Brighton Road and Merton Road. The development shall replace and improve, subject to necessary consents, the existing public realm on both of these streets, estimated at £100,000.*

#### Beach House Grounds

*Roffey Homes would be prepared to work with Worthing Borough Council to draw up a landscape mitigation scheme that restores some of the original landscaped setting envisaged when Splashpoint was built, and we would be happy to provide 50% of the funding for the proposed mitigation capped at £10,000. We believe Worthing Borough Council should provide the other 50% funding.*

#### Economic Impacts

*The delivery by Roffey Homes of the proposed regeneration of Aquarena shall deliver many economic benefits. These must be viewed alongside the aspirations of Worthing to become a 'highly covetable place to live, work and visit, attracting businesses and investment that can help the town's economy grow.' (Investment Prospectus, 2016)*

- *New Homes. The existing undersupply of homes, both open market and affordable, inhibits economic growth both through increased residential sales values and lack of affordable renting opportunities. The provision of 141 open market and affordable residential units shall deliver much needed new homes, increase the housing stock and allow economic growth to occur.*
- *Commercial development. The proposed development shall provide 679m<sup>2</sup> of new high quality, lettable commercial space for either office or retail use. Permitted development rights to convert existing commercial space into residential have had a negative impact on the town's ability to offer high quality commercial space to companies wishing to invest or expand in the town.*
- *Public Car Park. The provision of this facility shall allow the Splashpoint Leisure to continue to attract customers both from Worthing and further afield. If this facility were not provided, there is every likelihood that use of the Leisure Centre would drop because of car parking issues.*

- *Capital Investment. The construction cost alone is in excess of £35million, with over a third of this expected to be spent on using suppliers and sub-contractors from Worthing and West Sussex.*
- *Job creation. Using HCA employment floorspace coefficients and enrployment:floorspace ratios, we would predict the following job creation figures:*
  - *44 new jobs based on 679m2 of new commercial floorspace*
  - *2 new jobs carrying out day to day duties in managing the residential communal areas.*
  - *Our experience of construction jobs from our previous projects suggests the project shall employ up to 100 construction jobs on site, with at least a third being from Worthing and West Sussex.*
- *New Homes Bonus. We estimate the New Homes bonus to be at least £216,296 per annum. (£1.297million over 6 years)*
- *Council Tax Revenue. Assuming a conservative average banding category of Band 'E', which produces a charge of £2000 per dwelling, we predict additional council tax revenue of £282,000 per annum (£2.82million over 10 years).*
- *Business Rates. Assuming the commercial space is let at £15/ sq.ft, we believe we can justify £57,000 in new business rates being generated per annum. (£570,000 over 10 years)*
- *Additional resident salary spend. Conservatively estimating occupancy at the development of 2 people per dwelling, suggests 282 new residents with spending power. Using South East average household expenditure figures and ratios for spending in the Worthing economy, we would estimate £894,000 additional resident spend per annum (£8.94 million over 10 years)*
- *Additional employee salary spend. We have viewed GVA estimates given by others on previous schemes in the Borough and very conservatively estimated this to be at least £200,000 per annum (£2nillion over 10 years)*

*We would therefore argue that the economic impacts of this development can conservatively deliver up to £15.627million of GVA impact over the next ten years. Additionally, investment on this scale inevitably leads to more investment, and redeveloping the Aquarena site will improve the neighbourhood. That will bring other improvements. Existing shops will invest in improvements to appeal to the new residents, and compete with new outlets, Developers will look at other opportunities to invest in an improving area. Just as the local contractors' salaries and resident spend that we have identified will be lifted by the multiplier effect as money spent in the area is re-spent or invested locally by the recipients, so the investment in the development itself is similarly likely to have a "pump-priming" effect by prompting more investment.*

### *Conclusion*

*In summary, the investment by us in the proposed scheme shall deliver substantial economic benefit to the town. Additionally, we very strongly believe that this development shall show the ambition of the town going forward, acting as a catalyst for further investor confidence to the benefit of all in the town.*

## Relevant Planning History

A previous application **AWDM/1636/14** to redevelop the site was refused by the Council's planning committee at a meeting in September 2015. This application refused permission for 147 residences (39 affordable homes) and a commercial unit. The proposed development comprised building blocks ranging from 4 – 21 storeys in height, public and private open space.

The application was refused for the following reasons:

### *Reason for Refusal 1*

*In terms of the design, height, form, scale and massing of the development the proposals would result in an overdevelopment of the site and would create an unacceptable relationship with surrounding buildings and would adversely impact on the character and amenities of the area and local heritage assets and would be contrary to Saved Local Plan Policies CT3 and H18, Core Strategy Policies 2, 13 and 16, Tall Buildings Guidance SPD and the National Planning Policy Framework and Practice Guidance.*

### *Reason for Refusal 2*

*The proposed 21 storey tower by virtue of its height, scale and design, would cause unacceptable harm to the setting of Beach House grade II\* listed building and Farncombe Road Conservation Area as well as the wider setting of town and seafront conservation areas contrary to Core Strategy Policies 2 and 16, Tall Buildings guidance SPD, the National Planning Policy Framework and Practice Guidance.*

The applicant has submitted an appeal to the refused application which has been delayed until this summer by the Planning Inspectorate while the current application is determined.

The main changes to the application are:

- A reduction in the height of the main tower from 21 to 15 storeys or 63 metres to 48 metres.
- A reduction in the number of residential apartments from 147 to 141
- Affordable housing is reduced from 39 to 33, although 20 of the units are now for social rent rather than affordable rent
- The density has been reduced from 212 apartments per hectare to 204/hectare.
- Increased setback from Brighton Road
- Removal of the taller 9 storey element on Brighton Road
- Reduction in scale of development on Merton Road
- A revised design approach, form and materials across the entire scheme
- An increase in commercial floorspace from 313 sqm to 641 sqm
- The provision of a new public pavilion/cafe and increase in public realm/open space
- An increase in residents parking from 150 spaces to 172, an increase in cycle parking, and

- A reduction in the number of public car parking spaces from 69 spaces to 51.

The other relevant planning history relates to the approved application for the Splashpoint (application number **10/0489/WBR3**) for a new swimming pool and associated facilities to the east of the application site. **Consultations**

## **West Sussex County Council Highways –**

### First Response – request further information

#### *‘Access*

- *-This existing access is to be closed with a new vehicular access provided a short distance north of Merton Terrace. The Merton Road access will provide vehicular access into the proposed residential development and public car park. In principle, a single access would be acceptable.*
- *A plan should be provided demonstrating that adequate visibility can be achieved onto Merton Road for emerging vehicles [from the basement car park] as well as pedestrian inter-visibility.*
- *A Traffic Regulation Order would be required to ensure that the proposed on-street loading bay facility is available for its proposed purpose.*
- *Highway works are proposed at the A259/Merton Road junction. This involves the building out of the Merton Road junction. The residual carriageway widths on the A259 once the build out has been constructed will be reflective of those already present as part of the build out located to the west of this junction. The build out will also formalise the existing bus stop to the east of the junction. Swept paths should be provided to show that the proposed works will not unduly affect the ability of a bus to exit the lay-by.*
- *The RSA is noted as being titled as an addendum report. 1.1.1 of the RSA states that ‘the works proposed to build out the nearside kerb either side of Merton Road, to the east of the site’. Clearly other works are proposed that should be considered as part of the RSA. The RSA to which the addendum has been prepared should be submitted.*

#### *Trip Generation and Capacity*

- *The trip generation assessment for the proposed apartments has therefore assumed that all trips generated by the proposal are new to the local highway network.*
- *The impact of additional vehicle movements on the local highway network have been considered during the network peak times (0800-0900 and 1700-1800). The peak activity arising from the development will also coincide with these times. It’s acknowledged that the peak network times are most sensitive to any increase in traffic flow. During the AM network peak, the proposed residential units are forecast to generate 42 vehicle movements (8 arrivals, 34 departures). In the PM peak, the development is anticipated to result in 41 (27 arrivals, 14 departures) additional vehicle movements.*
- *The National Planning Policy Guidance requires appropriate consideration to be given towards the cumulative impact arising from committed development as well as requiring an assessment of the impact of those from adopted local*

*plan allocations. A transport study was prepared to support the Worthing Local Plan. This considered potential traffic impacts arising from all developments proposed within the core strategy, identifying mitigation as appropriate. The modelling work took account of development on the Aquarena site (assuming a development of 85 residential units (72 flats and 13 houses) and 1,000sqm of local retail facility). Based on the assumptions included in the local plan transport study, it's evident that the modelling considered a more intensive level of development (in terms of vehicular trip generation) compared with that now proposed. As such, no further assessment is required to consider the capacity impacts resulting from the scheme now proposed and other local plan allocations.*

- *Traffic flows may not be representative of traffic movements from the proposed development. It is recommended that a sensitivity test of distribution is made against Census data.*
- = *The capacity impacts have been considered at a number of junctions. No junction has been modeled to show that it will have an impact that an unacceptable impact on these junctions.*

### *Parking*

- = *A total of 223 car parking spaces are proposed on-site. This will be provided in two forms; 51 spaces form part of a replacement parking provision for public use, 166 spaces for the use of residents, and 6 spaces are to be allocated to the commercial use.*
- *Based on the private dwellings only, a sufficient number of parking (146 allocated and 20 unallocated) spaces are provided to meet all potential demands from the residents and visitors.*
- *The assessment doesn't account for the proposed affordable dwellings. The applicant intends to provide no parking spaces for the affordable dwellings. The Demand Calculator still forecasts a potential demand.*
- *Accounting for the affordable dwellings would increase parking demands by 15 spaces, of which 4 would be a demand resulting from visitors. Similar to the private dwellings, the LHA accept that these demands could make use of the proposed public car park.*
- = *This still leaves a potential shortfall in the provision of 11 spaces for the affordable dwellings.*

### *Accessibility*

- = *There are a range of services and facilities within reasonable walking distance. National Cycle Route 2 runs along the southern boundary of the site. The no. 700 bus service runs along the A259 corridor.*
- *Taking account of current guidance and good practice, the site is well located to promote and encourage the use of sustainable modes of transport.*
- *Suggested detailed amendments to the draft Travel Plan*

### *Other Matters*

- *The basement structure is proposed almost abutting the public highway on Merton Road. The structure will act to retain the public highway. To safeguard the users of the highway, the Developer is required under the*

- provisions of S167 of the Highways Act 1980 to seek approval from the LHA to construct the retaining structure.*
- *It will be necessary for the Developer to enter into a legal agreement to protect the interests of the Highway Authority, and to ensure that all our requirements are satisfied.*
  - *A comprehensive Construction Management Plan will be required to set out how the users of the highway will be protected during these works.'*

#### Second Response following submission of further information – no objection

- *'Confirm with the exception of planting and landscaping proposals that all other matters have been addressed.*
- *Regarding the proposed planting on the adopted highway both on Brighton Road and Merton Road. The footway on the eastern side of Merton Road in particular is already narrow. The proposed planting would only serve to restrict this further. Any planting in the highway would in any case require the applicant to obtain a license to plant (Section 142 of the 1980 Highways Act) with details of any trees to be provided for approval.'*
- The Highway Authority suggests 6 conditions and 2 informatives and these have been included in the list of suggested conditions/informatives.

#### Third Response regarding Waste Collection issues

*'I've no particular issue with the Merton Road arrangement. However I've got to raise concerns with that for Brighton Road. Whilst I appreciate that refuse collection may be infrequent, the A259 is still a very well trafficked route. The introduction of reversing movements for large vehicles, adjacent to an existing vehicular access, and that would involve a turning vehicle encroaching upon the opposing lane of traffic is therefore far from ideal. Combined with this, there are a number of NMU movements occurring in connection with the leisure centre. Again reversing movements, no matter how infrequent, in such a location would represent a safety hazard.*

*In light of the loading bay proposed on Brighton Road, could the occupiers of the retail unit not be required to move bins within the appropriate carry distance for a vehicle parked in the lay-by? This would then do away with all of the issues involving reversing movements. There would have to be a servicing management plan (secured by condition) detailing refuse collection arrangements.*

*I'd ask that refuse collection for commercial unit is revisited as the arrangement proposed is not acceptable.*

#### **West Sussex County Council Archaeology – no objection**

- No objection on archaeological grounds is raised to the proposals, subject to suitable archaeological mitigation measures, provided for through the use of a planning condition.

- Archaeological features and finds of later prehistoric and Roman date are known to have existed within and very close to the application area; further ancient features and finds may exist in parts of the application area.
- The river terrace deposits that make up the surface geology of the application area are themselves potentially of archaeological significance
- Comprehensive ground excavation to a depth of 3 – 4 metres, for construction of the proposed basement, would remove both surface archaeological features and a large area of these early prehistoric deposits.
- The river terrace deposits and known prehistoric and Roman remains are considered to be of local or regional, rather than national significance.
- Proportionate mitigation of the impact of development should involve adequate investigation and recording of the buried archaeological features, finds and deposits, during and after demolition of the existing buildings and site clearance.
- Provision for the archaeological investigation and recording should be made, in the event of the grant of planning permission, through the use of a suitable planning condition.

#### **West Sussex County Council Flood Risk Management – no objection**

- The site appears to be mainly at low risk from surface water flooding. There are two areas (south of the site and north east corner of the site) which are showing as being at higher risk which is consistent with low lying areas (parking area and basement).
- The area of the proposed development is shown to be at low risk from groundwater flooding based on the current mapping and underlying geology.
- The proposed surface water drainage approach is in keeping with sustainable drainage principles and meets the requirements of the NPPF, NPPG and associated guidance documents.
- A suggested condition ensuring implementation of the SUDS approach.

#### **West Sussex County Council Ecology – response awaited.**

#### **South Downs Leisure Trust – supports the provision of public parking**

The Trust comments that it is disappointed that parking has been reduced from the previous scheme albeit that some parking is of course better than none. The Trust highlights that there would still be a need for additional parking and it hopes the Council can accommodate additional parking at Beach House Park tennis courts. Furthermore it states that,

*‘Parking is essential to our business as housing numbers are to Roffey homes. We all want to improve the area and you only get one chance...Any detrimental effect on our income streams would be detrimental to the Council as we enter into a gain share on any surplus over the next few years.’*

#### **South Downs National Park Authority – comments**

- *‘The boundary of the South Downs National Park (SDNP) is approximately 2.5 km north across the urban conurbation of Worthing.’*

- *The proposed 15 storey element of the development proposal is likely to be particularly visible from some public vantage points when viewed over a southerly aspect, from and close to the South Downs National Park. The tower would be the most visually prominent element of the development proposal and in the absence of other vertical structures of this height in the locality; the new tower would be particularly visually prominent, even from distant southerly views from the National Park.*
- *The South Downs National Park Authority, SDNPA, as neighbouring planning authority, recognise and value the long established open visual outlook and southerly aspect toward the open coastline when looking south, south west and south east (across the context of the significant urban conurbation of Worthing) from public open access land and other public areas. This southerly aspect form part of the overall public enjoyment and sense of place close to and within the SDNP*
- *Due to the distance, the development is unlikely to be directly harmful to the setting of the SDNP, but consideration should be given to the impact of the 15 storey tower element, particularly against the existing open horizon from the National Park;*
- *Elevated lighting, may have the potential to have wider effects on the dark skies of the National Park, as part of the special qualities thereof.*
- *The development should include an appraisal of both internal, and any external, lighting to consider what impact such may have on the dark skies of the National Park*

## **Historic England – no formal objection but identifies harm to heritage assets**

### *Summary*

- *Historic England has been seeking to influence proposals for this important site through our responses on previous applications, and our last pre-application advice in April of this year.*
- *Main concern is whether a tall building in this location is appropriate, or justified in the terms of the NPPF (para. 132) because of the harmful impacts that would result to the grade II\* listed Beach House and the Farncombe Road, and other town centre Conservation Areas.*
- *Justification for such a substantial quantum of development on this relatively small site remains ambiguous*
- *The proposals would be harmful to the significance of the II\* Beach House as derived from its setting, and to the historic townscape more generally.*
- *Identified no heritage benefits arising from the proposals.*
- *Council needs to be satisfied that harmful impacts have been minimised as far as possible and second; that you weigh the residual harm against the public benefits associated with the scheme as required by NPPF paragraph 134.*

### *Significance*

- *Most of central Worthing's seafront is made up of a number of Conservation Areas which comprise in the main late eighteenth and early nineteenth century terraces. The seafront at Worthing is on the whole not more than five*



*storeys in height, with the occasional landmark building such as the grade II\* listed Dome*

- *The conservation areas west of the site are laid out on a relatively formal grid like street pattern. It is still possible to easily understand the hierarchy of buildings within this earliest phase of the resort's development.*
- *The historic townscape can best be viewed from the grade II listed pier, an important visual receptor point from where a full panorama of the seafront can be enjoyed. From here it is possible to appreciate the overall town and the way in which the scale of development along Marine Parade and the streets behind remains largely intact without significant intrusion from modern development. Where modern development is present, this generally respects the existing scale of surrounding historic development.*
- *The existing building on the Aquarena site, while unattractive, does not break the largely uniform scale of seafront development in views from the pier and thus does not detract from an appreciation of this aspect of Worthing's historic townscape.*
- *The nearest Conservation Area to the application site is a little north of the seafront where Farncombe Road's sinuous path is lined with nineteenth century villas, and glimpses down to the seafront are possible through the trees.*
- *This Conservation Area is characterised by its verdant character and spacious plots, typical of an edge of town location where one would expect the density of development to decrease.*
- *Between the earliest development along the seafront and the application site lies the Grade II\* listed Beach House.*
- *This early nineteenth century villa marks the edge of this contemporary phase of development in Worthing and it is effectively a small country house, albeit by the sea. The building's high quality architecture, which afforded its owner panoramic views out across the sea, and of its spacious landscaped setting, all attest to the aspirations of an owner who wished to create a building of prominence reflective of his wealth.*
- *An appreciation of the significance of the building derives in part from its spacious landscape setting. This is compromised to a degree by the introduction of a car park and by the recently constructed Splashpoint Leisure Centre, but these modern features do not detract in any great way from an understanding of the building's primacy in the historic townscape or indeed a sense that the building was conceived to sit within a substantial landscaped setting.*
- *Beach House can also still be appreciated in views along Brighton Road and from Marine Parade. In views towards the building's principal and rear elevations, owing to their scale the existing buildings on the Aquarena site do not detract from the primacy of Beach House in the streetscape.*

#### *Policy Context*

- *The National Planning Policy Framework at Paragraph 132 sets out that significance can be harmed or lost by development within the setting of heritage assets.*
- *Paragraph 137 of the NPPF further encourages local planning authorities to look for opportunities for new development to enhance or better reveal the significance of heritage assets.*

