



**OBJECTION FROM BIRNBECK CONSERVATION GROUP (BCG)**

**TO PLANNING APPLICATION 21/P/2682/FUL – REDEVELOPMENT OF 55 - 57 BIRNBECK  
ROAD - FORMER ROYAL PIER HOTEL SITE.**

22 December 2021

**EXECUTIVE SUMMARY OF MAJOR GROUNDS OF OBJECTION TO THE  
PROPOSED DEVELOPMENT:-**

	<b>Reference</b>
A. The height and scale neither preserves nor enhances the character or appearance of the Birnbeck Conservation Area.	Objection Ground A
B. It transgresses Principles for Managing Change and Character Area Objectives in the Seafront & Hillside Character Area Appraisal of the Great Weston Conservation Area.	Section 2(vi)
C. It would cause substantial harm at best to the heritage assets and setting within the Birnbeck Conservation Area as set out in Historic England's Planning Note 3 and the Applicant has misunderstood or failed to analyse adequately the context and setting of the heritage assets.	Objection Ground B
D. Contrary to the Applicant's impact assessment in its Landscape & Visual Impact Assessment, the development would have <b>major adverse impact</b> upon public visual amenity at key viewpoints.	Objection Ground D & Appendix 1/2
E. Similarly contrary to the Applicant's assessment, it would have <b>major adverse impact</b> upon the landscape the Applicant refers to as the local seafront/developed area.	Objection Ground D & Appendix 1/2
F. The Applicant has sought to downplay Prince Consort Gardens' town green status as a heritage asset and its pivotal contribution to the setting of the heritage assets it does acknowledge in its Application.	Objection Ground C
G. The proposals constitute gross overdevelopment of the site.	Section 7(b)
H. The development for 90 dwellings is not sustainable according to planning law and there is no allocation of housing to the development site that is binding on the Council.	Section 7(c)
I. The parking provision contravenes the planning authority's Parking Standards Supplementary Planning document, which contravention includes but is not limited to the Applicant's proposed appropriation of public parking in the Birnbeck Road car park.	Section 7(b)
J. Appropriation of the Birnbeck Road public car parking for development of the site would multiply existing parking/congestion problems, and prejudice regeneration prospects for the Birnbeck Pier site.	Section 7(b)
K. The NPPF precludes any claimed public benefits from the Applicant's	Objection

scheme outweighing the substantial harm the scheme would inflict upon designated heritage assets in the area (paragraph 201 NPPF); and in any event no such claimed public benefits can outweigh the substantial harm to the Birnbeck conservation sub-area.	Ground E & Section 7(a)
L. The 2011 resolution to grant has lapsed and is non-precedential, and would have been susceptible to statutory appeal at the time.	Section 9(a)
M. Any reasonable observer would conclude the scale of the building is out of keeping and discordant with its unique and sensitive location.	e.g. Section 2
N. The proposed building is not, and cannot be lawfully justified for development as, a 'landmark' or 'signpost' building.	Section 2(vii) & (viii)
O. The Applicant has exaggerated the dilapidation of the site in an attempt to justify its non-compliant proposed development.	Objection Ground C, E & Section 9(c)
P. The former Hotel and its height relative to the elevation of Prince Consort Gardens has been a collective memory of the Weston community for well over a hundred years; It forms part of the historical setting of the heritage assets in the Birnbeck Conservation Area.	Section 3(iv)
Q. Over 1,000 people (mainly Westonians but also other admirers and visitors) signed a petition calling for any redevelopment of the site to be limited to the height of the former Royal Pier Hotel lost to fire.	Page 2 below

**BIRNBECK CONSERVATION GROUP (BCG)** are a relatively new community group founded in the aftermath of a pre-application development proposal for the former Royal Pier Hotel site which was presented by CNM Estates in a webinar on 29 April 2021, and now followed by the current formal planning Application.

BCG are concerned to see that Weston's heritage is not harmed unnecessarily and conserved by all practical means, especially in its conservation areas, and we believe that heritage (and the historical, architectural and environmental legacy that goes with it) is one of the town's principal economic assets in making it a place people want to work, visit, live in and enjoy. We look to mobilise public support where we fear this heritage may be under unnecessary threat, and to work as closely as possible with other like-minded organisations that share a love of this town.

As a consequence of major disquiet over the CNM proposals in April, a petition was launched on 29 June 2021 to highlight these concerns and raise awareness. The Petition was presented to a meeting of the full North Somerset Council on 9<sup>th</sup> November 2021 by Cllr. Mark Canniford and at the time of presentation had attracted 1,025 signatories in opposition, very largely (though not exclusively) from local residents.

## **CONTENTS of this Letter of Objection to 21/P/2682/FUL (the 'Application')**

INTRODUCTION.....	3
1. THE BIRNBECK SETTING / BIRNBECK CONSERVATION AREA .....	4
2. OBJECTION GROUND A: NON-COMPLIANCE WITH CONSERVATION AREA LEGAL SAFEGUARDS ....	5
3. OBJECTION GROUND B: SUBSTANTIAL HARM TO HERITAGE ASSETS AND SETTINGS; APPLICATION OF THE NATIONAL PLANNING POLICY FRAMEWORK. ....	8
4. OBJECTION GROUND C: THE APPLICANT'S HERITAGE STATEMENT FAILS TO ESTABLISH A CASE FOR DEVELOPMENT.....	10
5. OBJECTION GROUND D: MAJOR ADVERSE IMPACT ON LANDSCAPE & PUBLIC VISUAL AMENITY - SEE APPENDIX 1 BELOW.....	13

6. OBJECTION GROUND E: APPLICATION OF PARAGRAPH 201 OF THE NATIONAL PLANNING POLICY FRAMEWORK .....	13
7. FURTHER GROUNDS OF OBJECTION .....	15
(a) Relative weight .....	15
(b) Overdevelopment (incl. parking) .....	15
(c) Housing provision & Jobs .....	16
8. CONCLUSION ON THE CURRENT PLANNING APPLICATION: .....	17
9. OTHER IMPORTANT MATTERS RELATING TO THE PLANNING AUTHORITY'S DECISION .....	18
(a) 2010 planning application/'resolution to grant' .....	18
(b) No assurances .....	18
(c) No sentiment 'something is better than nothing' .....	18
(d) Public policy .....	18
(e) Scrutiny: .....	19
10. MATTERS BEYOND THE CURRENT PLANNING APPLICATION .....	19
APPENDIX 1 - OBJECTION GROUND D: MAJOR ADVERSE IMPACT ON LANDSCAPE & PUBLIC VISUAL AMENITY .....	20
APPENDIX 2 – MAGNITUDE OF CHANGE ON LANDSCAPE AND ON VISUAL ELEMENTS .....	26

## INTRODUCTION

**Changes between pre-application and Application:** Internally, there have been a number of changes to the proposed building since the pre-application proposals in April 2021 (e.g. to the number and mix of flats, now 90 from 95, to the internal layout and to the uses of the basement floors including the parking provision and parking access).

**Externally** however from the information provided in the Application (e.g. Planning Statement, Full Design Access Statement and LVIA) the proposed building remains little changed from the pre-application beyond some minor alterations e.g. with references to ribbed stone finishes, increased areas of glazing and use of designed metal balustrades.

However there has been no material change from pre-application to the height, scale and bulk of the building and the superficial external changes which are mentioned we consider to be *de minimis*.

**Our objection to this Application remains to its scale, and the consequent impact of its overdevelopment upon the Birnbeck Conservation Area and its heritage setting.**

**We hold the building is too high, and should be no higher than the former hotel building lost to fire.**

**Subsidiary to that, we also believe it should be designed more sympathetically to the Birnbeck setting.**

The Application as published on 1 December 2021 is voluminous, running to many hundreds of pages, and there is an amount of repetition and sometimes inconsistency between the various documents (as one example the apartment count being 90 in one place and 89 in another).