- *Where a proposal would be harmful to the significance of a designated heritage asset (which would include here Conservation Areas), and amendments cannot mitigate all the harm, then any residual harm must be weighed against the public benefits of the proposal (para.134).*
- *Historic England has produced a Good Practice in Planning Advice Note, GPA3: The Setting of Heritage Assets (2015) which sets out a framework for assessing the significance of heritage assets, the contribution made to that significance by their settings, and how to minimise the impact of development proposals on their setting.*
- *Worthing Borough Council's local plan policies in relation to the Aquarena site, and development management more generally are inconsistent, and are "arguably irreconcilable" encouraging a 'gateway' or 'landmark' regenerative development on the site, while simultaneously requiring compatibility with surrounding historic townscape.*

### *Impact of the Proposals*

- *Concerned mainly with the principle of a tall building in this location in Worthing, rather than by issues relating to detailed design.*
- *Proposals will "introduce a very different scale of development to a town that largely, in key views retains a special sense of place as an historic seaside resort, punctuated not by ad hoc tall buildings, but by dignified open spaces and attractive Regency or Victorian compositions, or playful landmarks such as The Dome."*
- *Council should give careful consideration to whether this an appropriate precedent to set for Worthing.*
- *Proposed development will be a highly visible addition to the townscape, and we remain unconvinced of the need for the 'eastern gateway' to Worthing to be expressed with such a significant building.*
- *Concern that the scale and massing of the building will be harmful to the human scale of the Worthing town centre Conservation Areas and will be incongruous in the view back from the pier in the context of the surrounding townscape because of the dramatic contrast in scale between it and the established height of the historic buildings.*
- *Significance of Beach House would be harmed by the development clearly terminating views to the east where it maintains its dignified position in an open landscape on an edge of town site.*

### *Summary of Historic England Position*

- *Identified the level of harm as being "less than substantial" to both Conservation Areas and the grade II\* Beach House.*
- *Do not consider that the proposals represent an enhancement to the character or appearance of the conservation areas, or the setting of the Beach House*
- *Acknowledge that there will be public realm enhancements delivered, these do not in our view offset the harmful impacts associated with the development.*
- *The Council must therefore consider the public benefits associated with the proposals, and weigh these against the harmful impacts to the historic environment in determining the application.*

- *Historic England does not wish to formally object to this application but consider that there are harmful impacts.'*

#### **Sussex Police – no objection**

- *Access control from the residential areas from the basement car park will require controlling.*
- *Recommend the postal arrangements for the flats is through the wall, external or lobby mounted secure post boxes to prevent break-ins.*
- *Commercial premises should have an intruder alarm.*
- *A3 café – approval should be on basis that alcohol is ancillary to food premises*

#### **Conservation Area Advisory Committee – object**

- *The tower is considered too tall and forms an uncomfortably dominant feature specially when viewed from the promenade and from both East and West directions. The extensive balconies, whilst adding interest to the overall form, accentuate the perceived bulk.*
- *The tall building element will have an adverse (sic) on nearby Conservation Areas, listed buildings such as Beach House and does not relate to its surroundings.*
- *The tower is inappropriately sited immediately adjacent to the beach and is not a co-ordinated extension of the proposed development. It was felt that any increased height within the proposed massing might be more comfortably located in the north-western corner of the site.*
- *In order to lower the proposed height of the tower, the western edge of development could be increased and the tower footprint could be enlarged to accommodate additional flats per floor.*
- *The main proposals facing North, East and West were viewed as acceptable with articulation and variety to the proposed form and quality materials.*
- *The proposed retail elements were welcomed though with a concern in relation to the yellow roof illustrated for the café.'*

#### **Internal Consultation Responses**

#### **Place and Investment – support**

- *Strongly support the proposals*
- *The site is part of the Worthing Investment Prospectus as a key strategic regeneration site and thus has the potential to contribute to transforming the town into a “highly desirable place to live, work and visit”.*
- *The proposal provides substantial public benefits as the location provides a great opportunity to create a new gateway to the town through an attractive residential development. Economic benefit includes job creation at both construction and completion.*
- *This scheme will play a significant role in a refreshed Town Centre and Seafront Plan which looks to improve the overall economic wellbeing of the town.*

- *The inclusion of a Pavilion/Cafe within the development this will also enable a boost to the Visitor Economy and in particular to the already popular East Beach area of Worthing*

### **Coastal West Sussex Partnership – support**

- *‘Coastal West Sussex Economic Partnership brings together leaders from business, education and the public sector to work collectively on economic issues that affect the coastal strip (Adur to Chichester). It aims to focus on “larger than local” issues that impact on the coastal economy whilst supporting business development and promoting sustainable economic growth across the area.*
- *The development is a £40m regeneration of a site that has been an eyesore (and therefore in our opinion has had a detrimental impact) since April 2013.*
- *Strongly support the proposal and believe it is a strong step forward and ambition of contributing to Worthing’s economic future.*
- *Development will be a catalyst for regeneration particularly in the eastern gateway into the town, and one that contributes housing and employment requirement, add value to the visitor economy and support the wider promotion of the area for inward investment.*
- *Impressed by the amount of potential value to be gained from local suppliers in the supply chain.*
- *Impressed by the work of architect who designed the scheme.*
- *Scheme creates seafront public space with a pavilion café at its focal point creating a new beachfront destination and further extends the offer of the visitor economy further east.’*

### **Environment Agency – no objection**

- No objection subject to condition regarding flood risk mitigation to ensure finished floor levels are at least 5.5m AOD for commercial and 6.0 AOD for residential.
- The PPG states that local planning authorities (LPAs) should consult their emergency planning staff to ensure evacuation plans are suitable through appropriate planning conditions (para. 57 of PPG: Flood Risk and Coastal Change).
- Recommend seeking comments from the Local Authority’s emergency planners.

### **Southern Water – no objection**

- *‘Southern Water currently cannot accommodate the needs of this application without the development providing additional local infrastructure. The proposed development would increase flows into the foul and surface water system and as a result increase the risk of flooding in and around the existing area, contrary to paragraph 109 of the National Planning Policy Framework*
- *The developer can discharge foul and surface water flow no greater than existing levels if proven to be connected and it is ensured that there is no overall increase in flows into the foul and surface water system.*
- *Suggested condition to overcome issues listed above requiring submission of a drainage strategy detailing the means of foul disposal.*

- *Suggests a condition to ensure that appropriate means of surface water disposal are proposed for the development.'*

### **Private Sector Housing – no objection**

- Drawings show that some flats have studies/dining room/dens. Should these have sliding doors as indicated in the plans, then each of these rooms must be considered to be separate habitable rooms with their only means of escape in the case of fire being through another habitable room, making them 'inner' rooms. This would create hazards under the Housing Act 2004, which may result in formal action.
- If these are just fixed screens for privacy/interior design purposes, then that living area becomes open plan and does not lend itself to being set as separate habitable rooms and there is less concern in respect of either fire detection and escape in the case of emergency.

### **Housing Strategy & Development Manager – support**

- Pleased that the application meets planning policy requirements as set out in the Local Plan Policy 10 'Affordable Housing' which states that on sites of 15 or more dwellings 30% affordable housing should be provided on site.
- Pleased to see the affordable contribution ratio is 60% rented and 40% intermediate as stated in the Housing Strategy.
- "Delighted" that the rented units will be set at 'social rent' levels as this meets the needs of the majority of people who are on the housing register. I would expect the intermediate housing to be made up of shared ownership units.'

### **Waste Collection – no objection**

#### First Response – object

- *The western bin store is inaccessible for collection and was moved to another location last time I commented. Please provide more details on how they anticipate the 25 Eurobins located in this bin store to be emptied?*
- *The two on the eastern side of the complex are readily accessible and I have no problem with those.*

#### Second Response – no objection

- *The applicants resubmitted a waste access strategy to address the points in the initial response.*

### **Technical Services – no objection**

#### First Response

- Identifies a number of discrepancies in the submitted Flood Risk Assessment which require clarification. These include:
- Clarify whether coastal defenses provide 1 in 100 or 1 in 1000 year protection.

- Clarify consequences of WBC withdrawing current maintenance of shingle bank.
- Clarify assumption over basement flooding being low risk.
- Clarification of runoff quantities for a 1:100 year storm.
- Provide statement on anticipated peak flow from the site will be. Can water be discharged during peak high tide periods. Confirm that all on site surface water will be fitted with non-return valves as standard.

#### Second Response – no objection

- Further to the information received in response to previous queries I am happy to remove my holding objection.

#### **Parks and Landscapes – no objection**

- *The project involves creating three landscaped open spaces. Two of the open spaces will be publically accessible, including a landscaped beach garden and cafe area (1500m<sup>2</sup>), and an expansion of the existing entrance area planting areas outside the main entrance to Splash Point. The final open space will be a private resident's garden (1000m<sup>2</sup>).*

#### *Splash Point Entrance Square*

- *Planting schemes offer coastal tolerance and drought resistance, combined with a focus of year round colour and structural diversity, with addition of street trees to add additional structure, shade and cover. The planting looks both appropriate and attractive, but there is a lack of mention of biodiversity enhancement - and it would be worth looking at how chosen plants attract wildlife such as pollinators such as butterflies and bees, or other methods of habitat creation.*
- *Street tree maintenance being a specialist arboricultural function, will also need particular attention in post planting maintenance (including irrigation), annual survey and ad hoc specialist tree surgery.*
- *The very formal hard landscaping proposed is attractive and in keeping with the existing Splash Point development, but would be costly to maintain, and as such clarity on who would undertake this and from what resource should be bottomed out at an early stage.*
- *However it is not clear who would maintain the landscaped areas - and it would seem a natural fit for Adur and Worthing Councils Park team to undertake this as is currently the case.*

#### *Beach Front Garden Square*

- *Square is relatively limited in size, and is dominated by the Café which limits scope for public informal open space and planting areas. Together with the dominance of hard impermeable structures increasing the potential for increased runoff during heavy rain events.*

## Environmental Health – no objection

- *The Original EIA Screening Opinion Request dated 01 August 2014 Ref: CRB/Let/P1007 (and contained as Appendix B to the ES dated October 2016) states for Noise and Air Quality "Notwithstanding this conclusion the formal planning application is to be supported by appropriate assessments that consider these issues." No such assessments have been submitted.*
- *Applicant should have followed the Air Quality & Emissions Mitigation Guidance for Sussex (2013) (<https://www.adur-worthing.gov.uk/environmental-health/pollution/air-quality-and-pollution/air-quality-and-planning/>). This states that where a major sized development is proposed a number of checklists should be followed in order to determine the likely impact on air quality. Where an air quality assessment is not required an emissions mitigation calculation should be completed to assess the local emissions from a development and determine the appropriate level of mitigation required to help reduce the potential effect on health and/or the local environment, even if an air quality impact assessment has concluded the national air quality objectives will not be breached. This to ensure the integration of appropriate mitigation into a scheme at the earliest stage, so the damage costs on health can be mitigated.*
- *This procedure must be followed in this case. Where an Air Quality Assessment has been screened out (with justification) then we must have an emissions mitigation assessment using the most up to date emission factors (at <http://laqm.defra.gov.uk/review-and-assessment/tools/emissions.html>). The emissions assessment and mitigation calculator provides a formula to calculate the emissions resulting from a development and produces a cost for mitigation measures and/or compensation (in this case I recommend this includes electric vehicle charge points in both the private and public car parks). Suitable mitigation could be agreed via a section 106 agreement.*
- *In terms of construction impacts caused by dust I recommend that a mitigation scheme be submitted, secured by a suitable condition I also recommend the hours of demolition and construction are limited to 08:00 to 18:00 Monday to Friday and 09:00 to 14:00 Saturdays only.*
- *Parts of the application site lie within the 55-59.9 and 60-64.9 Light noise countours (prepared by Defra as part of their noise mapping exercise). Additionally the application site includes residential premises in close proximity to the Aquarena and its associated plant. Therefore a full Noise Impact Assessment must be completed and appropriate mitigation secured in order to protect residential amenity. This may be secured by a suitably worded condition. The assessment shall have regard to our noise and planning guidance at <https://www.adur-worthing.gov.uk/noise/planning/>.*
- *There is no mention of the proposed hours of operation of the ground floor commercial uses. If these were normal daytime hours then the acoustic protection between the ground and first floor residential uses should be adequate. However if the use were to extend into the evening then I recommend that the level of acoustic insulation between the ground and first floors be enhanced in order to protect residential amenity. Again this could be achieved through a suitable condition.*
- *Furthermore the cafe will require suitable kitchen extraction, however again this can be secured by a suitably worded condition*

- *In order to protect residential amenity I recommend that all deliveries to and collections from the commercial units and the cafe are restricted to 07:00 to 20.00 Monday to Saturday and 09:00 to 18:00 on Sunday.*

## **Design and Conservation Architect – object**

### Architectural Approach

- The new architects, Allies & Morrison, started the design process investigating the growth of the town and by analysing the existing form and style of the historic terraces which engender much of the character of historic Worthing.
- This process has resulted in a better understanding of the context of the site, and is reflected in a number of notable improvements when compared to the previous scheme.
- The 9 storey element which was an unnecessary focal feature adjacent to Splash Point entrance has rightly been removed, and replaced with a more subdued, modulated terrace.
- Along the Brighton Road frontage the new level access has enabled the introduction of ground floor shopfronts improving the visual interest of the street frontage.
- The scale and articulated form of the proposals along the west side of Merton Road have improved the relationship with the buildings opposite on the eastern side and help to create a more inviting vista when viewed from the junction of Brighton Road and Farncombe Road. The architectural language used for the urban block subtly changes in response to the differing contexts of the buildings elevations.
- The tower element is still a feature of the scheme; albeit now rising to 15 storeys compared to the previous scheme's 21 storeys.
- In Allies & Morrison's opinion, the actual scale and height of the proposed tower element when viewed from various points to the north, east, west, and from the pier, requires 15 storeys to create a balance between prominence and dominance. This is a very subjective judgement and is not wholly convincing in a number of the verified views. This tower element still causes harm to the surrounding historic assets.

### Heritage Assessment

- Applicant's heritage consultants consider the Splashpoint Leisure Centre building to act as an end stop to historic centre of Worthing.
- Applicants consider that overall the proposals will have an adverse or negligible effect on the historic environment.
- Applicants identified that although the majority of the visual impacts of the proposals are recognised as being negative, any identified adverse effects are considered to be offset by numerous public benefits. Implementation of the proposals are considered to be fundamental improvements of the application site in isolation and, by extension, therefore an enhancement of the settings of the identified heritage assets.
- Historic England consider Beach House to mark the edge of the early 19<sup>th</sup> Century development in Worthing. Modern development when viewed from the pier is considered to generally respect the existing scale of the



- surrounding historic development. The 15 storey tower is highlighted as running counter to the established scale of the historic townscape.
- This dramatic change to the built form is considered to affect the setting of a number of heritage assets and would entail a notable level of harm to their significance.
  - English Heritage do not consider that the proposals represent an enhancement to the character or appearance of the conservation areas, or the setting of Beach House, and whilst they acknowledge that there will be public realm enhancements delivered, these do not in their view offset the harmful impacts associated with the development.
  - The policy guidance in paragraph 134 of the NPPF states that where a proposal will lead to *less than substantial harm* to the significance of a designated heritage asset, such harm should be weighed against the public benefits of the proposal, including its optimum viable use. It is not obvious at first glance that paragraph 134 should be read in conjunction with the first part of paragraph 132, which states that when considering the impact of a proposal on the significance of a designated heritage asset, “great weight” should be given to the asset’s conservation. This wording reflects the statutory duty in sections 66(1) and 72(1).
  - Paragraph 129 of the NPPF additionally highlights the need to avoid or minimise conflict between the heritage asset’s conservation and any aspect of the proposal.
  - Based on the applicant’s visualisations, it is apparent that significant, although less than substantial harm to the setting of the Grade II\* Beach House would occur, due to the major visual impact of the development on the views of this property from the west, along Brighton Road and across Beach House Park.
  - This early nineteenth century villa dominates the spacious, open area of public parkland, which still reveals the villa’s original historic curtilage. Although Splashpoint Leisure centre has recently been built along the eastern edge of this space, due to its carefully considered design and horizontal form, it does not overly dominate the scale the open setting, unlike the proposed development.
  - It is also apparent that the proposals would to a lesser extent, impact on the views from within the Farncombe Road Conservation Area, especially adjacent to the Grade II listed lamp standard on the junction between Farncombe Road and Church Walk. The Conservation Appraisal notes a fairly even roofline as being an important characteristic of this conservation area. Although the undesirable interruption of Griffin House is acknowledged, generally the skyline is punctuated only by trees and chimneys. However, the view from the southern end of Farncombe Road, along Merton Road towards the sea would be enhanced by the current proposals.
  - The views north-east from Worthing’s Grade II listed pier incorporate much of the South Street and the Steyne Conservation Areas. These areas are typical of Worthing’s historic townscape, their character being derived mainly from the Regency and Victorian seaside resort development. The hierarchy of roads is clearly legible, with the larger scale buildings (up to six storeys) along the major route, Marine Parade, and lower scale along the more minor routes leading inland. Modern infill developments accord closely with this scale. Looking further to the east, late nineteenth and early twentieth century terraces are interspersed with a number of later twentieth century buildings of

which the Esplanade and Westminster Court break through the prevailing built skyline. The Splashpoint Leisure Centre is also clearly seen in this view, although its horizontal form and scale accords relatively well with the height of the other seafront buildings.

- The proposed development and more specifically the 15 storey tower, due to its vertical form, contrasts strongly with the general form of the built environment. Despite the deliberate dominance of this feature, its dramatic difference in scale would change the perception of Worthing's historic character resulting in further, less than substantial harm.
- Given the nature of the proposals, many more heritage assets comprising the application site's wider context, whilst not illustrated in the applicant's visualisations, will undergo some visual impact, which will entail some level of harm to their significance, but still less than substantial.

### **Coastal West Sussex Design Panel – comments**

- The Coastal Design Review Panel has considered the proposed development on three occasions. Twice prior to submission of the planning application, and a final review focused on detailed design issues following submission of the application in October 2016. The design review panel included architects, heritage specialists and landscape architecture specialist to ensure a full review of the scheme was provided rather than a narrow architectural assessment. A heritage specialist was specifically added to the panel following the first application was refused to assist in assessing the acceptability of the scheme in close proximity to heritage assets. The Design Review panel have set out that the three reviews need to be read in tandem and are summarised below in chronological order.