**But one aspect we find especially telling, is that in all the expanse of paper published on 1 December, and with all the protestations in the Application of this being a “landmark” or “statement” building, the Applicant’s confidence in these assertions is such that there were no CGIs or artists impressions of the building which illustrate in pictorial terms the visual impact of the development on the surrounding landscape and heritage settings from the four points of the compass.**

We believe the planning authority will insist that the Applicant provide these, as the Application is incomplete without, given the scale of the development proposed and its highly sensitive location. However there is still sufficient information available to draw robust conclusions as to the impact of the proposed development, and a public consultation period has been set in motion and must be responded to<sup>1</sup>.

*Ultimately no page count or lack of impact visuals can disguise the truth that this current Application calls for the wrong building in the wrong place, and that the body of planning and conservation law and the material planning considerations flowing from it, are firmly on the side of those who see this application in that way and for what it is.*

It is also important to state that the criticisms of the Application in this letter are no intended reflection upon the many professional advisers that have enabled the Applicant to submit this Application; No adviser can be better than the brief they have been given by the client, and we have frequently found ourselves sympathetic to those advisers, in attempting to justify what is so often unjustifiable in planning law terms.

## 1. THE BIRNBECK HERITAGE SETTING / BIRNBECK CONSERVATION AREA

The heritage setting and context for the proposed redevelopment is the Birkett/Birnbeck Road area within the Seafront and Hillside Character Area of the Great Weston Conservation Area (herein referred to as the “**Birnbeck Conservation Area**”) which includes both designated and other heritage assets as follows:

- **Birnbeck Pier** which was opened in 1867 and became for a hundred years a centre of resident and visitor attraction in the town.
- **The Royal Pier Hotel** (legacy heritage asset), converted in 1872 as the first Hotel serving the Pier, sitting above it on the Anchor Head cliff face.

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<sup>1</sup> We do have to note some concerns surrounding the public consultation period allocated to this Application, and given the run-up to Christmas. Having consulted a number of supporters and to the best of our knowledge, consultation letters dated 2 December 2021 arrived in the post on 6 December 2021 stating a consultation deadline of 23 December 2021 (i.e. 21 days from letter date, or a de facto 17 days), though the online NSC planning portal did suggest a longer consultation deadline to 30<sup>th</sup> December 2021 (i.e. 28 days from letter date). Whatever discretion NSC may be able to afford to comments arriving late, we have concerns that there could be an effect upon both the number and quality of comments received, given understandably the time available at this very busy time of the year.

- **Prince Consort Gardens** was laid in the 1860's in memory of Prince Albert and provides a peaceful landscaped public space with open views across the bay to the islands and the South Wales coast. *It was granted Town Green status in 2013.*
- Above the park are the **Victorian Villas** which were built around the 1850s.
- On the south side is **Claremont Crescent** built in the 1860's in response to visitors landing at Birnbeck Pier and expanding tourism.
- The whole setting is then framed by the sweeping seascape views of the **Bristol Channel** in the foreground with **Anchor Head** at the southern end, and the backdrop landscape of **Worlebury Woods** with its listed monument **Worlebury Hill Fort**.

Birnbeck Pier, the Kewstoke Road Villas and Claremont Crescent are all Grade Two listed buildings and structures which together with the Royal Pier Hotel were all built in the same era and style.

## **BCG's grounds of objection to the proposed development comprise the following material planning considerations:-**

### **2. OBJECTION GROUND A: NON-COMPLIANCE WITH CONSERVATION AREA LEGAL SAFEGUARDS**

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a statutory duty upon the planning authority with respect to any buildings or other land in a conservation area, to PAY SPECIAL ATTENTION when exercising any of its functions under the Planning Acts to the desirability of PRESERVING or ENHANCING the CHARACTER or APPEARANCE of that area. **[our emphasis]**

**Preserve** is commonly defined as to keep something as it is or in its original state. We hold there is no sense in which the proposed development would maintain the Birnbeck Conservation Area as it is or in its original state and that the proposal undeniably CHANGES the character and appearance.

**Enhance** is commonly defined as to make something better or improve the condition of something, so can it be said that this development makes better or improves the character or appearance of the Birnbeck Conservation Area?

**For the following reasons** (in no set order of priority) **we hold that a reasonable and rational planning authority could not conclude that the proposed development preserves or enhances the character or appearance of the Birnbeck Conservation Area:-**

- (i) **The bulking and scale of the 8-floor balconied tower block would dominate the Birnbeck Conservation Area setting and interrupt and belittle the sweep of the coastline from Anchor Head northwards.**  
The proposed design is 5 floors higher above road level than the Royal Pier Hotel which burnt down in 2010 (see archive picture below – Fig. 1 - which captured the beginning of the fire).

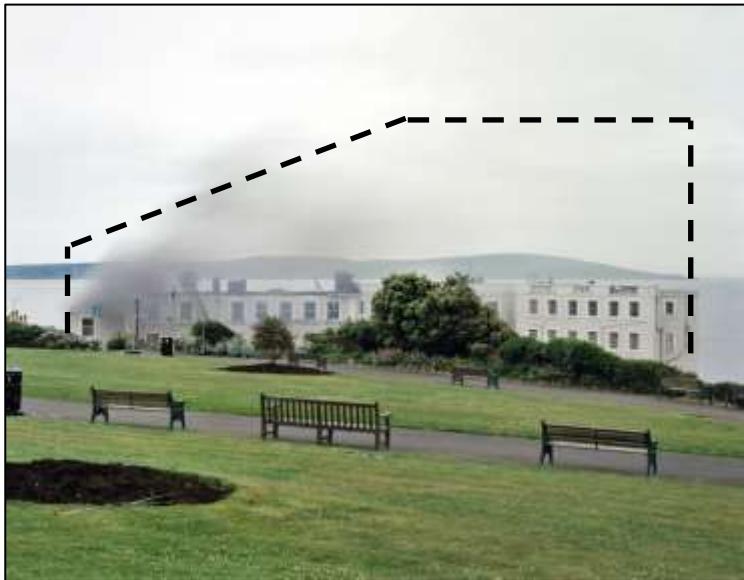


Fig. 1

- (ii) All the buildings within the Birnbeck Conservation Area are **three floors in height or lower** above road level (excluding the dormer level of Claremont Crescent).
- (iii) The proposed development's bulking and scale blights, blocks or severely obstructs:-
  - the stunning panoramic sea views from Prince Consort Gardens toward Brean Down, Steep Holm and the Bristol Channel *which could be enjoyed both before and after 2010 when the Royal Pier Hotel burnt down*;
  - the outstanding views from Birnbeck Pier and the fronting promenade looking towards Weston Bay;
  - the pre-eminent views from out at sea in Weston Bay or off Anchor Head looking towards Birnbeck.

As can be seen from Fig. 1, the original hotel retained the line of the sea, enabling side to side panoramic views above its roofline of the vista from Brean Down and Weston Bay, and across to Steep Holm and thence to the Pier.

*Although it was a prominent building, the Royal Pier Hotel didn't dominate the Birnbeck setting as the proposed development (dotted line) clearly would.*

- (iv) The proposed building is out of scale with the neighbouring buildings on its southern side – see Fig 2 below.



Fig. 2: A view of the overbearing scale of the development relative to existing buildings is shown above, taken from CNM's planning Application:

(v) The proposed building would be in keeping with the prevailing appearance and character for example of Magaluf in Majorca or Ayia Napa in Turkey. ***We do not say this in any pejorative sense towards these destinations*** (the authors of this report themselves holiday in these and other destinations like them); *We say it purely to highlight that both in height and architectural design the Applicant's proposal is entirely out of keeping and discordant with the prevailing character and appearance of the surrounding Birnbeck Conservation Area; It is the wrong building in the wrong place;*

(vi) For the reasons above, the proposed development transgresses *Principles for Managing Change and Character Area Objectives* set out in the **Seafront Character Area Appraisal of the Great Weston Conservation Area**, and in particular:

**"Any new development must enhance the character and quality of the street."**

**"To ensure that the grand sweep of the seafront develops in a positive manner."**

(vii) The applicant has tried to summon some justification for its proposed development by describing it as a 'landmark' building. To the extent that the concept of "landmark" has any traction within conservation planning law when considering new development, **this is not a "landmark" building in any sense of that word, except if you consider that "landmark" means no more than "unavoidable to the eye".**

In particular:-

- The building's mass and scale does nothing to enhance its pedestrian and low-grade external appearance, far less enhance the character or appearance of the Birnbeck Conservation Area – ***it simply defaces and smothers that character and appearance.***
- The building has no resonance or empathy with the context of the said area.

(viii) It has also been suggested the proposed building could act as a 'signpost' to draw people to explore the area and eventually a regenerated Birnbeck Pier. *We consider this idea fanciful and a rather desperate attempt at justification, given the height, bulk and design of the building; We hold it is far more likely to make visitors conclude (when looking northwards from Weston Bay or Knightstone) that there's 'nothing interesting to see there, only blocks of flats'.* We refer to the two images on page 4 of the Weston-super-Mare Civic Society's letter of opposition dated 13 December 2021.

Furthermore the overdevelopment of the Application site that the Applicant's proposal represents could prejudice the regeneration of Birnbeck Pier in the first place – see 7(a) & (b) below.

(ix) In its physical form, appearance and location, the Applicant's proposed development substantially ignores or fails to heed the requirements of North Somerset Council's Development Management (DM) Plan (2016):

- Conservation areas must be protected (policy DM3)
- Listed buildings and their setting must be protected (DM4)
- Development **must be carefully integrated into the natural, built and historic environment** (DM10) – cf. Figs 1, 2 & 3
- Green infrastructure should be developed and supported (DM19)

(x) **Recent developments in the conservation area have been built, or are planned to be built, of similar style and scale as the original buildings.** These include the Lynton Hall, Dorville and Birnbeck Lodge hotels. All of these have worked hard to meet North Somerset Council's planning policies to preserve and restore conservation areas. **By contrast, the current Application seemingly rides roughshod over the protections within conservation planning law, regulation and policy, paying merely lip service to the same.**

(xi) Historic England's predecessor, English Heritage, had this to say (inter alia) about the applicant's earlier proposal in 2010, which was of similar proportions to the current Application before the planning authority: *"its uncompromising approach towards providing a statement building at the end of Anchor Head will ultimately undermine the significance of the conservation area and its jewel asset Birnbeck Pier"*

### 3. OBJECTION GROUND B: SUBSTANTIAL HARM TO HERITAGE ASSETS AND SETTINGS; APPLICATION OF THE NATIONAL PLANNING POLICY FRAMEWORK.

For the following reasons, we hold it self-evident to any reasonable observer that the significance of the settings of the heritage assets described in Section 1 above are severely/substantially harmed undermined and belittled by the currently proposed development:-

(i) Historic England's guidance in its Planning Note 3 (second edition) states: 'The Setting of Heritage Assets' seeks to ensure that planning decisions meet historic environment policy in the National Planning Policy Framework (NPPF) and the related guidance in the national Planning Practice Guide (PPG).

The NPPF defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced.

The policy objectives in the NPPF and the PPG establish the twin roles of setting:

- Setting can contribute to the significance of a heritage asset, and
- it can allow that significance to be appreciated.

**The NPPF states (paragraph 199):** *"When considering the impact of a proposed development on the significance of a designated heritage asset, **GREAT WEIGHT** should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."* [our emphasis].

(ii) Historic England's Planning Note 3 states:-

*"Consideration of the contribution of setting to the significance of heritage assets, and how it can enable that significance to be appreciated, will almost always include the consideration of views"* (page 1)

As stated in Objection Ground A above, the bulking and scale of the proposed development blights, blocks or severely obstructs:-

- the stunning side to side panoramic sea views from Prince Consort Gardens toward Brean Down,

Steep Holm and Birnbeck Pier **which could be enjoyed both before and after 2010 when the Royal Pier Hotel burnt down;**

- the outstanding views from Birnbeck Pier and the fronting promenade looking towards Weston Bay; and
- the pre-eminent views from out at sea in Weston Bay or off Anchor Head, looking towards Birnbeck.



Fig 3: Applicant's pre-application artist impression showing the impact of the proposed building as viewed from Prince Consort Gardens<sup>2</sup>.

(iii) The proposed development appears designed to ignore the criteria which Historic England lays out in Planning Note 3, viz:-

*"Views which contribute more to understanding the significance of a heritage asset include.... **those where the composition within the view was a fundamental aspect of the design or function of the heritage asset**"*

*"Assets, whether contemporaneous or otherwise, which were intended to be seen from one another for aesthetic, functional, ceremonial or religious reasons include... historic parks and gardens with deliberate links to other designed landscapes and remote 'eye-catching' features or 'borrowed' landmarks beyond the park boundary" (page 6)*

(iv) The former Royal Pier Hotel and its height relative to the elevation of Prince Consort Gardens and the conservation area generally, is part of the historical setting of the heritage assets in the Birnbeck conservation area; **That relative height between the former hotel building and Gardens has been a collective memory of the Weston community for well over a hundred years, until 2010 when the hotel was demolished due to fire damage.**

(v) In **Barnwell Manor v East Northamptonshire District Council (sub. Nom. East Northamptonshire DC v Secretary of State for Communities and Local Government)** and reinforced in **Catesby Estates Ltd and SSCLG v Steer** the Court of Appeal made clear it is incumbent upon a planning authority to assess the contribution made by the setting of a heritage asset to the significance of that asset, and

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<sup>2</sup> This is taken from the pre-application webinar (April 2021). The Proposed Elevation shown in the formal Application (Full Design Access Statement, 7.14) appears to show little in the way of significant material external change from the pre-application which materially alters the scale of the proposed building.

that impacts of a proposed development upon setting- as well as upon a heritage asset itself - can constitute substantial harm.

(vi) The overarching principles of the **Great Western Conservation Area Management Plan** state that the setting and views (as described in Sections 1, 3 & 4 above) are fully recognised, that historic buildings are restored **and that new developments should enhance the setting**.

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**In concluding Objection Grounds A and B, we hold that a reasonable and rational planning authority must conclude that the proposed development (and in particular its grossly excessive height and scale) causes substantial harm to, and degrades and despoils the character and appearance of, the Birnbeck Conservation Area and the significance of the heritage assets and settings within it, including but not limited to Prince Consort Gardens, Anchor Head and what Historic England's predecessor, English Heritage, has described as the jewel asset of the conservation area – Birnbeck Pier.**

We apologise for repeating what the NPPF states in paragraph 199: “*When considering the impact of a proposed development on the significance of a designated heritage asset, GREAT WEIGHT should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*” [our emphasis].

#### **4. OBJECTION GROUND C: THE APPLICANT’S HERITAGE STATEMENT FAILS TO ESTABLISH A CASE FOR DEVELOPMENT.**

The Applicant’s Heritage Statement published on 1 December 2021 (dated September 2021) is inadequate as a justification for the proposed development in a conservation and heritage area for the following reasons:-

- (i) Its conclusion that harm to the Great Weston Conservation Area would “*almost certainly be at the lower end of ‘less than substantial’*” is perverse and unsustainable for the reasons given in **Objection Grounds A, B and D**.
- (ii) The Applicant has ignored the impact of paragraph 201 of the NPPF<sup>3</sup> (Objection Ground E) in arguing that alleged economic and social benefits can outweigh the harm inflicted by the proposed development (and in any event the harm is too severe to be outweighed).
- (iii) In its Application the Applicant appears to have downplayed the status of Prince Consort Gardens’ status as a heritage asset<sup>4</sup>, **and moreover the Gardens’ pre-eminent contribution to the setting of many of the designated heritage assets it does list**.
- (iv) The Applicant’s whole approach to setting is misguided, because it has failed to recognise that the settings of the heritage assets within the Birnbeck Conservation Area are for the most part indivisible and collective, and (whether or not deliberately) it has sought to break the heritage assets into groups for consideration of setting. We refer again e.g. to the criteria in HE Planning Note 3 (section 3(iii) above)

<sup>3</sup> In its Heritage Statement the Applicant is quoting from National Policy Planning Framework 2019 that has since been updated.