#### First Review – February 2016

##### Layout and heights

- The decision to place the tallest element closest to the sea is for two reasons: firstly the tower has good views out to sea and is where people would most like to live; and secondly it allows a new public space to be extended westwards from New Parade. The Brighton Road side of the development responds to the adjacent leisure centre with an active restaurant and retail frontage.
- The logic of the layout is sound, based on an analysis of the pattern of Worthing's development over time.
- The site offers an opportunity for a new contextual contribution to the townscape between Brighton Road and the seafront.
- The layout appears efficient and the tower is significantly lower than the previous scheme reducing the extent of its visual impact

##### Access to the development

- The entrance is off Brighton Road, through the private courtyard/garden space.
- Need to be a clear separation of pedestrian and vehicular access.

## Materials

- The use of light material, avoiding stucco or render in this maritime location with extreme weather conditions seems appropriate.
- The context for design relates back to Worthing by using curved balconies, decorative bats and ogee railings,
- The lantern-like quality of a glazed façade set back behind the perforated frame of the steel balconies could be particularly successful after dark.

## Brighton Road Frontage

- The block facing Brighton Road needs further work in its north facing frontage to resolve its relationship with the surrounding buildings.

## Second Review – August 2016

### Site layout

- The comprehensive analysis of the site in its historical context is particularly commended and the modern interpretation of a Regency Square as an approach is justified.
- The tower may appear too squat in some views, and too dominant in others, but on balance it is an appropriate feature in its immediate and wider setting. However, the logic presented for a 15 storey tower, rather than, say, 16 or 14, is still not entirely persuasive, and the 'double square' approach to setting proportions, whilst understandable, is not in itself sufficient justification.
- The option of turning the tower so the longer side faces the sea would reduce sea views from some flats, and whilst the developer's commitment to every flat having a sea view is supported, this should not be the overriding consideration for positioning the tower.
- The treatment of the Merton Road elevation now works well in its proportion and massing, and facing Splashpoint the elevation provides appropriate enclosure to the public space in front of its entrance. We suggest moving the cycle store, which we are glad to see is at ground level, closer to the residential entrance, to encourage greater use.
- The Brighton Road elevation is slightly less convincing. Although at the last review we suggested articulating this façade, the proposal has now swung too far in seeking variety, with both changes in plan form and a variety of materials. It does not therefore capture the solidity and repetition of the Regency architecture in the vicinity and using fewer materials could bring more clarity to an elevation that is otherwise much improved.

## Materials

- We support the proposal to use a soft white terracotta tile for elevations together with brick as an alternative to render in this marine environment.
- The extensive glazing will reflect the surroundings so some of the whiteness of the façades will be lost, and whilst supporting the principle of clean and simple glass screens behind the balcony railings, a translucent white glass could also deal with the visual impact of salt on glass.

## Landscape

- The distinction between the private space and the extension to the public promenade in which the pavilion will sit is sensible and clearly expressed.

- Simple hard and soft landscape with plant choice to include local maritime species would work well.
- The intention to create continuity between the public space and the beach beyond is good, but this should be designed to also enhance the setting and attractiveness of the café pavilion,

#### The Pavilion

- This element of the scheme is a new introduction since the last design review.
- Valuable new amenity for the public promenade if well designed, constructed and operated,
- Could be better located further north on its site, to reduce the area of unused space behind it, and increase the area of seafront terrace in front.
- The proposed new public square would offer some additional space on the promenade as spill-out terracing from the new pavilion café,
- The tower will put the square into shade in the afternoons and would also potentially cause downdraughts over the space. The patterns of sun and shading require detailed study.

#### Third Review – December 2016

Given the extensive involvement of the Panel in the evolution of the scheme, the review of the submitted application was undertaken by two of the panel members focusing on heritage and landscape.

#### Brighton Road

- At the Design Review in August 2016 the Panel commented that “the articulation of the façade and mix of materials facing Brighton Road, whilst much improved, is now too elaborate and recommended that using fewer materials could bring more clarity to an elevation that is otherwise much improved.” It has now perhaps swung back too far in response to this comment.
- We suggested the palette of materials for this façade might include the white terracotta proposed elsewhere in the development, and the design team’s response to this suggestion is that the façade “takes on a palette of pale brick and white metalwork - this reflects those other materials commonly found in the town”. Whilst white stucco is a traditional material in Worthing, the white metalwork panels adjacent to some of the window openings on this elevation do not provide a convincing reference to this character, in the way that the use of white terracotta panels and battens do elsewhere on this building. The full height windows and projecting square bays on this mainly flat façade further accentuate the scale of the building in relation to its immediate neighbours. Canted bays and more white masonry could help to modulate the impact.

#### Merton Road

- The articulation of this façade is generally successful, but the provision of paired balconies rather than single, combined balconies to some rooms reduces their utility.

### Pavilion building

- At the August design review we commented that “The structure will often be closed due to poor weather so needs to have a very pleasing aspect when closed, and it also needs to be designed so anti-social behaviour around it is minimised”.
- We understand that there will be a reliance on CCTV to deter anti-social behaviour, and we do remain concerned that the long-term management liability has not been addressed in the design solution proposed. d.

### Landscape

- At the August design review the Panel commented: “Simple hard and soft landscape with plant choice to include local maritime species would work well.” Our initial concern with the material presented for this design review is there are inconsistencies between the drawings, renderings and D&A statement material, and we strongly recommend that these inconsistent details should be changed so the quality of landscape and its components are made clear and consistent throughout the documentation.
- We would like to add the following detailed comments on landscape design:
  - o *Brighton Road and Merton Road*
    - The use of street trees in the pavement (and not in boxes) on Brighton Road and Merton Road frontages is welcome. The small raised planters on Merton Road seem insubstantial and we recommend an alternative solution is used.
  - o *Central Garden*
    - We question the landscape strategy for this space with dense shrub planting, which will be hard to maintain continuously and which provides little recreational utility. We note the space will be in shade for much of the day. The design and planting also close long views, and offer little open visual amenity in public views into the site. The serpentine path is probably wider than the likely footfall will justify and the formal seating arrangement might be better arranged in a more convivial and informal manner. The secure fence/gate at the south is a key threshold to the space, but the design does not incorporate this function adequately, and at the north end of the space there is no visual anchor or focus.
    - The Design & Access Statement describes a dune-based and undulating topography but this is not expressed in the planting. We question the choice of silver birch as it does not mark out the space as particularly special or maritime in character.
  - o *Pavilion Square*
    - This will be an extensive and largely empty open space, and planting under balcony overhangs is unlikely to thrive. The comments above on shrub maintenance also apply here, particularly as it is in a public space, and security could also be an issue.

- The low sea wall is removed and we are therefore concerned as to how flood risk is mitigated. The wall is also a potentially useful design element adjacent to the beach, and we think this element should be reconsidered.
- o *Splash Point Square*
- We support the tree planting shown in the early concept in the Design & Access Statement, and hope tree planting will be part of the design for this square.

**Comments on Consultation Responses:**

A number of consultees have identified that detailed information should be agreed and implemented through a suitably worded condition. These have been included in the list of proposed conditions included below.

The issues raised by consultees have informed the Planning Consideration section of the report below, and have been considered when making the Officer’s recommendation.

**Representations**

**Petition** – A petition objecting to the planning application has been supported by 2318 signatures. The petition stated the following:

*We believe that the buildings proposed for the site of the Aquarena, especially the 15 storey tower, are inappropriate for Worthing’s seafront and would cause irreparable harm to the appearance of our town and the amenities of our beach. We therefore request WBC to refuse planning permission for this development.*

A total of 1045 objection letters or online comments were received.

**Standard Letter** – in excess of 700 of the objection letters received were on a template letter objecting to the proposal. Each letter includes an individual address, date, signature and printed name. The letter states the following:

*Dear Sir/Madam,*

*Re: Aquarena Planning Application AWDM/1633/16*

*I am writing to object to the aforementioned proposal on the following grounds:*

- *The height and bulk of the tower are too big and will have an overbearing impact on the beach and nearby buildings.*
- *The density exceeds any other in the town and will cause congestion and parking problems.*
- *It is out of context with the rest of the town and it’s character and sets a bad precedent for future tall and dense developments on the seafront.*

*I understand that my name and address will be shown on the council's planning website in order to register my objections but request that these details are not passed to any third parties.*

**Representations Objecting to the Application** - A summary of the objections received are set out below. The summary groups objections by issue to enable them to be related to the principal issues identified in the Planning Assessment section of the report.

#### Principle of Development and the Proposed Uses

- o Inappropriate building just to attract wealthy out of town property money to the detriment of the landscape and existing residents
- o Totally out of character
- o There are no economic benefits to the town from this development
- o The white building is not of sufficient quality to stand the test of time and will weather badly
- o It would set a precedent
- o East Worthing will look like an overflow of Brighton
- o All areas of the scheme are too tall for its Edwardian context
- o High rise has never worked
- o This site should be used to improve public leisure facilities to attract visitors not to build a housing estate
- o We need to replace the lost amenities on this site not build monstrosities which blight the seafront
- o The retail space will never be occupied
- o The most suitable London Plan sites are only 70-170 dwellings per hectare whereas this is 200 and Worthing is hardly a compact city. The existing area 10 minutes from the town centre should only be 50-95
- o Such a tall building should have exceptional aesthetic qualities, demonstrate significant technological advancement and an appropriate civic symbolism.
- o The Brighton Road 9 storey tower is massive and overpowering and there is no precedent so close to the road.
- o The amount of development is far more than is needed to be sustainable
- o The proposal seems contrary to the Listed Buildings and Conservation Areas Act 1990, the National Planning Policy Framework and the Core Strategy
- o The site has snatched covenanted public amenity space
- o Why is residential being proposed in an Active Beach Zone?
- o The proposals are contrary to the objectives of Area of Change 1 policy

#### Housing Demand

- o Large amounts of affordable housing are already impacting on local schools
- o There is no proven demand in Worthing for this type of tower living space
- o These would not serve the local population and would be bought by people living abroad as second homes
- o The door on the north east corner is a poor door
- o Nobody on average wages will be able to afford these apartments and the cheaper flats will be bought by speculators seeking a quick profit
- o There are too many luxury flats in the town and not enough affordable housing
- o Luxury and affordable apartments do not go together
- o These homes are for investors

Quality of the public realm including provision of a new public seafront square with café

- o Beach front public square provides insufficient space for significant trees and landscaping

The appropriateness of the bulk, massing and design of the proposals:

- o Worthing has some lovely new builds and we shouldn't be badgered by the applicant into lowering our standards
- o An eyesore and an extreme overbuild
- o The development would adversely impact on New Parade which is one of the town's nicest roads
- o The development will not enhance the Splashpoint entrance, it will dominate and dwarf it into insignificance
- o It would be too close to the promenade
- o It should be a more innovative design which would become iconic in time
- o The external materials are not suitable for a harsh seaside environment
- o The revised scheme is disappointing and are clearly primarily motivated by profit at the expense of the town
- o The scheme flies in the face of restraints by the planners previously applied to other flat developments which have lower densities and heights
- o The design does not look like luxury apartments
- o It will detract from the appearance of the pool
- o It will destroy the character of New Parade

Acceptability of the proposed 15 Storey Tower

- o Do not spoil the seafront with this monstrosity
- o It's too tall, intrusive and out of keeping on the beachfront
- o This is not an iconic building and does not meet the criteria in the Tall Buildings Guidance
- o The development will destroy the current beautifully quiet east beach
- o This is dreadfully ugly and out of date and other towns have been demolishing buildings like this
- o It will have a negative impact on the listed buildings
- o The Tall Buildings SPD states that tall buildings should be in the town centre or in clusters and certainly not on informal open space which the boating pool area was previously
- o These towers will become eyesores in years to come
- o The development would block out views of the Downs
- o A skyscraper would be a horrific addition to the thoughtful architecture that represents Worthing
- o There are no buildings along the seafront more than 10 storeys high
- o Why is a tower block relevant to the seafront?

The impact of the proposal on heritage assets and wider historic townscape:

- o The seafront has been improved recently and it would be a pity to spoil it
- o It will ruin the very attractive skyline and view from the pier
- o The development is inappropriate for the seafront of a Georgian and Victorian area
- o The impact should be no greater than the existing building, Beach House or the new pool



- o The Adopted Core Strategy requires the historic character of the surrounding area to be protected and expect retail and a hotel on the site
- o This will spoil Worthing's renowned low level seafront skyline
- o There will be a risk of damage to the listed building from piling foundations for the development
- o The design is completely inconsistent with the Edwardian and Victorian buildings
- o This will compromise the history of the town
- o Worthing's seafront with its Victorian architecture is the gem of the south coast
- o Looks out of place with Victorian terrace and Beach House
- o There are strong objections from Historic England

#### Servicing, Transport and impact on public highways

- o This will add to the traffic in the Steyne
- o This will adversely add to the existing on street parking problems caused by Splashpoint
- o There are already long queues from East Worthing going into town
- o There are already servicing issues for the adjacent shops and the proposals do not fully address this issue and may lead to more road blocks in Merton Road
- o Access to the site will become a significant problem
- o Cars are already parked on pavements in Madeira Avenue every evening, Sundays and Bank Holidays
- o The type of apartments will encourage two car occupancy which will put unreasonable pressure on existing street parking and the existing inadequate road system. Such development sites should minimise the dependence on the car.
- o This will bring congestion and critical delays to hospital traffic
- o Merton Road will be dangerous and overused
- o Traffic surveys mean nothing when there are currently long traffic queues in the area

#### Infrastructure

- o The doctor's and dental surgeries will not be able to cope with all the new flats being built in this area
- o The scheme will do little for existing residents or tourists
- o The existing sewage system cannot cope
- o The scheme does not contribute towards the active beach zone or improve linkages
- o There will be no allocated staff parking for Splashpoint
- o There will not be enough green space on site for children to play
- o We need an ice rink or something for the youth and community
- o This scheme is purely profit led because of the high values for sea views
- o The existing drainage systems will not cope with this amount of development
- o The development should incorporate a relocated Selden Medical centre.

The impact of the proposal on nearby buildings and spaces, including residential amenity, environmental impacts such as daylight and sunlight, wind microclimate, and energy and sustainability

- o The buildings will dominate the seafront and block the light of anything to the north of it
- o It will be overbearing and overshadow Merton Road properties leading to a severe loss of light and privacy and noise reverberating from the building
- o The buildings will create a wind tunnel effect
- o It would block views of the sea apart from the privileged few
- o It would cast a very long shadow in the winter
- o The scale of the development will cause light pollution of the night skies
- o The development should be carbon neutral and the BREEAM rating excellent or equivalent for residential
- o The residents would have limited on site private space
- o There are poor single aspect flats facing north
- o The landscaping does not develop water catchment or use green roofs to reduce the potential for flash flooding
- o The affordable units are not suitable for families and are located in the least favourable position fronting a noisy road
- o A huge shadow will be cast over Splashpoint, Beach House and the park

Other Issues

- o This is just inspired greed and financially motivated
- o Visitors come to Worthing because it is not London or Brighton
- o This would set a precedent for unsuitable designs
- o There should be nothing built on this land
- o This is not Benidorm
- o There are concerns at the artistic impressions which which always sanitise the negative points
- o Proposal does not reflect feedback from previous consultation events and objections
- o Would the Council approve this if it didn't own the land?
- o This site was given to the people of Worthing to enjoy
- o There is enough profit for a developer without adding a tower
- o It is worrying to see the Roffey's poor management processes at the Beach and the long suspension of street parking when this proposal is so much larger
- o If the developer does not want to build at the right height he should walk away
- o The land was gifted to the people of Worthing not owned by the Borough Council
- o It will depress the resale values of neighbouring properties

**Worthing Society – object**

- *'The Planning Committee have to consider whether the alterations to the proposal that have been made since AWDM/1636/14 was refused are sufficient to overturn the reasons for refusal.*
- *Society is not arguing against any redevelopment of the site, but it is strongly opposed to a redevelopment that would harm the setting of such valuable heritage*

assets as Beach House (Grade II\*), affect views of the shoreline and be out of sympathy with the character of its surroundings.

- This site by the beach is not the place for so massive a development.
- The first reason for refusal states the previous development is contrary to Saved Local Plan Policies CT3 and H18, Core Strategy Policies 2, 13 and 16, Tall Buildings Guidance SPD and National Planning Policy Framework and Practice Guidance.” The Worthing Society’s letter considers the reasons for refusal for the previous scheme (AWDM/1636/14) and evaluates whether the present proposal is in keeping with these policies. Their comments are summarised in the bullets below.

#### *Conflicts with Policy CT3*

- o The present tower is lower in height but similar in mass, and of an eccentric appearance that resembles nothing in the town – must share this defect.
- o Proposal would reduce existing views to the sea down Merton Road, which would be narrowed by the construction of apartments on the west side of the road.
- o broadly similar in density, scale and massing, though the height of the tower in the present proposal has been reduced from 21 storeys to 15 and the appearance, orientation and layout have been changed.
- o redesign of the western, northern and eastern faces of the development have removed some of the defects of the previous design, and would provide street facades that are more compatible with the surrounding developments.
- o Scale of proposals which is six storeys, with the top one or two storeys set back. Such large buildings would overwhelm the existing 2.5 storey houses of New Parade. Density remains inappropriate.
- o The redesign of the tower does not reduce its impact, because its mass remains unchanged.
- o The tower would be incongruous in this setting, and is therefore incompatible with policy CT3.
- o The present application represents an improvement on the previous proposal.
- o But retains the defects of excessive height, density, and massing in relation to existing buildings in the area
- o The redesigned tower is so different from any other building that it can only be treated as an architectural folly
- o

#### *Conflicts with Policy H18*

- o Proposal results in loss of local amenity for the residents of New Parade and Brighton Road would find the blank wall of the Aquarena replaced by a the four storey façade of an apartment block, with two more storeys recessed above.
- o Their privacy and light would be affected.
- o Residents of the existing properties neighbouring the Aquarena would therefore suffer a significant loss of amenity from the development, and the loss is likely to be similar in each application.

#### *Conflicts with Core Strategy Policy 2*

- o The present proposal takes one step towards meeting these requests for amenities by providing a café in an open space on the beach, and more space for retail activities on Brighton Road.
- o there is no outdoor water play area, and the development remains predominantly residential

- o cannot be described as landmark buildings within the context of the surrounding historic character.
- o Core Strategy Policy 13 – limiting adverse impacts on coastal and marine environment
- o seagulls would be attracted to balconies as roosting or nesting sites
- o conflicts that would then ensue between residents and gulls could lead to undesirable and inhumane behaviour.

*Core Strategy Policy 16*

- o The architects of the present application have made a greater effort to respond to local character in the design of the street frontages of the development.
- o their efforts are undermined by the large scale and height of the development; buildings which are six storeys tall cannot be made compatible with 2.5 storey buildings
- o The new buildings will inevitably dominate the older buildings.
- o Towers, cannot respond to the local character of a low-rise neighbourhood.
- o The surroundings of the Aquarena are more suburban than town centre in character, with most houses being no more than 2.5 storeys high.
- o The exceptions are Splashpoint, the equivalent of 6.5 storeys, and Beach House, the equivalent of 5.5 storeys
- o A development with a 15 storey tower, a main block of six storeys and a density of 204/hectare could not “respond positively to the important aspects of local character” in this area.
- o Implementing this proposal would transform the character of the area.

*Conflicts with the Tall Buildings Guidance SPD.*

*Policy 28 – Accessibility*

- o Proposal is 1.6km from Worthing Railway and bus service does not go to the station

*Policy 31 – Historic Character (tall building in setting of a conservation area should enhance the overall quality)*

- o Questionable whether either design of tower for the Aquarena site can be said to enhance the overall area.
- o Historic England considers that the level of harm to the character and appearance of the Conservation Areas from the development would be less than substantial.

*Policy 32 – Historic Character (Where a listed building is a landmark feature its backdrop needs to be protected to ensure that it continues to be viewed distinctively).*

- o Beach House, Grade II\*, is a landmark feature. The Aquarena towers appear in its backdrop.

*Conflicts with National Planning Policy Framework paras 17, 58, 131*

- o The current proposal is not significantly superior to the rejected proposal when judged against these criteria. The alterations to the design of the street facades of the main building have made it more responsive to local character; but the scale of the building prevents it from harmonising with its surroundings.
- The second reason for refusal states the previous development is contrary to Core Strategy Policies 2, and 16, Tall Buildings Guidance SPD and National Planning Policy Framework and Practice Guidance.” The Worthing Society’s letter

*evaluates whether the present proposal is in keeping with these policies. Their comments are summarised in the bullets below.*

*Conflict with Core Strategy Policy 2*

- o Proposal does not provide a landmark building within the context of the surrounding historic character.*

*Conflict with Core Strategy Policy 16*

- o Historic England identifies that the harm inflicted by the proposed development would cause less than substantial harm to Beach House and conservation areas.*
- o HE consider that although the scheme would deliver enhancements to the public realm “these do not in our view offset the harmful impacts associated with the development”.*
- o Historic England’s consultation responses and evidence submitted by the applicants demonstrate that the proposal is harmful to the setting of the heritage assets near to the site and to the broad context of Worthing’s townscape, conservation areas and shoreline in conflict with Policy 16.*

*Conflict with Tall Buildings Guidance SPD*

- o Proposal should enhance the overall area of a Conservation Area and should not form part of the backdrop of a listed building.*

*National Planning Policy Framework paragraphs 129, 132, 134*

- o As harm has been identified to heritage assets there is a strong presumption against planning permission being granted.*
- o In balancing the benefits against the harm, the Committee should consider that a smaller scheme would not produce the harm, and would produce some of the benefits.*
- o Consider whether the harm done to heritage assets is smaller than the benefits created by the scheme.*
- o no evidence from expert assessment that the present scheme produces less harm to heritage assets than the previous scheme*

- Parking - according to WSCC’s parking calculator there would be a deficit of 38 spaces if the WSCC forecast of requirements is accurate. The apartments in the development would be high-priced and would therefore attract owners with high incomes, who would be likely to own two cars. Proposal is likely to increase the demand for on-street parking spaces in the area.’*

**Representations in support of the proposal** - 216 representations were received supporting the proposal. A summary of the various reasons for support is set out below. The summary groups support by issue to enable them to be related to the principal issues identified in the Planning Assessment section of the report.

Principle of Development and the Proposed Uses

- o It will remove an eyesore*
- o Will improve the overall feel of the east part of the sea front*
- o Finished development will portray the town in a positive way.*
- o Proposal provides much needed commercial and retail space*
- o Site is identified in the Core Strategy as a key regeneration site*

- o Development should be concentrated on brownfield sites.

#### The need to boost significantly the supply of housing

- o it provides much needed affordable homes in the town centre
- o This will provide much needed new homes
- o Supports the elements designated as affordable
- o Schemes like this will help boost the retailing of the town which has suffered in recent times

#### Quality of the public realm including provision of a new public seafront square with café:

- o The new sea front square will brighten up the east end of the seafront and create another destination for tourists.

#### The appropriateness of the bulk, massing and design of the proposals:

- o The buildings would raise the standard in Worthing
- o Plans will brighten up the area superbly
- o Developer consistently shows their commitment to quality design and it carries through to this scheme.
- o Supports the modern design of the proposals.

#### Acceptability of the proposed 15 Storey Tower

- o Reduced height of the tower is much more appropriate and remains attractive
- o The proposal is bold and imaginative and would create a landmark

#### Servicing, Transport and impact on public highways

- o The site is in a highly sustainable location close to the town centre

#### Infrastructure

- o It will provide valuable parking to avoid congestion in surrounding roads
- o Public open space will enhance the seafront

#### Other Issues

- o Will add employment and regeneration to the area.
- o there will be much needed trades for local people
- o it will be a rich source of council tax for the Council
- o will benefit the economy and give the town a modern image
- o local shops will benefit and the prosperity will spread across the town
- o This will make Worthing a partner to Brighton and not a poor relation
- o Will be a catalyst for regeneration

### **Relevant Planning Policies and Guidance**

#### National Planning Policy

National Planning Policy Framework (CLG 2012)

Planning Practice Guidance (CLG 2014 - as amended)

## Worthing Core Strategy (2011)

Policy 2 Areas of change  
Policy 3 Providing for a Diverse and Sustainable Economy  
Policy 5 The Visitor Economy  
Policy 6 Retail Policy  
Policy 7: Meeting Housing Need  
Policy 8: Getting the Right Mix of Homes  
Policy 10: Affordable Housing  
Policy 11: Protecting and Enhancing Recreation and Community Uses  
Policy 12: New Infrastructure  
Policy 13: The Natural Environment and Landscape Character  
Policy 14: Green Infrastructure  
Policy 15: Flood Risk and Sustainable Water Management  
Policy 16: Built Environment and Design  
Policy 17: Sustainable Construction  
Policy 18: Sustainable Energy  
Policy 19: Sustainable Travel

## Saved Local Plan policies (WBC 2003):

CT3: Protection and Enhancement of the Seafront Area  
H18: Residential Amenity  
LR8: Provision of Play Space/Outdoor Recreation Space in Housing.  
RES7: Control of Polluting Development  
RES9: Contaminated Land  
TR9: Parking Requirements for Development

## Relevant Local Supplementary Documents and other Guidance

Space Standards SPD (2012)  
Guide to Residential Development SPD (2013)  
Tall Building Guidance SPD (2013)  
Worthing Evolution: Town Centre and Seafront Masterplan (2006)  
Worthing Seafront Strategy SPD (2007)  
Worthing Aquarena Site Development Brief SPD (2008)  
Developer Contributions SPD (2012)

## Emerging Local Plan

As the Core Strategy pre-dates the NPPF, NPPG, and the Localism Act (& the withdrawal of the South East Plan), Members will be aware that the Council has embarked on a review of the Core Strategy and is preparing a new Local Plan. This is particularly important as the latest assessment of the towns objectively assessed housing need illustrates that a housing delivery of 636 dwellings per year would be required to meet predicted housing need whereas the Core Strategy sought to deliver 200 per year (average housing delivery over the last ten years is approximately 279 dwellings per year).

The initial consultation on the emerging plan, undertaken in summer 2016, highlighted this issue. It made clear the need to plan positively to meet identified

needs whilst at the same time balancing this against the potential impact of future development and the need to protect the environment. The overarching aim of the new plan will therefore be the need to strike the right balance between the benefits of development and the need to protect the character and setting of Worthing which are greatly valued.

Although the Council will work positively to deliver growth there is no expectation that all needs will be met within, what is, a very constrained area. Limited land availability and sensitive areas of countryside and coast around the borough means that there is little room for expansion.

Therefore, it will be imperative that the Council continues to work with neighbouring authorities and partners under the Duty to Co-operate to see whether there is any ability for other areas to deliver some of Worthing's needs. Furthermore, it will also be important that the development potential of sites that do come forward in the Borough are maximised to help meet development needs whilst also ensuring that they are of high quality design and that they respect the character of the surrounding area.

A draft Local Plan will be published for consultation later in 2017. The current timetable indicates that the new Local Plan will be in place by the end of 2018.

### **Relevant Legislation**

The Council, in determining the planning application has the following main statutory duties to perform: -

- To have regard to the provisions of the development plan, so far as material to the application, any local finance considerations so far as material to the application, and other material considerations. (Section 70(2) Town & Country Planning Act 1990);
- To determine the application in accordance with the development plan unless other material considerations indicate otherwise. (Section 38(6) of the Planning and Compulsory Purchase Act 2004);
- To pay special attention to the desirability of preserving or enhancing the character or appearance of the Farncombe Road Conservation Area (S 72(1) Planning, Listed Buildings and Conservation Areas Act 1990);
- In considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. (S66 (1) Planning (Listed Buildings and Conservation Areas) Act 1990); in this case the duty is to have special regard to the desirability of preserving the settings of listed buildings.

The effect of the duties imposed by section 66(1) and 72(1) of the Planning (Listed buildings and Conservation Areas) Act 1990 is, respectively, to require decision-makers to give considerable weight and importance to the desirability of



preserving the setting of listed buildings, and to the desirability of preserving or enhancing the character or appearance of a conservation area.

In respect of sustainable development the NPPF states at paragraph 14 that,

*'at the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision taking? for decision taking this means: approving development proposals that accord with the development plan without delay...'*

There are policies in the overall planning framework (national and local planning policies) which support the proposal and others which do not. It is necessary to assess all the policies in the whole and to come to a view as to whether in the light of the whole plan the proposal does or does not accord with it.

### **Planning Assessment**

#### **Environmental Statement**

The application is accompanied by an Environmental Statement (ES). The ES is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This is to ensure that the importance of the predicted effects and the scope for reducing them are properly understood by the public and the competent authority before it makes its decision.

The Local Planning Authority must take the Environmental Statement into consideration in reaching its decision as well as comments made by the consultation bodies and any representations from members of the public about environmental issues.

Representations made by any person about the environmental effects of the development also forms part of the environmental information to be duly considered by the relevant Planning Committee.

The Environmental Statement is available on the Council's website, along with the application, drawings, relevant policy documents and the representations received in respect of the application. Copies of the ES, supporting documents (including a sample of the proposed materials) and application drawings are also available for Members to view in the Worthing Room from the 16<sup>th</sup> January 2017.

### **Relevant National and Local Planning Policy**

#### **National Planning Policy Framework**

The National Planning Policy Framework (NPPF) was published in March 2012. Paragraph 3 confirms that the document forms part of the overall framework of national planning policy, and is a material consideration in decisions on planning applications. The weight to be afforded to the document is that of guidance (para 13) and it does not change the status of the development plan (12).

Paragraph 11 states '*Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.*'

Paragraph 12 confirms the status of the NPPF by stating '*this National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. It is highly desirable that local planning authorities should have an up-to-date plan in place.*'

Paragraph 14 confirms that, at the heart of the guidance is a presumption in favour of sustainable development. For decision-taking, this shall mean:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

Paragraph 7 defines sustainable development. This includes sufficient land of the right type is available in the right places at the right time, providing the supply of housing required, high quality built environments, accessible local services and protecting and enhancing the natural and historic environment.

Paragraph 17 defines 12 core planning principles. Those that relate to the appeal proposals include;

- Being plan-led empowering local people to shape their surroundings
- Support for sustainable economic development
- Securing a high quality design and a good standard of residential amenity for existing and future residents
- Conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;
- Take account of the different roles and character of different areas
- Actively manage growth to make fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

In respect of housing (section 6), paragraph 47 confirms that a 5 year supply of housing land supply against requirements should be identified. It also states that either a 5% or 20% 'additional buffer' should be added but provides no specific explanation as to circumstances where these should be applied. It defines what can be described as 'developable' and 'deliverable' sites.

Paragraph 48 confirms that an allowance for windfall developments can be made if evidence justifies.

Section 7 of the guidance relates to good design and the built environment. It states that decisions should aim to ensure that developments will add to the overall quality of the area and respond to local character and history and reflect local identity (para 58).

Paragraph 64 guides decision makers that permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area.

Paragraph 128 requires applicants to describe the significance of any heritage assets affected, including any contribution made by their setting. It states that the level of details should be proportionate to the assets importance and should be sufficient to understand the potential impact of the proposal on their significance.

Paragraph 129 requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal. This assessment should be taken into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservations and any aspect of the proposal.

When considering the impact of a proposed development on the significance of designated heritage assets, paragraph 132, states that "great weight should be given to the asset's conservation. The more important the asset the greater the weight should be". It guides us that a heritage asset's significance can be harmed or lost through development within its setting, and any harm or loss should require clear and convincing justification.

Paragraph 134 states that where a proposal will lead to *less than substantial harm* to the significance of a designated heritage asset, such harm should be weighed against the public benefits of the proposal, including its optimum viable use. Paragraph 134 should be read in conjunction with the first part of paragraph 132, which states that when considering the impact of a proposal on the significance of a designated heritage asset, "great weight" should be given to the asset's conservation.

The NPPF aims to strengthen local decision making (209). It confirms that the Local Plan benefits from weight dependent upon the degree of consistency with the NPPF (214 and 215).

### Planning Practice Guidance

It is considered that a number of sections in the Planning Practice Guidance are of relevance to the application site. These include:

- Conserving and enhancing the historic environment
- Community Infrastructure Levy
- Design
- Housing and economic development needs assessments
- Housing and economic land availability assessment
- Local Plans

- Planning obligations
- Use of Planning Conditions

Of particular importance to the consideration of this application will be the following paragraphs from “Conserving and Enhancing the Historic Environment”:

- What is “significance”? Paragraph: 008 Reference ID: 18a-008-20140306

Significance is described in the glossary of the NPPF which states: The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.

- Why is ‘significance’ important in decision-taking? Paragraph: 009 Reference ID: 18a-009-20140306

The PPG states, *“Heritage assets may be affected by direct physical change or by change in their setting. Being able to properly assess the nature, extent and importance of the significance of a heritage asset, and the contribution of its setting, is very important to understanding the potential impact and acceptability of development proposals”*

Paragraph: 020 Reference ID: 18a-020-20140306 sets out what is meant by “public benefits”

*Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework ([paragraph 7](#)). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.*

*Public benefits may include heritage benefits, such as:*

- *sustaining or enhancing the significance of a heritage asset and the contribution of its setting*
- *reducing or removing risks to a heritage asset*
- *securing the optimum viable use of a heritage asset in support of its long term conservation*

Paragraph: 021 Reference ID: 23b-021-20160519 relates to the Vacant Building Credit this states:

*‘National policy provides an incentive for brownfield development on sites containing vacant buildings. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace.’*

Paragraph: 023 Reference ID: 23b-023- clarifies that the vacant building credit applies where the building has not been abandoned. It states:

*‘The vacant building credit applies where the building has not been abandoned. The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant*

*building credit should apply to a particular development, local planning authorities should have regard to the intention of national policy.*

*In doing so, it may be appropriate for authorities to consider:*

- *Whether the building has been made vacant for the sole purposes of re-development.*
- *Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.'*

Paragraph: 008 Reference ID: 25-008-20140612 relates to the Community Infrastructure Levy it states:

*Levy rates are expressed as pounds per square metre. These figures are applied to the gross internal floorspace of the net additional development liable for the levy.*

*Liable development is the type of development specified in the charging schedule as incurring a particular levy charge. Where an existing building is being redeveloped, the nature of the redevelopment may impact on the levy charge*

Paragraph: 058 Reference ID: 25-058-20140612 provides guidance on whether existing buildings be taken into account when calculating a new levy charge. It states:

*In certain circumstances the floorspace of an existing building can be taken into account in calculating the chargeable amount. Each case is a matter for the collecting authority to judge.*

*Where part of an existing building has been in lawful use for a continuous period of 6 months within the past three years, parts of that building that are to be demolished or retained can be taken into account. The way those parts are taken into account is set out in the formula in Regulation 40(7) (as amended by the 2014 Regulations).*

*Where an existing building does not meet the six-month lawful use requirement, its demolition (or partial demolition) is not taken into account. However, parts of that building that are to be retained as part of the chargeable development can still be taken into account if the intended use matches a use that could have lawfully been carried out without requiring a new planning permission. The detailed requirements are set out in Regulation 40 (as amended by the 2014 Regulations). Because there must be a lawful use, parts of that building where the use has been abandoned cannot be taken into account here.*

Paragraph: 057 Reference ID: 25-057-20140612 provides guidance on when a use is considered to have been abandoned. It states:

*The courts have held that, in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:*

- *the condition of the property*
- *the period of non-use*
- *whether there is an intervening use; and*
- *any evidence regarding the owner's intention.*

*Each case is a matter for the collecting authority to judge.*

Paragraph: 122 Reference ID: 25-122-20150401 provides guidance on what relief is available for social housing. It states:

*Social housing relief is a mandatory discount that applies to most social rent, affordable rent, intermediate rent provided by a local authority or Private Registered Provider, and shared ownership dwellings.*

### Worthing Core Strategy 2011

The Worthing Core Strategy 2011 sets out the Vision and Strategic Objectives for development in Worthing up to 2026. The central thrust of the vision is that by 2026 development will have provided “the impetus for regeneration to ensure that Worthing plays a leading role within the wider sub-region. The vision sets out that the “town centre and seafront will be a more accessible, thriving area that provides a vibrant mix of commercial, retail, residential, cultural and leisure activities”.

The Core Strategy identifies seven strategic objectives which are the key outcomes to be delivered over the plan. Included in the Core Strategy’s strategic objectives are to:

- o Revitalise Worthing’s Town Centre and Seafront,
- o Deliver a Sustainable Economy,
- o Meet Worthing’s Housing Needs” and
- o Deliver High Quality Distinctive Places

The site is identified in the Worthing Core Strategy 2011 as an “Area of Change” which are development areas identified in the plan which contribute towards the delivery of the housing and employment opportunities needed within Worthing. Area of Change 1 “Aquarena” is described as a gateway site and identified as “providing an excellent opportunity to develop a building of architectural merit...with a landmark building acting as a catalyst for the regeneration of other areas of the town”.

The development principles for the Area of Change include:

- o Delivery of a new public swimming pool
- o Promote a vibrant mix of uses, potentially acceptable uses on the site include hotel, café/restaurants, residential, supporting retail and leisure
- o Promote an outdoor water play area
- o Opportunity for a landmark building, within the context of the surrounding historic character
- o Phased to ensure that the existing swimming pool remains open during construction of the new pool

Core Strategy (CS) Policy 2 –Area of Change -the application site forms part of the wider AOC 1 –Aquarena. The site is considered to occupy a gateway location and is a key regeneration site. It also has a role to play in the delivery of the Active Beach Zone which forms part of the Worthing Seafront Strategy.