<sup>4</sup> Prince Consort Gardens has Town Green status and its heritage asset designation is not governed by whether or not it is on a formal or informal list, the question is whether an asset has heritage interest which merits consideration, ref. *Holland v Secretary of State for Communities and Local Government*.

(v) The overall impression is that the Applicant's analysis of setting is cursory and superficial, and disproportionate to the impact of this Application, given the scale of the proposed development and the pre-eminence of the conservation area. There appears to have been over-interpretation of paragraph 189 of the NPPF 2019 (now paragraph 194 of NPPF 2021), as excusing a less than rigorous analysis in particular of heritage setting. This is also underlined by the absence of graphical drawings of the development's impact on the conservation area landscape.

We set out below some illustrative paragraphs from the Applicant's Heritage Statement and our comments:-

Applicant's Heritage Statement	Our comment
<p>5.25 The proposals will bring the existing site back into use and will restore a relationship between the Pier and the site that has existed for many years (as the site of the Royal Pier Hotel was the first part of Weston that visitors saw on arrival at the Pier) and will act as a key element in improving the legibility of the townscape</p>	<p>Subjective comment. Based e.g. on the Petition and its comments, residents would be equally able to form a subjective view that in accordance with the design of the proposed building, any relationship between the Pier and the site will be one of discord and disharmony.</p> <p>"will act as a key element in improving the legibility of the townscape" - a trite statement, expressed as if it were authoritative in some way.</p>
<p>5.28 The proposed development would be visible from this location, and would be an improvement over the resolution to grant scheme with the setting back of the envelope of the building to allow more of the view, over and above the resolution to grant scheme, to remain. The proposals would maintain a large amount of the panoramic view that is visible and would maintain the link between these properties and the water</p>	<p>The resolution to grant has long since lapsed and is non-precedential (see section 9(a) below). The design increases the dwelling count from 63 to an even more unsustainable 90 with the addition of a further floor so there is no 'net gain of view' as the Applicant appears to be claiming. The building decimates multiple viewpoints on the landward side of the building.</p> <p><b>It is casuistry to claim "a large amount" of the view is maintained (see e.g. Fig 3 above). One can equally say that a large amount of the view is lost forever and that the lost view across its width is its defining feature and what makes it uplifting and pleasing.</b></p> <p>The Applicant's argument is akin to saying it's all right to tear a landscape masterpiece in half down the middle, so long as you get to keep one of the pieces.</p> <p>And where is the justification for saying the proposed development "would maintain the link between these properties and the water"?</p>
<p>5.29 There would be a limited amount of harm arising from the development, the result of the new development being introduced within the setting of the listed buildings which would have a limited amount of the Bristol Channel that would be reduced from view.</p> <p>This would, almost certainly, be at the very lower end of less than substantial.</p>	<p>We refer to Objection Ground B above, and hold it is perverse and wrong for the Applicant to claim the harm arising from the development to be "almost certainly, be at the very lower end of less than substantial"</p>

<p>This must be balanced against the benefits of the scheme of the redevelopment of an underutilised site which, in its current condition, detracts from both the setting of these listed buildings.</p> <p>The proposals have the opportunity to improve the setting of these listed buildings by introducing development which will have a regenerative effect.</p>	<p>Here the Applicant appears to lose sight of paragraph 201 of the NPPF (see Objection Ground E). Furthermore and without prejudice to paragraph 201, the substantial harm we hold this development would wrought on the Birnbeck Conservation Area could not be outweighed by any alleged public benefits, especially given that a low-rise development (at the height of the former hotel) could be equally if not more capable (subject to project design and purpose) of generating public benefits (see also e.g. Objection Ground E)</p>
<p>5.35 This statement has identified the significance of the designated and non-designated heritage assets which could be affected by the application proposals and concludes that whilst there might be a limited amount of harm to the Great Weston Conservation Area and the Kewstoke Road listed buildings, this must be balanced against the wider benefits of the proposals which includes heritage benefits of reusing an under utilised site and redeveloping a site which currently detracts from the setting of a number of heritage assets.</p>	<p>Here the Applicant exaggerates the detraction of the current site to the setting – mainly caused in any event by the red colour that the Applicant has chosen to paint its hoardings.</p>
<p>5.36 The significance of the heritage assets (both designated and non-designated), as required by paragraph 194 of the NPPF, has been set out in Section 3 of this report. In accordance with paragraph 197 of the NPPF, the application proposals will cause an element of harm to the Great Weston Conservation Area and the Kewstoke Road listed buildings. This would almost certainly be at the lower end of the ‘less than substantial’ and require balancing against the public benefits of the scheme which includes a number of heritage benefits, including the redevelopment of a site which currently detracts from the character and appearance of the conservation area.</p>	<p>See comments on 5.29 above</p>
<p>5.37 The conservation of heritage assets has, in line with paragraph 193 of the NPPF, been given great weight and provides an opportunity for new development to better reveal the significance of the surrounding heritage assets (paragraph 200). According, the application proposals are in accordance with the NPPF</p>	<p>2019 NPPF referenced has been superseded. In any event, given the position, scale and disposition of the proposed development within the Birnbeck Conservation Area (see Sections 1, 3, 4 &amp; 6), the planning authority should call to account the Applicant to justify the statements:-</p> <ul style="list-style-type: none"> <li>(i) that “great weight” has been given to “conservation of heritage assets”</li> <li>(ii) that the new development provides an opportunity to “better reveal” the significance of the surrounding heritage assets.</li> </ul> <p>On (ii) in particular, we hold it is self-evident that the proposed development would obstruct and overpower the surrounding heritage assets. Indeed a representative for the Applicant said as much in relation to the impact upon Prince Consort Gardens</p>

	in the pre-application webinar held on 29 April 2021.
<p>6.4 The proposals must not be judged in isolation and weight must be given to the former Royal Pier Hotel as well as the proposals which the Council sought to Resolve to Grant consent, albeit that the section 106 agreement was not progressed. These provide part of the context of the proposals as, in the case of the latter, it clearly demonstrates that the Council has accepted a building of a similar scale in this location in the past.</p> <p>Further, in respect of the former Royal Pier Hotel, it is an element that would be visible from Prince Consort Gardens and the current day situation of a wide panorama over the Bristol Channel is an artificial one</p>	<p>As to the resolution to grant, see 9(a) below. The planning authority is not legally bound in any way by this previous history.</p> <p>BCG, like residents who signed the Petition, accept that a building of the height of the former hotel is a legitimate planning goal, and such a building would not obscure a panoramic view any more than it did hitherto.</p> <p>To say however that the current day situation is artificial is disingenuous. it is a reality, and a reality brought about by a tragic fire whilst the former hotel was in the care and custody of the Applicant.</p>

## 5. OBJECTION GROUND D: MAJOR ADVERSE IMPACT ON LANDSCAPE & PUBLIC VISUAL AMENITY - SEE APPENDIX 1 BELOW

*In its Landscape & Visual Impact Assessment the Applicant has refrained from conducting a full and complete step-by-step analysis as per the LVI Guidelines and in particular has misclassified key viewpoints as well as the landscape it refers to as the local seafront/developed area. Please see our full analysis in Appendix 1 and 2 below.*

## 6. OBJECTION GROUND E: APPLICATION OF PARAGRAPH 201 OF THE NATIONAL PLANNING POLICY FRAMEWORK

In this case, there is no justification in planning law and regulation, for any public benefits (whether sustainable or otherwise on a standalone basis) which may be claimed to flow from the proposed development, outweighing or overriding the non-compliance of this proposed development with conservation area & heritage asset planning regulation and guidance (reference Objection Grounds A and B above).