The key objective of this wider area of change was to deliver a new replacement public swimming pool (delivered). The overall objective is to deliver a mix of uses to

include the development of a public leisure centre alongside residential, commercial and cultural uses. Its redevelopment will also assist in the delivery of enhanced public realm and outdoor play areas. There are a number of development principles which include the promotion of a mix of uses on the site (which could include a hotel, café/restaurants, residential, supporting retail and leisure) and an acknowledgement that there is an opportunity for a landmark building on the site within the context of the surrounding historic character.

CS Policy 6 seeks to protect and enhance the existing retail offer in Worthing and seek to secure the delivery of modern retail floor space to meet identified needs within the Borough.

CS Policy 7, 8 and 10 seek to ensure that the Borough meets its housing need and delivers the right mix of homes in the right locations. The principle of residential in this location is established with CS AOC2.

CS Policy 7 seeks to meet the identified housing needs in Worthing through delivering development on strategic housing sites throughout the Borough.

CS policy 8 seeks to ensure that the right mix of homes and provided within development to meet the identified needs. The policy recognises that it will be most likely that it will be higher density housing that will be delivered in AOC located in and around the town centre.

Core Strategy Policy 10 requires that with developments of all sites of 15 or more dwellings 30% affordable units should be delivered on site. Where there is a robust justification off site provision may be acceptable. The views of the Housing Enabling officer will be required to consider the delivery of Affordable housing and the appropriate mix of the size of homes.

CS Policy 11 seeks to protect existing and secure delivery of new and enhanced recreation and community uses in Worthing.

CS Policy 15 seeks to address flood risk and sustainable water management.

Design - CS policy 16 sets out the Council's approach to design and sets out a clear expectation that all new development will be expected to demonstrate good quality architectural and landscape design and use of materials that take account of local physical, historical, and environmental characteristics of the area.

Policy 16 requires that the settlement structure, landscape features, and buildings which represent the historic character of Worthing should be maintained; preserving and enhancing existing assets. It further requires developments to be designed in a manner which maximises connectivity and actual and perceived safety.

CS Policy 17 promotes sustainable construction and CS Policy 18 encourages new developments to incorporate renewable energy generation technologies in their design.

#### Saved Policies of the Worthing Local Plan 2003

The following saved policies are considered relevant to the determination of the application.

RES 9 seeks to ensure that proposals on sites that are known or suspected to be contaminated are supported by appropriate investigations and remedial measures.

RES12 requires new development to be accompanied by necessary services and infrastructure.

Policy CT3 seeks to promote suitable development on Worthing Seafront it states:

*Development will be permitted provided that it:*

*1 Respects and, where possible, enhances the appearance and character of the seafront environment; has regard to existing sea views*

*It is appropriate to its location in terms of density, scale, height, massing, appearance, orientation, layout and site, both in itself and in relation to adjoining buildings, spaces and views to the sea*

Policy H18 seeks to ensure that the proposed development does not “result in an unacceptable reduction in amenity for local residents.

#### Tall Building Guidance Supplementary Planning Document (SPD)

This SPD sets out clear criteria against which any proposals for tall buildings need to be assessed. The Tall Building SPD sets out what information is required from an applicant to justify their design approach. Whilst no specific locations are identified for tall buildings in the guidance there is an acknowledgement that it is the town centre or within close proximity (which this site is) and seafront areas that are likely to be the best locations for very tall buildings. It is also acknowledged that this area of the town also contains a high number of heritage assets in terms of listed buildings and conservation areas but are also the most sustainable locations in the Borough. However, this area is also situated where the potential occupiers would have access to a wide variety of uses close at hand.

The SPD considers that buildings below 12ms (usually 4 storeys) would not be considered “tall”. The definition of a tall building are “those that are substantially taller than their neighbours and /or which significantly change the skyline”. It is acknowledged that given the compact form and constrained nature of the Borough there will be pressure to build upwards. The intention of the SPD is to guide that development to the right locations.

The SPD outlines the key elements of good design as:

- o Is sustainable
- o Is responsive to environmental constraints
- o Is flexible enough to incorporate potential future changes
- o Contributes positively to the skyline
- o Contributes positively to the public realm at ground floor level
- o Allows tall buildings to be celebrated rather than concealed
- o Enables investment
- o Acts as a catalyst for regeneration.

#### Internal Space Standards and the Guide for Residential Design.

The latter document refers to a number of general design matters when considering residential development including the design of housing that is intended for family occupation. The CS policies highlight the need for the delivery of larger family homes (defined as 3 bed plus). The preferred dwelling type is a house; however, it is acknowledged that in certain situations and locations the delivery of family flats may be permissible.

#### Aquarena Site Development Brief SPD

A Development Brief was prepared for the Council by GVA Grimley Ltd for the current application site and adjoining land in May 2009 based on the Worthing Local Plan 2003 and the adopted Town Centre and Seafront Masterplan 2006 and subsequent Seafront Strategy 2007. The Development Brief identified the site as:

- “A key development site in the context of the Gateway, and Active Beach Zone, with the opportunity to create a landmark development (in terms of building quality, scale, form, seafront and road-fronted development)...”



- “The potential to deliver a ‘high end’ development - including high quality residential development...and highest quality in the built materials and public realm (on site and in the wider area);
- “...maximising both the seafront location, and affording a strong frontage to Brighton Road, recognising its dual gateway significance.”

The Brief also identified the need for phasing of development to ensure the existing pool remained open and identified a number of potential uses for the site including high quality residential and/or an Hotel as part of a wider mix of uses. It suggests that there would be an opportunity for A3/A4 uses as part of the mix with a smaller potential for A1 retail linked to the pool/leisure facility. It was also considered there were opportunities for arts and culture with potential for investment in public realm and public art with flexible space for cultural activities.

The Development Brief also considered the scale of development appropriate for the site. The development brief highlight that: *“It is considered acceptable for buildings height of 4 to 5 storeys on the site given the scale of existing buildings adjacent although there is recognised potential for a taller element of the development on the seafront. The Brief remains flexible on the matter of building heights, with future proposals required to justify height as appropriate”*

### **Principle Issues**

The principle issues in considering this application are:

- A. Principle of Development and the Proposed Uses
- B. The need to boost significantly the supply of housing
- C. The appropriateness of the bulk, massing and design of the proposal and public open space, including the suitability of the proposed 15 Storey Tower
- D. The impact of the proposal on heritage assets and wider historic townscape
- E. The extent of harm to heritage assets, and whether this harm can be balanced by public benefits;
- F. Servicing, Transport and impact on public highways
- G. The impact of the proposal on nearby buildings and spaces, including residential amenity, environmental impacts such as daylight and sunlight, wind microclimate, and energy and sustainability

### **(A) Principle of Development and the Proposed Uses**

The principle of development on the site is established through the planning policy framework which includes the National Planning Policy Framework (NPPF), the Worthing Core Strategy 2011, and the Council’s adopted Development Brief.

The Worthing Core Strategy 2011 sets out the Vision and Strategic Objectives for development in Worthing up to 2026. The central thrust of the vision is that by 2026

development will have provided “the impetus for regeneration to ensure that Worthing plays a leading role within the wider sub-region. The vision sets out that the “town centre and seafront will be a more accessible, thriving area that provides a vibrant mix of commercial, retail, residential, cultural and leisure activities”. The Core Strategy identifies seven strategic objectives which are the key outcomes to be delivered over the plan. Included in the Core Strategy’s strategic objectives are to “Revitalise Worthing’s Town Centre and Seafront”, “Deliver a Sustainable Economy”, “Meet Worthing’s Housing Needs” and Deliver High Quality Distinctive Places”.

The site is identified in the Worthing Core Strategy 2011 as an “Area of Change” which are development areas identified in the plan which contribute towards the delivery of the housing and employment opportunities needed within Worthing. Area of Change 1 “Aquarena” is described as a gateway site and identified as “providing an excellent opportunity to develop a building of architectural merit...with a landmark building acting as a catalyst for the regeneration of other areas of the town”.

The development principles for the Area of Change include:

- Delivery of a new public swimming pool - phased to ensure that the existing swimming pool remains open during construction of the new pool (already built).
- Promote a vibrant mix of uses, potentially acceptable uses on the site include hotel, café/restaurants, residential, supporting retail and leisure
- Promote an outdoor water play area
- Opportunity for a landmark building, within the context of the surrounding historic character

The paragraphs below assess each element of the proposal (residential and commercial) against the planning policy framework for the site.

Following the refusal of the previous application the applicant re-considered their approach to the site. New architects were employed to get a fresh design approach and improve the understanding of the local character and context for the development. The re-appraisal of the site has fundamentally changed the architectural, bulk scale and massing approach to the site, albeit it has supported certain principles of layout in relation to site coverage, building line and the principle of a tower feature in the south-west corner of the site. The Design and Access statement also sets out a detailed historical assessment of the site and its importance at the interface or convergence between the promenade/esplanade and Brighton Road.

### Proposed Residential Development

The application proposes 141 residential units made up of 99 market units, 20 units for social rent, and 22 shared ownership units. The site is located within Worthing’s built up area boundary and the site’s location in close proximity to public transport, and town centre services and facilities ensures that it is a sustainable location for residential development.

Core Strategy Policies 7, 8 and 9 seek to ensure that the Borough meets its housing need and delivers the right mix of homes in the right locations. The principle of residential in this location is established with Core Strategy Policy 2 Area of Change

A number of representations from members of the public have identified concern with the density of the proposed development identifying the harm that this would cause to local infrastructure specifically health provision, highways and parking. The NPPF requires new development to make efficient and effective use of sites; while Core Strategy Policy 8 identifies that higher density housing should be located in and around the town centre. It is considered that the density of development proposed is appropriate to this site which is located in close proximity to the town centre in accordance with the Development Plan, as there is good access to transport links and the provision of new areas of public open space and amenity areas meets policy requirements.

The density of development is 204 dwellings per hectare(dph) is high but lower than the previous scheme at 212 dph and is in density terms comparable to other town centre and seafront redevelopment schemes incorporating apartments. The Warnes for instance has a density of 190 dph and The Beach has a density of 147 dph (but also includes an Hotel (with 81 rooms). However, it is important to stress that density figures in themselves do not provide any basis for an assessment of the acceptability of a scheme. This should be judged on an overall assessment of its design quality, form scale and layout.

In terms of the impact of high density development on local infrastructure it is important to note that the Area of Change policy envisaged a high density residential development on the site. The Strategic Housing Land Availability (SHLAA) indicated a possible development of 100 dwellings and the Councils Infrastructure Delivery Plan (IDP), which seeks to bring forward infrastructure to meet planned housing growth, had regard to a number of high density town centre redevelopment schemes including the Aquarena site and planned infrastructure to meet the planned increase in households. The Councils CIL Charging Schedule also assessed infrastructure needs and the CIL to be secured from the proposed development would help to meet off site infrastructure requirements, including education and health. The impact of the development on local roads is assessed later in the report. It is not considered that there is any objection, in principle, to the development on density grounds or impact on local infrastructure (indeed this was not a refusal reason for a higher density development on the site now the subject of an appeal).

Policy (CS10) requires that with developments of all sites of 15 or more dwellings 30% affordable units should be delivered on site. The National Planning Practice Guidance introduced a vacant building credit to encourage regeneration of brownfield sites. Where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought. Affordable housing contributions may be required for any increase in floorspace. However, where a building is vacated pending redevelopment, the vacant building credit cannot be claimed. The situation is further complicated, in some respects, as the basement car park is still in use

(serving primarily the adjacent Splashpoint new leisure facility) and therefore it could be argued that the building is not vacant. Either way it is considered that the offer of affordable housing of 34 units or 24% is below the level required to comply with adopted policy.

The applicant's original affordable housing offer was based on a credit for all the existing Aquarena floorspace (5,096) sq.m reducing the affordable housing requirement to 24% resulting in a total of 34 affordable housing units. 20 units are offered for social rent (typically up to 65% of market rent) with the following mix: 1 studio flat; 8 x 1 bed; and 11 x 2 beds. 14 units are offered for intermediate housing (shared ownership) with the following mix: 6 x 1 bed flat; 8 x 2 bed flats. Of the 107 market flats there are 6 x 1 bed flats, 88 x 2 bed flats and 14 x 3 bed flats.

In relation to the CIL liability, the applicant has argued that the existing Aquarena site is still in active use (albeit only for parking) and therefore a discount for all the existing floorspace should also apply. The ability to claim discounts under vacant building credit and CIL has been questioned by your Officers and unfortunately the lack of guidance on this subject from the Government or relevant case law leaves this area open to contest.

The applicant maintains that the vacant building credit should still be applied to the proposed development, however, they have "decided to waive out arguments in this regard in recognition of the increased wider public benefit delivered by the scheme of 42 units of affordable housing (30% of 141 units) are now [offered to be] provided on site".

As a result, the applicant is prepared to offer a further 8 intermediate units ensuring that the scheme would fully comply with the requirement for 30% affordable housing.

Given the uncertainty regarding Government guidance on vacant building credit, the latest affordable housing offer is a significant benefit of the scheme given the substantial affordable housing need in the Borough. In particular, the current offer of 20 units for 'social rent' is a significant benefit of the scheme as these units are significantly more affordable, and in short supply in the Borough. As Members are aware affordable rent at 80% of market rent is outside the reach of most on the Councils housing waiting list.

#### Proposed Commercial Uses

The application proposes a 641 sq.m commercial unit on the north side fronting onto Brighton Road and a 138 sq.m pavilion/café on the south side of the site accessed from the sea front esplanade.

In principle, the commercial unit proposed is acceptable and in keeping with the development principles identifies for Area of Change 1. The proposed commercial floorspace could be sub-divided to provide a number of smaller units and the applicant has expressed a desire to encourage uses that would not impact on the vitality and viability of the nearby Brighton Road shopping parade in keeping with Core Strategy Policy 6 which aims to protect local centres. Similarly, in retail terms the proposal is not of a size and scale to detract from Worthing's main retail centre

and will not impact on existing, committed and planned investment or impact on the town centre vitality and viability in line with the requirements of paragraph 26 of the National Planning Policy Framework.

The applicant has not specified what the proposed use of the commercial floorspace will be and given its size and location it is considered important that uses are encouraged to ensure that an attractive and active frontage is achieved. The applicant shares this view and would like full flexibility over the range of uses including officers to ensure that units are not left vacant. Your Officers would prefer not to see all of the commercial space used for B1 office space, and similarly consider that an unfettered permission could lead to undesirable uses such as certain sui generis uses (for example a nightclub or casino), or A4 “Drinking Establishments”, or A5 “Hot Food Takeaway”. As such it is proposed to include a condition restricting the use to any suitable within use classes A1, A2, A3 and B1.

The proposed seafront pavilion/café is also considered to be in keeping with the development principle for Area of Change 1. Strategic Objective 2 sets out that a key outcome from the plan will be to “Revitalise Worthing’s Town Centre and Seafront”. The proposed pavilion/café will help create an attraction at this end of the town’s main seafront esplanade and will help develop a sequence of public spaces that will drive footfall along the seafront and anchor the proposed new public open space. The pavilion would complement the local shopping parade and other amenities along the seafront.

Overall, the principle and mix of uses is acceptable and in keeping with the development principles set out in Area of Change 1 and Development Brief. The number of dwellings, density and mix of uses is acceptable in principle.

#### Proposed Public Car Park Use

The proposed development includes provision for 51 public car parking spaces within the basement car park for public parking. This is in recognition that the existing Aquarena car park is heavily used by customers to the new Splashpoint facility and contains approximately 75 spaces.

It is considered that the principle of public car parking on site is acceptable, as it will contribute to the attractiveness of the commercial unit, pavilion on the seafront square and will contribute to the continued success of Splashpoint as a leisure destination within the town. Such parking although not a policy requirement would be a significant public benefit of the scheme. A condition is recommended seeking a management plan for this parking including details of parking charges to ensure that any charges are comparable with charges for other town centre car parks. The applicant is talking to the Councils Parking Services team to determine whether the Council manages the public car parking on behalf of the applicant.

#### **(B)The need to boost significantly the supply of housing**

The Government places great importance on increasing housing delivery. To understand housing needs, local authorities are now required to undertake housing studies to calculate the Objectively Assessed Need (OAN) of an area. The respective Local Plans should then be used to ensure sites are identified to meet the full OAN housing need, as far is consistent with other policies.

In response to this requirement the Council has published the Worthing Housing Study (June 2015). The report concludes that the full OAN for housing is 636 dwellings per annum (2013-2033). The level of identified housing need (OAN), which is significantly more dwellings than are currently being delivered or that are planned for (200 pa), is the main reason why the adopted Core Strategy is being reviewed and a new Local Plan is being developed.

It is accepted that current housing policies set out in the Core Strategy have not been tested against the requirements of the NPPF. It is also accepted that the Council cannot currently demonstrate a five-year housing land supply against a published but 'untested' OAN (as set out in the most recently published housing study - 636 dwellings per annum). The Council is taking action to realign the local development plan with the NPPF by preparing a new Local Plan to replace the Core Strategy. Work to progress this is underway through a planned review.

This review will balance the currently untested and unmoderated housing need (OAN) requirements alongside other evidence to assess what level of development can be delivered in a sustainable manner when taking significant environmental, land availability and other constraints into account. Ultimately, it is this process that will establish the new housing requirement within the new Local Plan which is expected to be in place in 2018.

Until such time that the new Local Plan is adopted, the high level of unmet need (against the OAN figure) is a material consideration which carries significant weight when assessing development proposals. Whilst every opportunity to meet development needs will need to be positively assessed as part of the Local Plan review there is no realistic prospect of these needs being met in full given the lack of available land and other environmental constraints.

As a consequence, and in line with the NPPF, the Council will therefore need to plan positively to ensure that the development potential of sites is maximised. To ensure the potential of all development opportunities within the Borough has published an up-to-date and robust SHLAA. The inclusion of the application site within the Worthing SHLAA (2014 & 2015) provides a clear indication that the Council accepts that, in principle, a more intensive residential redevelopment of the site would be accepted in principle. Furthermore, the SHLAA's estimated additional dwellings that this site could yield currently form part of the annually updated supply of specific deliverable sites that help to make up the five-year housing land supply for the Borough.

Given the levels of housing need, the Council will continue to welcome proposals that seek to deliver residential units that will help to contribute towards helping to meet housing need. However, for all applications it will also be essential to apply relevant national and local policies, particularly the tests in Paragraph 14 of the NPPF. This requires the Council to assess whether the adverse impacts of allowing development would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. High levels of unmet housing need and the absence of a fully NPPF compliant Local Plan does not make any development, whatever the impacts, acceptable. National policy and the objective of pursuing sustainable development is a material consideration in planning decisions irrespective of the status of an area's development plan.