**Paragraph 201 of the NPPF states:**

*“Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless*

*[first limb] it can be demonstrated that the substantial harm or total loss is **NECESSARY** to*

*achieve substantial public benefits that outweigh that harm or loss,  
or*

**[second limb] ALL** of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) the harm or loss is outweighed by the benefit of bringing the site back into use."*

**[Our emphasis]**

**First limb of paragraph 201** - We hold that the substantial harm (at the least) brought about by the proposed development (reference objection grounds A and B above) is patently NOT necessary, for the following reason:

It is possible to envisage a variety of alternative schemes to the currently proposed development, which are equally and/or substantially capable of generating substantial public benefits (economic, social and/or environmental) - and specifically we would cite a suitably designed scheme which is no higher than the former Royal Pier Hotel. It is also far from impossible to identify a number of different approaches to redeveloping the site to this height, whether the scheme is residential, hotel/holiday accommodation with ancillary shops and services; Or indeed different approaches entirely, for example a well designed series of sustainably heated indoor/outdoor pools making imaginative use of glass with attendant shops, cafe etc. (and the lack of such a facility in Weston has been a talking point for some time).

All this is simply to illustrate that the substantial harm engendered by the current application proposal *is not necessary*.

*Moreover, an alternative low rise scheme as above is more capable (unlike the currently proposed scheme) of conserving the economic prospects and future earning capacity of the area and a potentially restored Birnbeck Pier, by dint of not degrading and despoiling the character and appearance of the Birnbeck Conservation Area and the significance of the heritage assets and settings within it as the currently proposed scheme does.*

Accordingly we hold that the first limb of paragraph 201 does not apply.

**Second limb of paragraph 201 –**

We hold that condition a) does not apply, because none of the heritage assets impacted by the currently proposed development prevent all reasonable uses of the proposed development site, for the same reason that was given in addressing the first limb of paragraph 201 above.

We hold that condition b) does not apply, because self-evidently all of the heritage assets listed in Objection Ground B above have already viable uses and/or uses which can be found in the medium term through appropriate marketing (thinking in particular of Birnbeck Pier).

We hold that condition c) does not apply because some or all of the funding or conservation mechanisms listed in condition c) are self-evidently possible or already in use in some cases in relation to the heritage assets listed in Objection Ground B above.

We submit that condition d) does not apply because the harm or loss cannot be said to be outweighed by the benefit of bringing the site back into use,

but in any event the second limb of paragraph 201 does not apply unless *all* of conditions a) to d) apply, and conditions a) to c) certainly do not apply.

**Accordingly we hold that in accordance with paragraph 201 of the NPPF no public benefits (substantial or otherwise) that may be claimed for the current development proposal can outweigh or override the objections to this application in Grounds A and B, and consent to the current application must be refused.**

## 7. FURTHER GROUNDS OF OBJECTION

**Without prejudice to Objection Ground E above:-**

**(a) Relative weight**

It would be perverse and/or disproportionate for a planning authority to give greater weight to any public benefit that the applicant may claim its proposed development would generate (even if thought sustainable on a standalone basis), given the pre-eminent importance of the heritage assets and their settings within the Birnbeck Conservation Area and the severity of the harm thereto that the proposed development would cause - Grounds A, B & D above);

*There is the further consideration of the potential net adverse impact the proposed development may have on the future earning capacity of a sustainably restored and regenerated Birnbeck Pier, where the pier's setting within the landscape and conservation area is certain to account for a significant part of its attractiveness as an economic asset for the town and community.*

There is also the issue of appropriation of parking from the Birnbeck Road car park (see (b) below).

**(b) Overdevelopment**

The proposed development patently represents overdevelopment of the site which cannot sustain 90 homes.

This is eloquently demonstrated by considering the Council's **Parking Standards Supplementary Planning Document** in relation to the proposal:

**To comply with the parking standard, approximately 150<sup>5</sup> car parking and over 100 cycle parking spaces would be required**, given the mix of 1, 2 & 3 bedroom flats proposed . However, the proposal provides only 65 car parking spaces in total according to the Planning Statement published with the Application on 1 December 2021, even assuming the car space dimensions for this provision are adequate. **This is before considering the**

<sup>5</sup> We hold there are no circumstances which would justify the Council granting any latitude in the ratio of dwellings to parking spaces in this case. This is a new development on a bare site. It is not for example the internal conversion of an existing building in a conservation area, which may therefore be preserving the character and appearance of the area, and where some latitude might be granted, where the rules provide, in exceptional circumstances.

**allocation required for retail and eating & drinking establishments where the Applicant is proposing no allocation at all.**

There is an approximate 60 car<sup>6</sup> parking area adjacent to Birnbeck Road (the “Birnbeck Road car park”). **At least<sup>7</sup> 38 of the 65 parking spaces the Applicant is ‘providing’ in its scheme are in fact appropriated from the Birnbeck Road car park. This is just one of many highly contentious and controversial aspects of what is proposed – namely appropriating public car parking which is already vital to the Weston community and visitors alike.**

The Birnbeck Road car park is part of the land belonging to the Pier. The subtraction of 38 or more of the spaces from the Birnbeck Road car park to ‘assist’ the Applicant satisfy parking requirements for its overblown proposed development, raises some serious questions about the negotiations to acquire the Pier from the Applicant’s group of companies. *Such a move if it were allowed to happen could severely neuter any plans to regenerate Birnbeck Pier.*

We hold there would be no justification whatever for permitting this proposal to rely in part upon the use of the Birnbeck Road car park, and it would be a fundamental breach of the Council’s Parking Standards policy<sup>8</sup>.

**The Birnbeck Road car park is already heavily used by cars lorries and coaches, as well as by municipal and emergency vehicles. Furthermore there is already a heavy residential demand for parking in the streets above this car park, which also see a daily and indeed hourly ingress and exit of visitors by car who are understandably keen to take in the spectacular views from Prince Consort Gardens and from the pavements and promenades above and below it.**

**If any form of economic regeneration is to be mooted for the Birnbeck Pier site then the Birnbeck Road car park will be a vital plank in any such strategy as parking provision for the visiting general public, as well as for vehicles involved in the regeneration construction phase of the Pier.**

Further, North Somerset’s Core Strategy Priority Objective 10 seeks to:

*“...ensure that sufficient parking is provided in new developments to meet the needs of users in a safe and well-designed environment, while public parking in town, district and local centres contributes to their continued vitality, and provides for choice in transport modes”*  
*[our emphasis]*

**Permitting the applicant to rely upon the Birnbeck Road car park as a contribution towards parking provision for its planning application would be in contradiction of the Core Strategy and Parking Standards Policy.**

***And the applicant’s desperation to so rely, exposes the fact that 90 apartments is a gross overdevelopment of the Application site.***

### **(c) Housing provision & Jobs**

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<sup>6</sup> including disabled space allocation

<sup>7</sup> A further 7 of the 65 spaces in total are stated to lie in front of the building. It is not entirely clear whether all of these spaces lie within the curtilage of the Royal Pier Hotel site, or whether at least some of these 7 spaces form part of the Birnbeck Road car park.

<sup>8</sup> There is a point of legal principle as to whether the 2013 or 9 November 2021 Parking Standards apply to the Application, given the Application was submitted in September 2021, verified in November and published in December.

The Applicant has attempted to justify the scale and massing of their proposal on a need to maximise housing numbers. The Application states: “*(given that) the local planning authority (has not been) able to demonstrate a five-year supply of deliverable housing sites, permission should be granted.*”

However the reality is:-

- North Somerset Council’s Core Strategy (CS28) sets an employment-led target for Weston which is to be **focused on the Town Centre and Weston Village (i.e. not conservation areas)**.
- North Somerset’s Site Allocations Plan (2018) sets out site planned allocations to meet housing and job targets. This refers to 63 dwellings collectively on the Royal Pier Hotel, Dorville Hotel and Lynton House Hotel sites. Dorville is allocated 20 of those dwellings and Lynton is scheduled to be 48 (i.e. 20 + 48 = 68), which means the allocation has already been satisfied.  
But in any event, the Site Allocation Plan purely identifies sites which may contribute to meeting the Council’s housing obligations; The numerical allocations in the Plan of themselves carry no legal weight.
- The Applicant has offered no cogent supporting research or analysis to support the assertion in its Application that 135 onsite jobs would be delivered, **and it may speak volumes for the Applicant’s own faith in this assertion that no provision has been made for any extra car parking to support the alleged job creation**. The planning authority is effectively asked to take the Applicant’s word for this, yet meanwhile countenance the permanent damage to the conservation area the development would cause.
- The impact of this scale of development on the Royal Pier Hotel site and an estimated 300 occupiers and staff represents an unreasonable and excessive overdevelopment (driven by the excessive dwelling count) in terms of the available supporting services in general and parking in particular. And will beyond any reasonable doubt have a major effect on parking and congestion.

It is suggested by the Applicant that the development will help regenerate the area compared to a derelict site. However, it would be a high-rise apartment block in the centre of a unique conservation area which is already regenerating successfully in line with the **Conservation Area Plan** – with the restoration of Prince Consort Gardens, Villas, and other former hotels (i.e. being repurposed or redeveloped to a similar style and scale as pre-existed) - and hopefully soon the restoration of Birnbeck Pier.

Moreover, for the reasons set out in 7(b) we hold that if this proposed development were built, it would set-back rather than assist any regeneration plans for the Birnbeck Pier site.

## 8. CONCLUSION ON THE CURRENT PLANNING APPLICATION:

**For all the reasons above and given the body of law, regulation, guideline and case law governing development in the heritage and conservation environment, we hold that a reasonable and rational planning authority acting within its statutory duties could not approve the current planning Application.**

## 9. OTHER IMPORTANT MATTERS RELATING TO THE PLANNING AUTHORITY'S DECISION

### (a) **With reference to the previous 2010 planning application and 'resolution to grant':**

The current Application leans to breaking point upon an earlier application for a similar building on the former hotel site that the Applicant made in 2010, after the fire.

The legal agreement following the Council decision in September 2011 was never agreed and signed off and this decision has long since lapsed. We take it under advisement that it has no binding effect upon the planning authority and sets no precedent for the fresh Application now before the Council.

*Moreover the 2010 application was considered at a time when planning and heritage law was less developed than it is today, for example in the guidance and case law surrounding heritage assets and their settings (see Objection Ground B above) or landscape and public visual amenity. However, times have changed and planning and conservation law now has a formidable armoury of protections that the local planning authority must follow.*

Having also studied the 2011 decision we consider it would have been susceptible to a Statutory Appeal.

### (b) **No assurances:**

We take it as read and under advisement that no assurances in relation to the current planning Application or the Application site have been or will be made to the Applicant or its advisors, however informally, during the process of negotiating and securing a transfer of ownership of Birnbeck Pier and its title land, whether accomplished by means of Compulsory Purchase proceedings or otherwise.

We similarly take it that no such assurances were necessary or given in order to preserve the infrastructure that a regenerated Birnbeck Pier could call upon in future, for example the Birnbeck Road car park referred to above, and free and unfettered promenade access.

### (c) **No sentiment that 'something is better than nothing'**

In its decision making process, the planning authority clearly must avoid any sentiment gaining traction that, to put it in its crudest terms, 'something is better than nothing'. For all the reasons above it is demonstrably and categorically the case that "nothing" is the correct and lawful outcome, insofar as the current planning Application is concerned, and that it would clearly be a dereliction of duty to allow such a sentiment, having no place in the governing law and regulations, to hold any kind of sway in the process.

### (d) **Public policy:**

It would seem to set a poor example in terms of public policy, if anyone may be seen to profit however incidentally from loss of heritage buildings to hazards such as fire, were they to be permitted to build bigger than before.

(e) **Scrutiny:**

The Applicant stated in its April 2021 webinar presentation document (page 45) that the first key benefit of its then pre-application proposal, was that it preserved "... *existing views, including those from Prince Consort Gardens*".

We would simply say that this pre-application statement is so patently incorrect, it must place the reader on alert for the utmost level of scrutiny of any statement/ reassurance now put forward in support of the formal Application.

## 10. MATTERS BEYOND THE CURRENT PLANNING APPLICATION

1. As stated above, the former Royal Pier Hotel and its height relative to the elevation of Prince Consort Gardens and the conservation area generally, is part of the historical setting of the heritage assets in the Birnbeck conservation area; That relative height between the former building and Gardens has been a collective memory of the Weston community for well over a hundred years, until 2010 when the hotel was demolished due to fire damage.

We hold that a building no higher than the former Royal Pier Hotel (an "RPH Height Development") - *and with the extent of any residential usage determined by the number of dwelling units that can be sustainably accommodated within a building of that height* - would go a very considerable distance indeed towards removing the substantial harm that the currently proposed development will do to the character and appearance of the conservation area and the heritage assets and settings within it, and thereby also in discharging the Council's duties under the Planning Acts.

2. However for the planning authority's decision to be beyond challenge for all practical purposes, we submit that the exterior design of an RPH Height Development<sup>9</sup> (whether for mainly residential use or otherwise) should both be no higher than the former hotel and also either:-
  - echo the prevailing Victorian architecture of the Birnbeck Conservation area, or
  - be *an alternative design of the most exceptional aesthetic quality* and which is not discordant with the prevailing character and appearance of the area landscape and seascape;

(i.e. that is, as opposed to the applicant simply in essence reducing the height of its existing design to that of the former hotel).
3. We also submit that such is the pre-eminence of the heritage assets set within the Birnbeck Conservation Area and their importance (including economic importance) to the community of Weston super Mare, that a revised building design that was **any higher than the former hotel** would fail to satisfy the requirements of planning and conservation law in relation to

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<sup>9</sup> We submit also that the roofline of an RPH Height Development should be as straight and even as possible (and without extraneous aerials or masts) so that (like the former hotel) it does not unduly disturb the eye when observing the views out to sea from Prince Consort Gardens.

the proposed development site. **We hold there is no case for a building higher than the old hotel.**

4. Finally, we should comment on the subject of **housing allocation**:

We are aware that modern internal building parameters may allow for 4, or possibly even 5, floors (above the level of Birnbeck Road) within a building of the same height as the former Victorian Royal Pier Hotel, given the elevated ceilings which are characteristic of buildings constructed in the Victorian era.

That said however, we make no comment here about the sustainable number of dwellings that could be accommodated *within a building of the height of the former hotel*, because that is not the proposal which is currently before the planning authority. We would only reiterate at this stage that upon any credible measure the current Application represents an unsustainable number of residential dwellings.

## APPENDIX 1

### OBJECTION GROUND D: MAJOR ADVERSE IMPACT ON LANDSCAPE & PUBLIC VISUAL AMENITY

Our own conclusions as to the impact of the proposed development upon public visual amenity and landscape have been informed by best practice as outlined within the following publications (“**the LVI Guidelines**”):

- Guidelines for Landscape and Visual Impact Assessment (3rd Edition, 2013) - Landscape Institute / Institute of Environmental Management and Assessment (GLVIA3);
- Visual Representation of Development Proposals (2019) - Landscape Institute Technical Guidance Note 06/19;
- An Approach to Landscape Character Assessment (2014) - Natural England;
- An Approach to Landscape Sensitivity Assessment - To Inform Spatial Planning and Land Management (2019) - Natural England

The Applicant’s flawed analysis in its Landscape & Visual Impact Assessment:

The Applicant has not specifically analysed in its Landscape & Visual Impact Assessment the value (i.e. High/Medium/Low) of the landscapes it has designated, nor of the views at the viewpoints it has designated, **and we consider the Applicant’s Assessment is flawed in this respect.**

Similarly, the Applicant has failed to analyse in its Assessment the susceptibility (High/Medium/Low) of the landscapes it has designated, nor of the views at the viewpoints it has designated, **which Assessment is therefore flawed in this respect also.**

With those shortcomings noted in the Applicant’s Landscape & Visual Impact Assessment, we would make the following findings:

#### **(a) Taking visual impact first:**

Visual amenity is defined within the LVI Guidelines as the **“overall pleasantness of the views people enjoy of their surroundings, which provides an attractive visual setting or backdrop for the**

*enjoyment of activities of the people living, working, recreating, visiting or travelling through an area.”*

**This definition could have been written with the views to and from the viewpoints on Birnbeck Pier and its forecourt, Prince Consort Gardens and Anchor Head firmly in mind.**

In perhaps a rare moment however, the Applicant’s Landscape & Visual Impact Assessment states in paragraph 3.1 that “Values attached to available views are relatively high, relating to the prominence of the Site, the CA designation and the varied receptors.”