In summary, whilst high levels of housing need are an important consideration when considering potential housing developments, they do not, in isolation, over-ride other policy considerations and the need for good design and layout. These are matters which are of fundamental importance to this application and are addressed in the sections below.

The balancing act between housing need and the impact of development on the local townscape was a key issue for the Inspector in considering the appeal last year for a 11 storey building on the south-east corner of Grand Avenue. On this issue the Inspector concluded that:

*'The Borough Council acknowledges that it cannot demonstrate a 5-year housing land supply and, accordingly, that a housing proposal which would be sustainable development should be granted planning permission unless the adverse impacts of so doing would significantly and demonstrably outweigh the benefits. In this case, the conclusions on the first two main issues indicate that the proposed development would fail the environmental role of sustainability. Accordingly, the balance in paragraph 14 of the National Planning Policy Framework (NPPF) should not apply.'*

**(C) The appropriateness of the bulk, massing and design of the proposals, and acceptability of the proposed 15 storey tower:**

The proposal's site is a prominent seafront site with a number of constraints including its seafront location, narrow site, proximity to heritage assets including Farncombe Road Conservation Area and listed Beach House, the relationship with surrounding homes and responding to flood threat. As a result it presents significant design challenges and has therefore been subject to considerable debate during the previous application, pre-application and application stage. Particular attention has been paid to the design of the tower and this is addressed in a section below.

The broad design concept for the site: to create a seafront square, a landmark building on the southwest corner and which improves the townscape along Brighton Road and Merton Road is welcomed. The creation of strong frontages on Brighton Road and Merton Road, the enhancements of the frontage to the Spashpoint entrance and associated public realm and the provision of additional commercial floorspace to encourage activity at street level on Brighton Road and on the seafront square are all positive aspects of the scheme and a significant improvement on the previously refused scheme.

The Council's Design and Conservation architect has commented that:

*The new architects... started the design process investigating the growth of the town and by analysing the existing form and style of the historic terraces which engender much of the character of historic Worthing. This process has resulted in a better understanding of the context of the site, and is reflected in a number of notable improvements when compared to the previous scheme. The 9 storey element which was an unnecessary focal feature adjacent to Splash Point entrance has rightly been removed, and replaced with a more subdued, modulated terrace. Along the Brighton Road frontage the new level access has enabled the introduction of ground floor shopfronts improving the visual interest of the street frontage. The scale and articulated form of the proposals along the west side of Merton Road*

*have improved the relationship with the buildings opposite on the eastern side and help to create a more inviting vista when viewed from the junction of Brighton Road and Farncombe Road. The architectural language used for the urban block subtly changes in response to the differing contexts of the buildings elevations.*

During the consideration of the current application at the request of the Council the following amendments were made to the proposals:

- To provide direct access from affordable homes in the north east of the development to the central courtyard by introducing a new doorway at the base of the stairwell/lift area. The original plans submitted would have required residents to walk around the development.
- To extend the lift access for the affordable homes in the northeast corner of the development to the basement car park. In the original plans submitted the lift only went to ground floor requiring residents to access the car park via the public entrance on the western elevation near Splashpoint.
- To make a small amendment to the 5<sup>th</sup> floor eastern elevation of the courtyard to improve the rhythm and increase the simplicity of the proposals.

### Urban Grain

The revised architectural approach to the site has been strongly influenced at the start of the design process with a greater appreciation of the historical development of the site and its surroundings. Analysis from historical maps of the site demonstrate that the application site and surrounding area has traditionally comprised large blocks occupied by single purpose or institutional buildings (former Worthing College) with strong north-south access routes linking Brighton Road to the seafront esplanade. In principle, the arrangement of a single 'n-shaped block' (the proposed grain) is acceptable.

The importance of the site as a terminating or arrival point between the esplanade and principle access route to Brighton has helped to justify the design philosophy and this has received support from the Coastal Design Panel at various points during the evolution of this latest scheme.

### Street Frontages

The incorporation of active frontages is a key aim and has largely been achieved within the proposal. A large (641sq.m) floorplate commercial space fronts onto Brighton Road which could be used as a single unit or subdivided into smaller uses similar to the adjoining commercial parade of shops. On the east elevation the various ground floor properties have individual entrances onto Merton Road. The west elevation is more challenging to deal with notably the entrances to the electricity substation, refuse stores and cycle stores, which have to be on the street frontages as there are no accessible service yards within the development.

- North Elevation (facing Brighton Road).

The elevation facing Brighton Road is a key element of the scheme and provides an opportunity to vastly improve the quality of the street scene in the area. The existing Aquarena failed to respond to the street and with its elevated entrance created a



rather stark frontage. A key change to the scheme from the previous submission has been to lower the entire frontage so that the extended commercial space would now have direct access to street level with the opportunity to provide an active frontage. The creation of a commercial frontage would help to link the existing shopping parade and footfall generated by Splashpoint Leisure Centre more effectively.

This frontage marks the primary eastern route into Worthing and so also plays a role in enhancing this entrance route into the town centre. Splashpoint Pool forms a hard edge to the west, but also provides an opportunity to define its setting and entrance. Further detail through condition is required related to ground floor detailing and articulation which will have a significant impact on the quality of the streetscape, and in particular large scale detailing of the commercial frontage.

In terms of form the north elevation comprises separate “buildings” at the northeast and north-west corners, with the majority of the north elevation broken into two separate elements. The building rises to 5 storeys along the northern elevation with the fifth storey set back except for the corner nearest to Splashpoint.

The Brighton Road frontage takes reference to the more varied commercial character of the parts of the town centre and uses a simple brick approach with bays and variations in heights and fenestration to add interest and variety. The Coastal Design Panel had encouraged this approach in particular a more limited palette of materials and finishes. Its latest comments suggest that the approach may have now gone too far and suggests the use of white masonry and cant bays could help to modulate the impact of its scale in relation to its neighbours. The applicant has responded to this by stating,

*We consider that their comments relating to the Brighton Road frontage have struck the right balance between previous comments of both members of DSE and WBC to produce a high quality form of development that will enhance this area of Worthing, responding to the character, form and materiality of local buildings. Further information on specific design details and choice of materials can be secured by condition.*

A condition is recommended in relation to materials and there would be the opportunity to consider some contrasting materials to help break down the scale of this elevation.

- South Elevation

The most formal relationship that the new proposals adopt is that with the Esplanade itself. The inner courtyard proposed has an overall design approach which reflects the rendered seafront architecture of the town in a highly contemporary fashion. The use of glazed white terracotta tiles and curved balconies reflect the balconies on the tower and maximise opportunities for sea views. The courtyard has been also splayed slightly to enhance sea views for new residents.

The massing here reflects the bow-fronted terraces visible in the town centre conservation area, with curved projections forming bay-windows on either side. This building steps down to the south towards New Parade and the seafront, terminating

with a standalone public pavilion-cafe whose scale and mass seek to make it part of the family of smaller structures, cafes, beach huts which enliven the seafront.

The use of white terracotta tiles is supported as an approach to reflect traditional render but in a way that would reduce maintenance costs and ensure that the development does not deteriorate in appearance.

- East Elevation (facing Merton Road)

The elevation facing Merton Road has been treated very differently to the other frontages primarily to take account of the close proximity of lower scale buildings to the east opposite and in New Parade. The proposed elevation is set up as a series of 'town houses' to ensure the massing reflects the informality on the east side of the street and establishes two, three and four storey levels in a series of setback terraces. The scale of the development is now appropriate to the more intimate scale of Merton Road with the significant setback of the upper two floors ensuring that they are not apparent when viewed from within the street.

Whilst the car park basement entrance is relatively well incorporated into the design of the street and building facade, there may well be a need for further security, safety or signage requirements which will have a visual impact within the street and therefore need to be further considered in detail. A relevant condition for this forms part of the recommendation.

The effect of the proposals on residential amenity, overshadowing and other issues affecting residents on the opposite side of Merton Road are considered further on in this report

- West Elevation (facing Splashpoint)

The west elevation provides a successful scale of building within the proposed scheme which it is considered will relate well to Splashpoint and create an attractive high quality elevation. It is of a height and form that reflects the overall scale of development within the existing wider area and successfully breaks up the building mass into elements that sit comfortably in the street.

The proposals directly address the existing space outside the recessed Splashpoint entrance and pick up on the scale and rhythm of a series of bow-fronted Regency buildings to form a terrace to enclose the space. The Design and Access Statement identifies that the height here is also drawn from Worthing's Regency terraces (such as Liverpool Terrace, Montague Place, Bedford Road) and acts to not only enclose this space but also provide an attractive backdrop to the Splashpoint leisure facility.

The design approach seeks to create a series of 8 yellow brick "houses" with white metal and stone detailing to create repetition reminiscent of a housing terrace. The buildings form is a five storey face with protruding brick bays and a line of balconies to each "house". The materials used a brick, stone and metal.

The main residential entrance foyer and entrance to the public car park are located near to the north-west corner and are well positioned to create a welcoming arrival to the building and create an attractive, enclosed open space around the entrance

to Splashpoint. The opportunity to provide a greater focus for the entrance to Splashpoint and enhance the area of public realm would assist the continued success of the towns leisure facility.

The main areas of concern relate to the concentration of a number of less active uses – bin store, electricity sub-station and bike store and the uncertainty of the final detailed design in terms of materials and treatments at street level. Along the Brighton Road frontage, the main concern relates to the possible negative impact of advertising for retail units and the scheme architect is keen to encourage all signs to be incorporated within the main glazed areas of the units and for tenants to follow a common design approach. In view of the deemed consent under the advertisement regulations additional controls via the s106 legal agreement are being considered. A condition covering precise details for service entrances, bin and bike stores would also help to control these elements on the western elevation.

It is considered that the proposed elevations of the non-tower elements of the scheme are acceptable in design terms and meet the policy requirements set out in Worthing Core Strategy Policy 2 and 16 and Paragraph 128 of the NPPF.

### Public Open Space

A key element of the proposed development is the provision of improved public realm. The approach has been to use the site to provide opportunities for environmental enhancements to the existing spaces that adjoins the proposed development site including:

- Splashpoint public realm
- Brighton Road streetscape
- Merton Road streetscape
- Private residents communal garden
- Beachfront public realm

The applicants are not proposing to hand these areas of land over to the Council but will retain them as publically accessible, private open space.

The Council's Parks and Landscapes manager and Coastal Design Panel have both supported the principal of the public realm strongly but has identified some reservations related to the degree to which elements of the public realm achieved appropriate levels of detailed design and quality expected from a prominent seafront location, including concerns about the planting species used and lack of informal space on the seafront square. However it is acknowledged that through the use of appropriate conditions continued improvements to the detailed design, landscape planting, and use of materials can be managed within the overall approach and evolution of the scheme through to construction.

### Public Art

The Council's adopted Development Brief for the site includes a development principle to provide public art within the newly created areas of public realm. The applicants submitted Landscape Masterplan Strategy (drawing no LLD965/01) identifies a public art installation within the southern seafront plaza. The proposed

public art along the seafront will build on the existing seafront public art along the Active Beach Zone and will maintain public interest in the site. While details of the public art scheme are not set out in the submission documents there is potential for art that relates to the seaside location, or aspects of the site's history. The inclusion of a condition requiring submission of detailed design to be agreed by the Council will ensure the delivery of this aspect of the scheme.

### Acceptability of the proposed 15 Storey Tower

The design of the proposed 48.4m tall tower has been subject of considerable debate during the pre-application consultation and through the consultation responses that have been received. The applicants consider that the design of the tower responds to the Area of Change 1 policy's Development Principles which identifies an Opportunity for a landmark building and the Development Brief's "recognised potential for a taller element on the seafront".

Contrary to the approach outlined in the Core Strategy and Development Brief, a large number of respondents have objected to the principle of having a tall building on the seafront, and the associated grounds that it will set an unwanted precedent for future seafront development. Along with the Grafton Car Park and the Stagecoach site, Aquarena is one of three of the Core Strategy's identified "Areas of Change" on the seafront. The Council may in the future be required to make decisions on planning applications for these sites and a relevant consideration is the local authority's own approach to similar applications in the locality. Public law principles demand consistency in the application of policies by public bodies such as local planning authorities, unless there are good reasons to the contrary. However, when evaluating any future application the Council should base its decision on the individual merits of the case including relevant material considerations such as the surrounding character, grain and impact on heritage assets which will be different for each site. .

Among these sites, the application site has a unique position located south of the A259 with direct frontage directly onto the esplanade. It is located, with Splashpoint, on a discreet block with a wide vista, and surrounding space that makes the site more capable of generating and accommodating its own character and scale of building while minimising the effect on residential amenity. It is not considered that approving this development would set any precedent for taller buildings elsewhere in the town in view of the particular characteristics of the site.

The applicants have considered whether the landmark tall building element could be located on a different part of the site, but felt strongly that repositioning the tower closer to Brighton Road would cause greater harm to nearby heritage assets (in conflict with paragraph 129 of the NPPF which requires the applicants to minimise harm), and would have a greater impact on the street scene, and adjoining residences in terms of light and overlooking. The previous scheme which incorporated a 9 storey building close to Brighton Road would have a greater impact on the Francombe Road Conservation Area and the character of the street scene at this point.

The Council's Tall Buildings SPD identifies three types of tall buildings: "townscape buildings; towers (landmark) buildings; and slab blocks". The SPD states that

“Tower (landmark) buildings are generally buildings that are tall and thin with a slender profile, and contrast substantially in height from the majority of buildings within the surrounding area. By their very nature, they are designed to stand out and make an impact.” According to the criteria the proposed 15 storey is considered to be a tower (landmark) tall building as it “contrasts substantially in height from the majority of buildings in the surrounding area”. The proposal is therefore responding to the Council’s Core Strategy by designing a tower (landmark) element.

The proposal must be considered in terms of the Council’s Tall Buildings SPD which sets out Locational Criteria and Design Criteria as a tool to evaluate the suitability of the proposals.

The eighteen locational criteria under the headings - context; accessibility; and regeneration are considered at various points throughout the report. The applicant’s submitted Design and Access Statement sets out how the proposal addresses each criterion. All of the criteria are considered in detail at various points throughout this report such as accessibility, transport, heritage, visual impact and townscape considerations.

The four remaining criteria focus on the design of this tower which focus on sustainability; townscape/public realm; quality of life; and design detail. Sustainability, townscape and quality of life are considered in various sections below but the proposed detailed design and surrounding townscape and public realm are considered here.

The proposed design has changed significantly following the refusal of the previous scheme and following comments made as part of a pre-application design review by the Coastal Design Panel. These changes have sought to positively address the concerns about the height and overbearing effect of the previous 21 storey tower by reducing the overall height by 6 storeys (14 metres) and by amending the design to introduce more detailed design elements that reflect the nature of buildings in Worthing.

Following the formal submission the amended design, the proposals have been the subject of a further round of public consultation and a further review by the Coastal Design Panel in December 2016.

The revisions that have been made to the proposed tower can be summarised as follows:

- Reduction in the overall height of the building by 6 storeys (14 metres in height), and increasing the size of the footprint of the tower building by increasing its depth and width.
- Reduction in the bulk and massing at lower levels, by changing the form of the developments to separate the tower from the “Seafront Square” element of the proposals which ensures that the scheme’s massing is read in two separate elements.
- Replacing floor space lost from the upper floors of the tower by distributing some of it across the “seafront square” to give that a height of 5 storeys throughout.

- Alterations to the top of the tower including simplifying elevations to reflect the changes to the east/ west aspects of the building and providing consistency through the treatment of the top of the building.

The Council's Design and Conservation architect's consultation response notes:

*The tower element is still a feature of the scheme, albeit now rising to 15 storeys compared to the previous scheme's 21 storeys. In Allies & Morrison's opinion, the actual scale and height of the proposed tower element when viewed from various points to the north, east, west, and from the pier, requires 15 storeys to create a balance between prominence and dominance. This is a very subjective judgement and is not wholly convincing in a number of the verified views. This tower element still causes harm to the surrounding historic assets.*

Overall, your Officers support the design of the proposed tower. The separation of the buildings to reduce the overall massing together with the reduction in height has created a more sympathetic building form. When this is taken with the proposed consistency of each of the four elevational treatments, the overall design has been enhanced.

A number of representations have objected to the proposal on the grounds that the tower will have an over-bearing impact on the sea front esplanade and the beach. Case law shows us that overbearing impact should be judged against whether the obstructing development would be so oppressive as to demonstrably harm to the use of the affected neighbouring land and buildings.

To refuse the application on the grounds of overbearing impact on the beach and esplanade, the development would need to cause demonstrable harm to the use of the land. I consider that on the balance of the case, the users of the beach and esplanade, even in the immediate vicinity of the site, would still be able to use the facilities for recreation and exercise, and they will continue to have a reasonable enjoyment of the open space. While the design of the building might be off-putting for some, I consider it unlikely that the building will be so oppressive as to render the open space unusable for its intended purposes.

The design of the proposed tower is considered by the Coastal Design Panel to be much better resolved than the earlier refused design. However, there will be a need to consider the detailed materials used. A relevant condition requiring the submission of the materials to be employed in the construction of the Tower forms part of the recommendation on this Application.

**(E) The impact of the proposal on heritage assets and wider historic townscape;**

The nature and scale of the development proposal, will result in harm to the setting of heritage assets and will introduce a major change to the townscape. The new building will be visible from a large number of vantage points, including designated heritage assets (conservation areas and listed buildings) and will have a direct impact on the setting of a number of designated heritage assets (conservation areas and listed buildings). The applicants have produced detailed "Heritage Impact Assessment" and "Visual Impact Assessment" within their submitted Environmental

Statement and included a series of Accurate Visual Representations (AVRs). The following paragraphs set out the main impacts of the development considering them on an individual basis and cumulatively.

### The Farncombe Road Conservation Area and Nearby Listed Buildings

The proposed development will have an impact on the character and appearance of the Farncombe Road Conservation Area and Grade II\* Listed Beach House.

The scale and detailed design of the proposed building will mean that it will be seen from many vantage points within the conservation area and within the setting of Beach House (AVRs 1, 2, 6, 7, 8, 9, 14, 15, 16, and 17 in the applicant's Visual Impact Assessment, and Views 3, 4, 5, 6, 8, 9, and 11 of the applicant's Heritage Statement) The size and height of the new building will sharply contrast with the prevailing scale and character of the Conservation Area and Beach House. A large part of this conservation area contains townscape which dates from the late 19<sup>th</sup> and early 20<sup>th</sup> century, is primarily residential in character and reaches a maximum height of ground plus 2 upper storeys. There are of course exceptions to this such as the 5 storey tower blocks at 21 Farncombe Road, which have results in a change of scale at the northern end. The nearest part of the conservation area to the application site is more in keeping with the character in the sense that the buildings are generally of a larger scale and occupying larger building plots with significant mature trees.