The criteria for assessing the value of views are taken from the LVI Guidelines and shown in the Table below:

<b>Criteria for assessing the value of views</b>	
HIGH	Views with high scenic value within designated landscapes <b>including but not limited to</b> [our emphasis] World Heritage Sites, National Parks, Areas of Outstanding Natural Beauty, <b>etc.</b> Likely to include key viewpoints on OS maps or reference within guidebooks, provision of facilities, presence of interpretation boards, etc.
MEDIUM	Views with moderate scenic value within undesignated landscape including urban fringe and rural countryside.
LOW	Views with unremarkable scenic value within undesignated landscape with partly degraded visual quality and detractors.

**We hold that based on the above criteria and the CA designation (and in the absence of any systematic analysis of value of views from the Applicant) the Applicant should designate the value of viewpoints 2, 4, 7, 9, 10 & 11 in particular as HIGH. (It should be noted that High values are “not limited” to AONBs etc.)**

Similarly the criteria for assessing the susceptibility of views are taken from the LVI Guidelines and shown in the Table below:

<b>Criteria for assessing visual susceptibility</b>	
HIGH	Includes occupiers of residential properties and people engaged in recreational activities in the countryside using public rights of way.
MEDIUM	Includes people engaged in outdoor sporting activities and people travelling through the landscape on minor roads and trains.
LOW	Includes people at places of work e.g. industrial and commercial premises and people travelling through the landscape on major roads and motorways

**We hold that based on the above criteria and the CA designation (and in the absence of any systematic analysis of susceptibility from the Applicant) the Applicant should grade the susceptibility of viewpoints 2, 4, 5, 6, 7, 9 & 11 as HIGH and 10 as HIGH / MEDIUM.**

The Applicant has graded the sensitivity of the visual receptors it has designated, but we hold a number of these sensitivities are incorrect in relation to particular viewpoints.

Sensitivity is defined in GLVIA3 as “a term applied to specific receptors, combining judgments of susceptibility of the receptor to a specific type of change or development proposed and the value related to that receptor.” Various factors in relation to the value and susceptibility of landscape elements, character, visual receptors or representative viewpoints are considered and cross referenced to determine the overall sensitivity as shown in the table below:

<b>Overall sensitivity of landscape and visual receptors</b>				
	<b>VALUE</b>			
<b>SUSCEPTIBILITY</b>		<b>HIGH</b>	<b>MEDIUM</b>	<b>LOW</b>
	<b>HIGH</b>	High	High	Medium
	<b>MEDIUM</b>	High	Medium	Medium
	<b>LOW</b>	Medium	Medium	Low

**We hold that based on the above analysis of the value and susceptibility of the given viewpoints, and applying the criteria in the above table, the sensitivities of viewpoints 2, 4, 5, 6, 7, 9, 10 & 11 should be graded as HIGH.**

The final part of the visual amenity analysis involves considering the criteria for the **magnitude of change for visual receptors**. The LVI Guidelines for this is set out in **Appendix 2** below.

**Based on the analysis in Appendix 2, and in relation in particular to viewpoints 2, 4, 5, 6, 7, 9, 10 & 11, the magnitude of change is MAJOR ADVERSE, defined as (reference Appendix 2) “Typically, the visual receptor is of high sensitivity with the proposals representing a high magnitude of change and/or the proposals would result in a major deterioration in the view.”**

<b>Criteria for assessing magnitude of change for visual receptors</b>	
<b>HIGH</b>	Major change in the view that has a defining influence on the overall view with many visual receptors affected.
<b>MEDIUM</b>	Some change in the view that is clearly visible and forms an important but not defining element in the view.
<b>LOW</b>	Some change in the view that is appreciable with few visual receptors affected.
<b>NEGLIGIBLE</b>	No notable change in the view

## **(b) Landscape Impact Assessment**

Again the Applicant has ‘truncated’ the procedures laid out in the LVI Guidelines, and offers a number of platitudes:

There is the bald assertion in paragraph 5.18 of its Assessment that the proposed development “will be seen as a positive element of urban regeneration”, where self-evidently the Applicant has not surveyed the views of Westonians or even studied the comments in the online Petition.

We are also left to guess what “key values” of the sea views will be retained, according to the Applicant, in the area with which paragraph 5.18 is dealing. We also note the Applicant’s assertion that the vicinity of the development site is an “urban location”.

Paragraph 6.6. offers a study in masterful understatement where it says the “element of greater height [of the proposed building] will result in some localised adverse effects on the townscape”.

Similarly the Applicant has sought to justify a “Moderate (beneficial)” effect of the development upon the local seafront/developed area with an impenetrable statement followed by a non-sequitur in paragraph 5.9: “The proposals will tie into the adjacent public realm to provide positive urban frontage and local enhancement. The height of the development will be greater than other built form in the area, such that the proposal will be a notable feature in the immediate context.”

**We hold that the correct approach to landscape appraisal is to follow the scheme laid out in the LVI Guidelines, as set out in the following tables:**

<b>Criteria for assessing the value of landscape elements and landscape character</b>	
HIGH	Designated landscape including <b>but not limited to</b> [our emphasis] World Heritage Sites, National Parks, Areas of Outstanding Natural Beauty considered to be an important component of the country’s character experienced by a high number of people. Landscape condition is good and components are generally maintained to a high standard. In terms of seclusion, enclosure by land use, traffic and movement, light pollution and presence/absence of major infrastructure, the landscape has an elevated level of tranquillity. Rare or distinctive landscape elements and features are key components that contribute to the landscape character of the area.
MEDIUM	Undesignated landscape including urban fringe and rural countryside considered to be a distinctive component of the national or local landscape character. Landscape condition is fair and components are generally well maintained. In terms of seclusion, enclosure by land use, traffic and movement, light pollution and presence/absence of major infrastructure, the landscape has a moderate level of tranquillity. Rare or distinctive landscape elements and features are notable components that contribute to the character of the area
LOW	Undesignated landscape including urban fringe and rural countryside considered to be of unremarkable character. Landscape condition may be poor and components poorly maintained or damaged. In terms of seclusion, enclosure by land use, traffic and movement, light pollution and presence/absence of major infrastructure, the landscape has limited levels of tranquillity. Rare or distinctive elements and features are not notable components that contribute to the landscape character of the area.

**Thinking of the local seafront/developed area referred to by the Applicant in its paragraph 5.9, we would highlight the following references from the table above as they relate to heritage assets in that area:**

“an important component of the country’s character experienced by a high number of	Prince Consort Gardens, Anchor Head and (once restored) Birnbeck Pier
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people”	
“Landscape condition is good and components are generally maintained to a high standard”	Prince Consort Gardens & Anchor Head <sup>10</sup> .
“the landscape has an elevated level of tranquillity”	Prince Consort Gardens
“Rare or distinctive landscape elements and features are key components that contribute to the landscape character of the area.”	Birnbeck Pier

**We hold therefore that the Applicant should designate the value of the landscape elements and landscape character of the local seafront/developed area as HIGH.**

<b>Criteria for assessing landscape susceptibility</b>	
HIGH	Scale of enclosure – landscapes with a low capacity to accommodate the type of development being proposed owing to the interactions of topography, vegetation cover, built form, etc. Nature of land use – landscapes with no or little existing reference or context to the type of development being proposed. Nature of existing elements – landscapes with components that are not easily replaced or substituted (e.g. ancient woodland, mature trees, historic parkland, etc). Nature of existing features – landscapes where detracting features, major infrastructure or industry is not present or where present has a limited influence on landscape character.
MEDIUM	Scale of enclosure – landscapes with a medium capacity to accommodate the type of development being proposed owing to the interactions of topography, vegetation cover, built form, etc. Nature of land use – landscapes with some existing reference or context to the type of development being proposed. Nature of existing elements – landscapes with components that are easily replaced or substituted. Page  5 Nature of existing features – landscapes where detracting features, major infrastructure or industry is present and has a noticeable influence on landscape character.
LOW	Scale of enclosure – landscapes with a high capacity to accommodate the type of development being proposed owing to the interactions of topography, vegetation cover, built form, etc. Nature of land use – landscapes with extensive existing reference or context to the type of development being proposed. Nature of existing features – landscapes where detracting features or major infrastructure is present and has a dominating influence on the landscape.