Probably for the most part, the new building will not be seen from within the conservation area, because of the relatively tight urban grid, however, on the opposite side of Brighton Road from Seadown House (1a Farncombe Road) View 8 in the Applicant's Heritage Assessment), and from street level views there will be a large number of cases where it will be seen (Heritage Assessment View 11). From these locations the new building will be seen in direct contrast with the older, historic townscape. While the proposed development delivers many substantial benefits (discussed elsewhere in the report), the applicant's conclusion that the proposal will enhance local townscape character and cause no harm to the setting of the conservation area but rather will be beneficial is not accepted.

In the views identified, which serve to illustrate the impact, it is considered that the proposed new building does not complement or resonate with the prevailing character and appearance of the conservation area, but instead markedly contrasts with it. Some of the concerns expressed by the Council's Conservation Area Advisory Committee (letter of 13<sup>th</sup> December 2016) are shared and it is considered that the proposal will have a harmful impact upon the character and appearance of the Farncombe Road Conservation Area, by virtue of its height, massing and design.

However, the Council's Design and Conservation Architect in his consultation response highlights that "the view from the southern end of Farncombe Road, along Merton Road towards the sea would be enhanced by the current proposals."

The Grade II\* Beach House is located to the west of the development site and the applicant's impact assessment has considered the impact of the proposal on its setting (views 3, 4, 5, and 9). The setting of a listed building is essentially the

surroundings in which the building can be experienced and can include elements which are both positive and negative in their contribution to the significance of the asset. In the case of the proposed development it is considered that the proposal affects the setting of listed buildings in different ways, ranging from beneficial to harmful.

English Heritage's response highlights how much of the buildings significance derives from its spacious landscape setting which contribute to its primacy in the historic townscape and the sense that the building was conceived to sit within a substantial landscaped setting. The proposed new tower building, despite being set back from Brighton Road, will challenge the landmark primacy of Beach House and in views such as the Applicant's Heritage Assessment Views 4 and 5, will form a backdrop to the buildings, eroding the property's spacious setting.

In terms of the listed buildings the impact on its setting, will be similar to that upon the Farncombe Road Conservation Area i.e. the new building, where it can be seen in conjunction with these listed buildings, will introduce a scale and form of building, which sharply contrasts with the historic townscape and harmfully asserts itself into Beach House's setting. Historic England have considered that the degree of harm to these assets is in the category of being 'less than substantial'.

#### Wider Landscape & Townscape Including Seafront Conservation Areas and Worthing Pier

Beyond the immediate vicinity of the application site, the scale of the proposed development will mean it will be visible and have an impact on heritage assets and townscape at a greater distance from the site.

In terms of the impact on the setting of conservation areas further afield, and indeed upon the setting of listed buildings further afield, there are occasions where the scale of the building will be visible within these settings. In the case of conservation areas in Worthing Town Centre such as South Street, Warwick Gardens and Steyne Gardens which lie to the west of the development site, the impact is only perceptible from limited viewpoints. From most of the squares and public open spaces which form the original layout of the town centre's townscape, or from many of the streets (due to the alignment of the street grid) which form part of these Conservation Areas. Thus from many parts of the conservation areas, the proposed development would make no change to the character or appearance of the conservation area.

Perhaps the view from Worthing Pier is the worst case scenario (Applicant's Heritage Statement View 1).

The Council's Design and Conservation architect's consultation response articulates the impact most clearly:

*The views north-east from Worthing's Grade II listed pier incorporate much of the South Street and the Steyne conservation areas. These areas are typical of Worthing's historic townscape, their character being derived mainly from the Regency and Victorian seaside resort development. The hierarchy of roads is clearly legible, with the larger scale buildings (up to six storeys) along the major route, Marine Parade, and lower scale along the more minor routes leading inland.*



*Modern infill developments accord closely with this scale. Looking further to the east, late nineteenth and early twentieth century terraces are interspersed with a number of later twentieth century buildings of which the Esplanade and Westminster Court break through the prevailing built skyline...The proposed development and more specifically the 15 storey tower, due to its vertical form, contrasts strongly with the general form of the built environment. Despite the deliberate dominance of this feature, its dramatic difference in scale would change the perception of Worthing's historic character resulting in further, less than substantial harm.*

Historic England in their letter of 16<sup>th</sup> December 2016 considers that the proposed development would have a harmful effect in views from the pier. They highlight:

*The scale and massing of the building will be harmful to the human scale of the Worthing Town Centre Conservation Areas and will be incongruous in the view back from the pier in the context of the surrounding townscape because of the dramatic contrast in scale between it and the established height of the historic buildings.*

The South Street and Environs Conservation area statement provides an alternative view that presents the Seafront as an evolving townscape:

*"The buildings on the opposite side of the road to the pier produce a varied townscape with a range of building heights, differing building lines and a wide divergence of building style and age. Most are also individually of considerable local historic or architectural interest. Visual confusion in the street scene is exacerbated by the inconsistent colours used for external decoration on some buildings. There is harmony of basic materials and windows and doors both from different periods and styles."*

Given the "visual confusion" described in the Conservation Area Appraisal, the development of a tall building such as that under consideration may not conflict as sharply with the townscape once it has been in place for some time which accords with the applicant's Heritage Assessment which concludes that it will have "Minor Negative" overall effect. Historic England has concluded that "less than substantial harm" will be caused.

The consultation response from the South Downs National Park Authority notes that the development is unlikely to be directly harmful to the setting of the National Park. The National Park's response suggests that consideration should be given to "the impact of the 15 storey tower element, particularly against the existing open horizon from the National Park; as set out in the above context and what impact its height, would have on the skyline outlook, when looking south from the National Park." The applicants submitted Visual Impact Assessment Viewpoint 18, 19 and 20 demonstrate that the proposed development's impact on the National Park will be largely imperceptible. The proposals add to the larger scale panoramic townscape but would not breach the horizon line. As such the proposal is not considered to be harmful to its setting.

It is worth stressing that the architects, in re-assessing 'an appropriate' height for a tall building on the site, felt that at 21 storeys it would break the horizon line from key vantage points from the National Park, whereas, at 15 storeys, it would not, other than from lower positions in the Downs.

Thus in concluding this section, it is considered that the proposed development will have a visual impact on a wide area. It will also have an impact upon the setting of a Grade II\* listed buildings and upon the setting of the Farncombe Road, South Street, Warwick Gardens, and Steyne Gardens Conservation Areas. While for the wider area the impact is for the most part negligible and not harmful, the proposal does cause harm to heritage assets from certain key views such as from Worthing pier. The relevant consultees have considered that the harm is “less than substantial”.

**(F) The extent of harm to heritage assets, and whether this harm can be balanced by public benefits;**

In terms of the degree of harm caused to the significance of the various heritage assets (designated and undesignated), Central Government’s Planning Practice Guidance advises that in general terms substantial harm will be a high test and may not arise in many cases. The guidance indicates that it is the degree of harm to an asset’s significance rather than the scale of development that is to be assessed. In terms of harm within conservation areas the guidance indicates that if an unlisted building is important or integral to the character or appearance of a conservation area, then its demolition is more likely to amount to substantial harm. Case law in this matter such as Bedford Borough Council v Secretary of State for Communities and Local Government and Nuon Uk Ltd, is also of some assistance, where substantial harm is referred to in the context of circumstances where the impact on significance is “serious such that very much, if not all, of the significance was drained away”, or “an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated or very much reduced”.

As indicated by the Planning Practice Guidance, it is a matter of judgement whether or not a proposal causes substantial harm or less than substantial harm, and indeed it is considered perfectly reasonable to conclude that within the parameters of the phrase “less than substantial harm”, some impacts can be more harmful than others. In the case of the current scheme, having given consideration to the significance of the Farncombe Road Conservation Area; and to the significance of the setting of Beach House listed buildings, that while harm is caused to significance, that this harm falls into the category of being less than substantial. Historic England in their letter of 16th December 2016 has identified the level of harm as “being less than substantial to both Conservation Areas and the grade II\* Beach House”.

By way of example to describe this assessment, the proposed development will have a major impact on the townscape within its immediate vicinity and in “key views” from parts of the Worthing Town Centre conservation areas (South Street, Warwick Gardens & Steyne Gardens Conservation Areas) specifically in the view back from the pier, but the impact on the significance of the Conservation Areas will be localised and only apparent from particular vantage points. On the available evidence it would seem unlikely that the development would have an adverse impact on most views within the Farncombe Road Conservation area, and from most of the squares and public open spaces which form the original layout of the town centre’s townscape, or from many of the streets (due to the alignment of the

street grid) which form part of the Town Centre Conservation Areas. Thus from many parts of the conservation areas, the proposed development would make no change to the character or appearance of the conservation area.

In the area closer to the site and particularly as a result of the 15 storey tower element of the proposals Historic England have identified that the setting of Grade II\* listed Beach House would be harmed. Historic England have identified that the scale and massing of the tower element of the scheme will cause less than substantial harm to the significance of Beach House by “terminating views to the east where even today with the new Splashpoint Leisure Centre, it maintains its dignified position in an open landscape on an edge of town site.” However, as Historic England have identified that the harm caused is “less than substantial” and therefore the harm would not be so great that the significance of the listed building would be to a large extent destroyed. So while harm is caused, it is not of such a magnitude as to result in a complete loss or near complete loss of the heritage asset’s significance.

In cases where the degree of harm is considered to be less than substantial, paragraph 134 of the NPPF is of relevance and this indicates that the harm should be weighed against the public benefits of the proposal.

### Public Benefits

The Planning Practice Guidance identifies that public benefits “could be anything that delivers economic, social or environmental progress as described in paragraph 7 of the NPPF. It states that they should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit.

The public economic, social and environmental benefits of the proposal are set out below.

### ***Economic***

It is considered that the proposed development would provide significant economic benefits for the town. Whilst any redevelopment of the site would have some economic benefit, as the Tall Buildings SPD indicates tall buildings can be a catalyst for regeneration. The overall quality of the proposed tower and the development as a whole provides an opportunity to provide greater economic confidence to the town and an opportunity to encourage investment on other key town centre sites.

As the applicant sets out in his supporting letter the capital investment of the project in excess of £35 million will have local benefits as the applicant has a proven record of using local workforce and suppliers. Overall the development could generate over a 140 direct jobs (including construction workers) with the opportunity for additional indirect jobs being created.

In addition the Council would receive additional New Homes Bonus (depending when built) and Council tax and business rate income. The applicant has also estimated that additional resident and employee salary spend of £1 million to the local economy. Overall the applicant estimates that the development overall would deliver up to £15 million GVA impact over the next 10 years and after

analysing the submitted figures your Officers would support this contention.

#### Public Car parking

Although planning permission was granted for Splashpoint, with additional parking in Beach House Grounds, there was no requirement to provide parking on the Aquarena site. However, it is quite apparent that the success of the new leisure facility has significantly increased parking demand in the area. The existing 71 spaces on the Aquarena site are often all taken and the Leisure Centre Manager has expressed concern that the number of public spaces now proposed has reduced from the previous scheme.

There is no policy requirement to provide public car parking spaces as part of the development but the applicant recognises the concerns raised by South Downs Leisure when the existing provision is lost and also the concerns of local residents. The level of public car parking has reduced to 51 spaces to increase parking for proposed apartments, however, this still represents a significant public benefit in the locality, not only for the adjoining leisure facility but also for the seafront and existing commercial uses to the east of the site. The cost of basement car parking is significant and the estimate of such provision by the applicant is £2 million is not unreasonable given that their scheme will provide dedicated lift and stair access to the Splashpoint entrance and requires a significantly larger basement car park.

#### ***Social***

In light of the housing need in the town and in particular the acute shortage of affordable housing the provision of 141 apartments and 30% affordable housing is a significant public benefit. As indicated earlier whilst the applicant still maintains that they could benefit from a reduction in the % of affordable housing provided, it is accepted that affordable housing is desperately required in the town and the provision of the policy requirement and more importantly the provision of 20 social rented apartments meeting the greatest need in Worthing is a significant benefit.

The lack of land within Worthing means that the Council will not be able to meet its objectively assessed housing need and therefore the efficient use of brownfield land is essential to meet existing and future housing needs.

There is clearly a social benefit to the provision of public car parking and in particular ensuring that the leisure centre continues to attract customers from a health and wellbeing perspective and encourage access to the seafront.

#### ***Environmental***

##### New Café and Public Realm

In contrast to the previous refused application, this current scheme incorporates a significant area of public open space and a new Pavilion Café which will positively contribute to the regeneration of the seafront. As Members are aware, the 'Active Beach Zone' identified in the 2006 Masterplan has been developed over recent years and the provision of a new Café will enhance footfall and be a further attraction and destination along Worthing's promenade.

It is important to stress that there is no policy requirement, as such, to provide additional open space for the promenade. The CIL contribution seeks to deal with improvements to open space and leisure facilities and any on site provision of play equipment to serve the development has been held not to be necessary given good facilities in the vicinity of the site. Members may recall public opposition to the loss of the former paddling pool on the site when it was previously resolved to sell this with the Aquarena site for redevelopment, and returning this to public open space enhanced with a high quality designed Café is a significant benefit. Such provision is a significant cost to the scheme with the applicant indicating that this is in order of £850,000 in addition to the ongoing maintenance costs of the open space.

The enhancements to public realm adjacent to the Splashpoint entrance and Brighton Road are also worthy of note as they all contribute to enhancing the Council's leisure facility (now leased to South Downs Leisure). The cost to the applicant of these works would amount to £275,000.

Other aspects of the scheme are more ambiguous in terms of the public benefits that are delivered, for example, the design and scale of the new building, particularly the improved street scene along Brighton Road and Merton Road can be viewed as components which enhance the local townscape with a high quality new building, which provides a landmark building in accordance with the Core Strategy. Whereas an alternative view, expressed by objections to the scheme, regard the design and scale as having no public benefit, with only adverse effects.

It is thus concluded that the scheme does deliver public benefits. In terms of the proposed development, it is evident that alternative forms of development might deliver the same package of benefits, such as the previously refused scheme, which included a 21 storey residential tower. Similarly it would seem evident that some schemes could not deliver this package of benefits, such as a much lower or less dense development which spreads development at lower level across the whole site.

The greatest level of criticism and objection, on heritage and design grounds, to the proposed new development and notably the tower building, has been the scale, detailed design and materials of the new building, allied to the impact on Beach House and wider townscape character of the town. .

The new building will unquestionably introduce a new landmark to the seafront and its contemporary design will mark it out as a building which contrasts with much of its immediate townscape. It is evident that considerable attention to design detail has been given by the architects. Were the current proposal to be considered acceptable, it is considered vitally important that their association with the project is maintained throughout the delivery stage. That it is a well-executed and a functional high-performing new building, does not of course tick all the boxes of good design and for many the concern will remain, that for all its architectural attributes, it is simply too tall and of the wrong design for its location.

While the impacts of scale and design are considered to have an adverse impact on heritage assets and particularly in certain views from the Town Centre Conservation Area, Farncombe Road Conservation Area and Beach House, it should also be

borne in mind that the site lies within the one of the Worthing Core Strategy “Areas of Change” and in this context its scale and modern design are far more complementary to the contemporary design approach taken in Splashpoint.

It is certainly the case, that for reasons of scale and materiality, the proposal is considered to have an adverse impact on a number of heritage assets and the degree of harm, using NPPF terminology, is considered to be less than substantial. Nevertheless, given the statutory duty, notably s.66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, any harm must be given significant weight, when balancing against the public benefits.

The previous application proposed the complete redevelopment of the site and its replacement with a 21 storey building with reduced public realm improvements and a much less favourable scheme in terms of the impact on the Brighton Road and Merton Road street scene. This brought about significant opposition on grounds of substantial harm to heritage assets given its far reaching impact on heritage assets (Listed buildings, conservation areas). The planning committee subsequently refused the scheme on heritage grounds and on ground of overdevelopment of the site.

Notwithstanding the considered views of a number of representations that the benefits of the proposal are questionable or are not so significant as to outweigh the harm to heritage assets. The many and varied benefits set out, including social, economic and regenerative benefits of the proposal are considered collectively to be public benefits, which outweigh the less than substantial harm to heritage assets.

#### **(G) Servicing, Transport and impact on Public Highways:**

West Sussex County Council as Local Highway Authority has considered the proposal and their consultation response is summarised in the consultation responses above.

A large number of representations have been received regarding parking suggesting that there would be an insufficient number of on-site spaces for the number of apartments proposed. The scheme comprises 141 residential apartments and a commercial unit served by a basement car park containing 166 residential spaces, 66 public spaces designed to provide some dedicated parking for the pool users. No parking would be provided for the affordable housing units.

Based on the Parking Demand Calculator the provision would meet the forecasted demand for the allocated private parking. Furthermore, although no parking spaces are being provided for the affordable units the calculator is still forecasting a demand for 15 spaces which appears to be unmet. However, the Borough Council has previously accepted that affordable housing sites in or on the edge of the town centre can operate satisfactorily without having allocated parking on site. Examples include Norfolk House and Lennox Mews. Given the sustainable location of the development, 1 space per market dwelling would be acceptable.

In respect of visitors, it seems a reasonable assumption that the proposed public car park would be used or that some of this demand would be met on street subject to restrictions. The Highway Authority acknowledges that the site is within the Worthing Controlled Parking Zone and there are extensive controls for on-street parking but future residents would be entitled to apply for parking permits if there

are permits available. Alternatively, residents could purchase season tickets if these are available for nearby public car parks.

Additional landscaping is also shown in the paved areas around the development. Where these fall within the highway and are the responsibility of WSCC the planting would require a licence to be granted.

The proposed build out on the east side of the junction of Brighton Road and Merton Road would need to take account of the existing bus stop and should not impinge on the movement of buses exiting the bus stop and this would need to be demonstrated to the County Council's satisfaction.

The Highway Authority accepts that the site is very sustainable and points out that there are a range of services and facilities within reasonable walking distance. It also states that it is very accessible with continuous footways and controlled crossing points on key routes. There is also a national cycle route which runs along the southern boundary of the site. In terms of passenger transport there is a regular bus service which runs along the A259 corridor every ten minutes.

The applicant has also submitted a draft Travel Plan which sets out targets for reductions in vehicular movements to the site over a period of time. The Environmental Health Officer recommends the installation of public and private electric vehicle charging points in addition to the measures outlined in the Travel Plan.

In terms of a development contribution under the Council's adopted Community Infrastructure Levy regulation 123 list any financial requirement that would previously have been required under the "Total Access Demand" Methodology now is provided through CIL framework.

The Highway Authority also advises on legal and procedural issues with construction in relation to abutting highways. It also notes that demolition of the existing structures and construction of the proposed site will be quite involved and recommends that a comprehensive Construction Management Plan be set out how the users of the highway will be protected during these works with the expectation that Merton Road would be used by the majority, if not all, of the construction traffic.

Whilst residents have expressed concern about increases in traffic and a lack of parking, your Officers are satisfied that any increase in traffic during peak periods is minimal and that with the implementation of the proposed Travel Plan, and the additional public parking, the scheme is acceptable and would not have a significant impact on the local highway networks.

**(H) The impact of the proposal on nearby buildings and spaces, including residential amenity, environmental impacts such as daylight and sunlight, wind microclimate, and energy and sustainability;**

- Residential Amenity for Neighbouring Homes

The impacts of the development on residents outside the site would mainly come from increased levels of activity, and possibly noise from the new commercial uses,

although controls for noise could be secured. The outlook for many nearby residents would change, as they currently look out over a largely derelict and run down site. A change in outlook is not of itself harmful. The increased activity levels in the area might improve the perception of security in the area, especially after dark, and the changes to the public realm and traffic movements would improve conditions for pedestrians and cyclists.

In respect of privacy, the separation distances across the streets, between the fronts of the existing and proposed flats, are 10m at the closest point on Merton Road. The usual guidance figure for separation between facing habitable room windows is 21m. However, given the existing car park on the application site, and the town centre nature of the area, the reduction to 10m is acceptable, and is not likely to be overly intrusive on existing residents.

- Daylight and Sunlight

In respect of light, a Sunlight and Daylight Analysis has been carried out in respect of the following neighboring properties:

- 1-2 and 3 New Parade
- 70, 72, 74 and 101 Brighton Road
- 2 Merton Road
- Seadown House, 1A Farncombe Road
- 2 and 2a Madeira Avenue

Paragraph 8.3 of the applicants Daylight and Sunlight report concludes that “The results confirm very good level of adherence to the BRE guidelines, with 3 New Parade, 72 Brighton Road, 74 Brighton Road, Sea House, 101 Brighton Road and 2 Madeira Avenue all obtaining full adherence to the daylight and sunlight tests”.

In assessing the impact of the proposed development a test is run in the existing and proposed condition so that the daylight and sunlight levels before and after development are quantified and the relative change is determined. Except where the BRE guide’s specified minimum values will be retained in the proposed condition, it advises that a loss of light will be noticeable if the amount retained will be less than 0.8 times its former value.

The building most significantly affected is 1 – 2 New Parade which is immediately to the east of the application site on the opposite site of Merton Road. The property has 17 windows/rooms with reductions in daylight and sunlight beyond the BRE guideline recommendations. These experience reduction between 0.55 and 0.73 of their former values.

7 of these windows service bedrooms which the BRE guidelines states are “less important” than living rooms and kitchens. 8 windows light rooms that are served by other windows that retain sufficient light. 2 remaining windows do not adhere to the BRE guidance level of 0.8 times is former value. The applicant’s submitted assessment highlights that these windows are “recessed back from the main building line and blinkered by the entrance porch and return flank walls”. These two windows are therefore self-obstructed by 1 – 2 New Parade itself, which means that



any development on the application site of any significant height will give rise to reductions in daylight and sunlight.

In addition to the property at 1-2 New Parade, those existing properties at 2 Merton Terrace, 70 Brighton Road and 2A Madeira Avenue have a small number of instances where windows experience reductions greater than the BRE guidelines. The applicant's assessment concludes that "in all but one case, this being a bedroom within 2 Merton Terrace, the room is lit by multiple windows on other facades, with these alternative windows providing high levels of sunlight in excess of the BRE guidelines, ensuring that daylight and sunlight levels to 2 Merton Terrace, 70 Brighton Road and 2A Madeira Avenue are considered to be acceptable."

The applicants highlight that the guidance for assessing daylight and sunlight: "BRE Report 209, Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (second edition, 2011)" is a guide intended for use by designers, consultants and planning officials and notes that "The advice given here is not mandatory and this document should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer." As such, the planning evaluation still needs to determine what is an acceptable loss of daylight and sunlight.

The 21 metre separation distance is now primarily used to protect privacy, but originated in the Tudor Walters report of 1918 as a requirement for 70 feet separation between houses to ensure adequate light and ventilation. Notwithstanding the information contained in the submitted Daylight and Sunlight Report, the neighbouring homes at 2 Merton Terrace, 1-2 New Parade and 70 Brighton Road, are generally between 10 and 14 metres away from the proposed development and are likely to be significantly adversely affected by the proposed development. Properties on Madeira Avenue, 101 Brighton Road, and Ludlow Court would be at least 21 metres from the new buildings, where the loss of light is likely to fall, in planning terms, within reasonable limits.

In respect to outlook, the outlook from all surrounding flats will change considerably. Although loss of a view is not a planning consideration, loss of outlook can be considered. The outlook will, for some nearby residents, become more enclosed due to the increased height of buildings on the site. It is noted however that there have been few objections on this point, and also that the outlook would not be unusual for an urban area, and would not be unusually constrained. The change is considered to have at worst a slight adverse effect on nearby residents; for many it will improve as the semi-derelict buildings previously on the site will be replaced by new buildings.

- Amenity for future residents

Amendments to the scheme mean that the application proposal now has no single aspect north facing units. It is noted that Block H has a number of dual east/west facing units.

Separation distances across the seafront square aspect of the site are 20m at minimum while some flats on the northern part of the square have closer

relationships. Given the city centre nature of the development this is considered acceptable; many of the units are dual aspect, or have the minimal separation distance applying to bedrooms.

All of the flats would have access to either private or shared amenity space. The amenity space for all blocks is the seafront square's central garden which is accessible from the foyer areas for all residents including those which do not overlook the space.

Overall, in respect of aspect, privacy and amenity space, the proposal is considered acceptable taking into account that this is a town centre site, and people choosing to live there will balance the dense living environment with the advantages of the location. Some significant concern exists over the effects on daylight for properties in the vicinity of Merton Road where the proposed development will be in close proximity and likely to have an adverse effect on light levels on those homes assessed.

Conditions are recommended relating to control of noise, opening hours and extraction/ventilation for all of the commercial premises within the development. These would apply equally to the food court, and should ensure that possible negative effects on neighbours, residents especially, are satisfactorily controlled.

A notable positive of the scheme is in the consideration of the dwelling space standards. The Council has assessed the proposals against both the Borough and national housing space standards and all apartments bar one meet these adopted minimum spaces requirements.

- Wind Microclimate

A Wind environment statement produced by the Building Research Establishment (BRE) has been submitted with the application and it explains the natural wind forces that the development would be subject to and the microclimate which would be created. The report does not consider that there would be serious issues with the layout but it does identify areas which may not be suitable for sitting out and it suggests that the designs of the balconies, particularly those facing due south, will be critical if the comfort and performance is to be as effective as the applicant suggests.

- Sustainable energy and Renewables

In terms of sustainable construction the proposals have been developed alongside Building Services Design with a view to utilising energy efficient, low carbon and renewable energy technologies, to reduce the carbon footprint of the development and the following energy efficient technologies have been incorporated into the scheme to reduce the energy usage of a 'base case' building prior to utilising any renewable technologies:

- Low energy lighting throughout the scheme.
- Low u-values for walls, floors, etc, well below Building Regulations minimum.
- High performance thermal and solar glazing.
- High efficiency boilers.

- MVHR ventilation in each flat.
- High efficiency appliances.
- Improving air-tightness beyond minimum standards.

Furthermore, the following low or zero carbon (LZC) technologies would be incorporated within the development:

- Installation of CHP heating plant (with boiler back up) to provide 65% of the heating and hot water load of the development, including the new swimming pool area on the ground floor.

The energy contribution of the sustainable energy and renewable technologies was assessed to determine the overall CO<sup>2</sup> reductions. The first calculation looked at the energy usage of the development and associated carbon emissions as a base case to satisfy the minimum Building Regulations. The second calculation builds in improvements over the Building Regulations as a result of incorporating the proposed LRZ technologies to ensure that a minimum 25% improvement over the 2013 Building Regulations is possible and this will ensure that a Code for Sustainable Homes Level 4 is achievable.

#### **(I) Planning Obligations and Community Infrastructure Levy**

Under Section 106 of the Town & Country Planning Act 1990 an agreement or planning obligation can be made between a person interested in the land, usually the developer, and the local authority or a unilateral undertaking can be submitted by a person interested in the land:

- restricting the development or use of land in any specified way;
- requiring specified operations or activities to be carried out in, on or under or over the land;
- requiring the land to be used in any specified way; or
- requiring a sum or sums to be paid to the authority on a specified date or dates or periodically.

Planning obligation arrangements were modified by the Community Infrastructure Levy Regulations 2010 as amended ('the CIL Regulations'). The Regulations introduce statutory restrictions on the use of planning obligations to clarify their proper purpose, and make provision for planning obligations to work alongside any Community Infrastructure Levy ('CIL') arrangements which local planning authorities may elect to adopt.

Regulation 122 states that it is unlawful for a planning obligation to constitute a reason to grant planning permission when determining a planning application if the obligation does not meet all the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development

Regulation 123 states that a planning obligation may not constitute a reason to grant planning permission to the extent that it provides funding for infrastructure included in the regulation "Regulation 123" list as the type of infrastructure on what CIL would be spent on.

The National Planning Policy Framework (March 2012) stated that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. The policy repeated the CIL Regulation tests set out above and states that where planning obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled. (NPPF paragraphs 203-206).

During the Course of the application the applicant and council differed on the means to calculate the level of Community Infrastructure Levy for the development. The Council considered that the existing building was not in use for 6 months within the last three years and that a discount on the existing building was not available. The applicants considered that the continued use of the Aquarena's car park ensured continued operation of the leisure centre and that this constituted the building being in continuous use. Furthermore, the applicants and Council disagreed on the definition of Gross Internal Area for the purposes of calculating the levy due.

The CIL regulations and calculation of the CIL liability is a separate to the determination of the planning application. Further legal advice has been sought to allow Officers to determine the liability arising for this development. It should also be noted that there are separate appeal procedures relating to the amount of CIL payable.

A draft s106 agreement has been submitted, albeit this needs to be re-visited relating to the revised affordable housing offer and some of the matters that are included including the management of the car park could be dealt with by planning conditions.

## **Conclusion**

In coming to a recommendation it is necessary to assess the application in light of the whole plan policy framework both locally and nationally, and come to a view as to whether the proposals contribute to the proper planning and sustainable development of the area.

The proposals have been the subject of extensive public consultation exercise both before and during the consideration of these applications. A large number of consultation responses have been received both in favour and against the proposals.

As is recognised by the Coastal Design Panel, in design terms there is a lot to be supported within this application. Your officers consider it to be a well-executed and a functional high-performing new building. However for many the concern will remain, that for all its architectural attributes, it is simply too tall and of the wrong design for its location.

In recommending both applications, your Officers have closely considered the heritage impact of the proposals (expressed clearly in the representation received from Historic England and Worthing Civic Society). Historic England concluded that the proposal will cause "less than substantial harm" to heritage assets. The effect of the duties imposed by section 66(1) and 72(1) of the Planning (Listed buildings and

Conservation Areas) Act 1990 is, respectively, to require decision-makers to give considerable weight and importance to the desirability of preserving the setting of listed buildings, and to the desirability of preserving or enhancing the character or appearance of a conservation area.

The proposal provides a number of public benefits including contributing to the overall regeneration of Worthing, providing public parking and a seafront café and public realm improvements and these significant public benefits are considered on balance to outweigh the acknowledged harm to heritage assets.

Therefore, notwithstanding the objections raised, subject to appropriate conditions to provide further details and or mitigation on certain aspects of the development where necessary, together with planning obligations to be secured by way of a S106 legal agreement, the application is recommended for approval.

### **Recommendation**

To GRANT permission conditionally subject to a S106 agreement being agreed by 16 February 2017.

If the S106 legal agreement has not been completed by 16 February 2017 or an extension of time has been agreed by both sides then:

a) The Head of Planning and Development shall consider whether the permission can be issued with additional conditions attached to secure the benefits listed above. If this is possible and appropriate, the Head of Planning & Development is authorised to determine and issue such a decision under Delegated Powers; however, if not

b) The Head of Planning and Development shall consider whether permission should be refused on the grounds that it has not proved possible to complete an agreement within an appropriate timescale, and that the proposals are unacceptable in the absence of the benefits that would have been secured; if so the Head of Planning is authorised to determine the application and agree appropriate reasons for refusal under Delegated Powers.

### **Subject to Conditions:-**

1. 5 years to implement
2. Approved plan numbers
3. Details of Merton Road access to be submitted and approved
4. Details of loading bay in Brighton Road to be agreed and provided prior to occupation.
5. Public and private parking spaces to be provided and retained as shown on the approved plans
6. Securing public car parking spaces to be available at all times and details of a management plan and charging regime.
7. 100 covered and secured cycle spaces to be provided prior to occupation and retained
8. Travel Plan for residents to be agreed prior to occupation
9. Details of electric vehicle charging points to be submitted and approved

10. Precise architectural details to be submitted and approved
11. Description and samples of building materials to be submitted and approved
12. Details of external lighting to be agreed
13. Sustainable Design Measures to be implemented.
14. Communal satellite and aerial systems to be approved
15. Communal waste and recycling areas to be provided before occupation
16. The hard and soft landscaping proposals for the courtyard, private gardens and site frontages including the public domain areas on the promenade, Brighton Road frontage and around the Splashpoint entrance are not hereby approved and revisions shall be made and submitted for approval
17. The opening times for the commercial unit shall be any day from 7 am to 11 pm
18. Surface water drainage details to be submitted and approved
19. Finished floor levels to be agreed
20. Details of basement parking floodgates to be submitted and approved
21. Foul drainage details to be submitted and approved
22. Construction management plan to be submitted and approved prior to occupation (to include demolition, vehicle movements, traffic routing, parking, storage, dust, noise, lighting etc.)
23. Construction times of 8am – 6 pm Mondays to Saturdays and no Sundays or Bank Holidays
24. Technical Approval process as specified within BD 2/12 of the Design Manual for Roads and Bridges has been completed in regards of the proposed basement retaining structure
25. Full contamination study to be submitted and approved
26. Details of the de-watering of the site, piling and ground improvements to be submitted and approved
27. Air quality management mitigation to be submitted and implemented.
28. Restriction on use of the 641sqm commercial space on Brighton Road to A1, A2, A3 and B1(a) uses.

### Informatives

#### Section 278 Agreement of the 1980 Highways Act - Works within the Highway

The applicant is advised to enter into a legal agreement with West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact The Implementation Team Leader (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

#### Temporary Works Required During Construction

The applicant is advised of the requirement to enter into early discussions with and obtain the necessary licenses from the Highway Authority to cover any temporary construction related works that will obstruct or affect the normal operation of the public highway prior to any works commencing. These temporary works may include, the placing of skips or other materials within the highway, the temporary closure of on-street parking bays, the imposition of temporary parking restrictions requiring a Temporary Traffic Regulation Order, the erection of hoarding or scaffolding within the limits of the highway, the provision of cranes over-sailing the highway.

**List of Background Papers used in the preparation of the report in accordance with Section 100D Local Government Act 1972:**

- Submitted Planning Application Forms
- Submitted Planning Application Notices
- Submitted Planning Application Covering Letter
- Submitted Community Infrastructure Levy Forms Plans, Elevations & Rendered Images
- Submitted Computer Generated Images
- Submitted EIA Environmental Statement (ES) with the following chapters;
  - Visual Impact Assessment (ES)
  - Heritage Impact Assessment (ES)
  - Socio-Economic Impact Assessment (ES)
- Submitted Planning, Regeneration and Affordable Housing Statement
- Submitted Statement of Community Involvement
- Submitted Design and Access Statement
- Submitted Urban Design Statement
- Submitted Tall Buildings Statement
- Submitted Landscaping Strategy
- Submitted Phase 1 Habitat Survey
- Submitted Flood Risk Assessment
- Submitted Foul and Surface Water Drainage Strategy
- Submitted Energy and Renewable Statement
- Submitted Site Waste Management Plan
- Submitted Contamination – Phase 1 Desk Study & Site Reconnaissance
- Submitted Daylight/Sunlight Report
- Submitted Wind Modelling Report
- Submitted Transport Statement & Framework Travel Plan

**Contact Officer:**

Cian Cronin  
Project Manager  
Portland House  
01903-221109

[cian.cronin@adur-worthing.gov.uk](mailto:cian.cronin@adur-worthing.gov.uk)

## **Schedule of other matters**

### **1.0 Council Priority**

- 1.1 As referred to in individual application reports, the priorities being:-
- to protect front line services
  - to promote a clean, green and sustainable environment
  - to support and improve the local economy
  - to work in partnerships to promote health and wellbeing in our communities
  - to ensure value for money and low Council Tax

### **2.0 Specific Action Plans**

- 2.1 As referred to in individual application reports.

### **3.0 Sustainability Issues**

- 3.1 As referred to in individual application reports.

### **4.0 Equality Issues**

- 4.1 As referred to in individual application reports.

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

- 5.1 As referred to in individual application reports.

### **6.0 Human Rights Issues**

6.1 Article 8 of the European Convention safeguards respect for family life and home, whilst Article 1 of the First Protocol concerns non-interference with peaceful enjoyment of private property. Both rights are not absolute and interference may be permitted if the need to do so is proportionate, having regard to public interests. The interests of those affected by proposed developments and the relevant considerations which may justify interference with human rights have been considered in the planning assessments contained in individual application reports.

### **7.0 Reputation**

7.1 Decisions are required to be made in accordance with the Town & Country Planning Act 1990 and associated legislation and subordinate legislation taking into account Government policy and guidance (and see 6.1 above and 14.1 below).

### **8.0 Consultations**

8.1 As referred to in individual application reports, comprising both statutory and non-statutory consultees.



## **9.0 Risk Assessment**

9.1 As referred to in individual application reports.

## **10.0 Health & Safety Issues**

10.1 As referred to in individual application reports.

## **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified.

## **12.0 Partnership Working**

12.1 Matter considered and no issues identified.

## **13.0 Legal**

13.1 Powers and duties contained in the Town and Country Planning Act 1990 (as amended) and associated legislation and statutory instruments.

## **14.0 Financial implications**

14.1 Decisions made (or conditions imposed) which cannot be substantiated or which are otherwise unreasonable having regard to valid planning considerations can result in an award of costs against the Council if the applicant is aggrieved and lodges an appeal. Decisions made which fail to take into account relevant planning considerations or which are partly based on irrelevant considerations can be subject to judicial review in the High Court with resultant costs implications.









WORTHING SEAFRONT Design & Architecture Review October 2019

