Again thinking of the local seafront/developed area as referred to by the Applicant in its paragraph 5.9, we hold that this landscape has a **low capacity** to accommodate a development which rises to eight storeys (as opposed to the height of the former Royal Pier Hotel on the site) and that the landscape has components (including the seascape) which are not easily replaced or substituted – **in fact which are irreplaceable**.

**We hold therefore that the Applicant should have concluded that the landscape susceptibility of the local seafront/developed area is HIGH.**

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<sup>10</sup> Birnbeck Pier could also be included in this list, but for its neglect , which neglect includes the most recent period of ownership by an Applicant related company.

Accordingly, in accordance with the table below, the sensitivity to change of the local seafront/developed area is HIGH - and not "medium/high" as the Applicant suggests in its Landscape & Visual Impact Assessment.

Criteria for assessing landscape sensitivity	
HIGH	Landscape element or character area defined as being of high value combined with a high or medium susceptibility to change. Landscape element or character area defined as being of medium value combined with a high susceptibility to change.
MEDIUM	Landscape element or character area defined as being of high value combined with a low susceptibility to change. Landscape element or character area defined as being of medium value combined with a medium or low susceptibility to change. Landscape element or character area defined as being of low value combined with a high or medium susceptibility to change.
LOW	Landscape element or character area defined as being of low value combined with a low susceptibility to change

Finally, based on the analysis in Appendix 2, we hold that the magnitude of change for the local seafront/developed area landscape is MAJOR ADVERSE, defined as (reference Appendix 2)

*"Typically, the landscape resource has a high sensitivity with the proposals representing a high adverse magnitude of change and/or the proposed changes would: - be at variance with the character (including value) of the landscape; - degrade or diminish the integrity of a range of characteristic features and elements or cause them to be lost; - change a sense of place."*

In summary, we hold that the Applicant's Landscape & Visual Impact Assessment is flawed and lacks rigour in a large number of material respects:-

- It has sought to downplay the major adverse impact of the proposed development, in relation to a substantial number of viewpoints and upon the landscape of the local seafront/developed area.
- It has also sought to do this in part by repeated (and we apprehend rather desperate) references to the major loss of visual amenity being "moderated by local views of the derelict site" and also moderated by the "context for redevelopment" (a phrase which is hard to decipher).
- We hold that any so-called moderation of the destruction of the views is marginal at very best, and is in any event far outweighed by the major adverse impact of the proposed development upon the public visual amenity and upon the landscape of the local seafront/developed area as examined above.
- There are also desperately-repeated references in the Application to the "high quality" of the proposed design as a justification for this development. We hold that not only is the exterior design of the proposal (as e.g. set out in the Full Design Access Statement, Desk Study & Street Scene) pedestrian and unremarkable (see Objection Ground A in particular), but also that the quality of the design (whatever its nature) is to all intents irrelevant - **given its height and scale and overdevelopment of the site** - and that the Applicant's protestations as to "high quality" (even if they were well-founded) is not the governing criterion in this context.
- The Applicant has also sought to downplay the dramatic loss of public visual amenity from Prince Consort Gardens (that is, over and above a building of the same height as the former Royal Pier Hotel, which BCG accepts) by referencing clear open views of the Site "from the western edge of Prince Consort Gardens" when clear open views are available not only from the western edge of the Gardens but also from many other locations within the Gardens (for

example from the ornamental pond in the Gardens or when standing in Upper Kewstoke Road). We submit the Applicant's assessment seeks to confine these references to the western edge of the Gardens in part so that it can employ the 'fig leaf' argument about the dramatic loss of visual amenity being "moderated by local views of derelict site", because the so-described 'derelict' site at ground level is only visible from the western edge of the Gardens.

- Finally, a number of the photographs in the Figures at the end of the Applicant's Assessment have a capacity to mislead, by the use of white lines which suggest a building outline which is not reflected in the reality of the height and bulk of the building that the Applicant proposes, or which sometimes do the opposite and show no outline at all.

## APPENDIX 2

### MAGNITUDE OF CHANGE ON LANDSCAPE AND ON VISUAL ELEMENTS

	<b>Typical Descriptors of Visual Significance of Effects</b>	<b>Typical Descriptors of Landscape Significance of Effects</b>
MAJOR BENEFICIAL	Typically, the visual receptor is of high sensitivity with the proposals representing a high magnitude of change and/or the proposals would result in a major improvement in the view	Typically, the landscape resource has a high sensitivity with the proposals representing a high beneficial magnitude of change and/or the proposed changes would: - enhance the character (including value) of the landscape; - enhance the restoration of characteristic features and elements lost as a result of changes from inappropriate management or development; - enable a sense of place to be enhanced.
MODERATE BENEFICIAL	Typically, the visual receptor is of medium sensitivity with the proposals representing a medium magnitude of change and/or the proposals would result in a clear improvement in the view.	Typically, the landscape resource has a medium sensitivity with the proposals representing a medium beneficial magnitude of change and/or the proposed changes would: - enhance the character (including value) of the landscape; - enable the restoration of characteristic features and elements partially lost or diminished as a result of changes from inappropriate management or development; - enable a sense of place to be restored.

MINOR BENEFICIAL	Typically, the visual receptor is of low sensitivity with the proposals representing a low magnitude of change and/or the proposals would result in a slight improvement in the view.	Typically, the landscape resource has a low sensitivity with the proposals representing a low beneficial magnitude of change and/or the proposed changes would: - complement the character (including value) of the landscape; - maintain or enhance characteristic features or elements; - enable some sense of place to be restored.
NEGLIGIBLE/ NEUTRAL	Typically, the proposed changes would be in keeping with, and would maintain, the existing view or where (on balance) the proposed changes would maintain the quality of the view (which may include adverse effects which are offset by beneficial effects for the same receptor) or due to distance from the receptor, the proposed change would be barely perceptible to the naked eye.	Typically, the proposed changes would (on balance) maintain the character (including value) of the landscape and would: - be in keeping with landscape character and blend in with characteristic features and elements; - Enable a sense of place to be maintained.
MINOR ADVERSE	Typically, the visual receptor is of low sensitivity with the proposals representing a low magnitude of change and/or the proposals would result in a slight deterioration in the view.	Typically, the landscape resource has a low sensitivity with the proposal representing a low adverse magnitude of change and/or the proposed changes would: - not quite fit the character (including value) of the landscape; - be a variance with characteristic features and elements; - detract from sense of place.
MODERATE ADVERSE	Typically, the visual receptor is of medium sensitivity with the proposals representing a medium magnitude of change and/or the proposals would result in a clear deterioration in the view.	Typically, the landscape resource has a medium sensitivity with the proposals representing a medium adverse magnitude of change and/or the proposed changes would: - conflict with the character (including value) of the landscape; - have an adverse effect on characteristic features or elements; - diminish a sense of place.
MAJOR ADVERSE	Typically, the visual receptor is of high sensitivity with the proposals representing a high magnitude of change and/or the proposals would result in a major	Typically, the landscape resource has a high sensitivity with the proposals representing a high adverse magnitude of change and/or the proposed changes

	deterioration in the view	would: - be at variance with the character (including value) of the landscape; - degrade or diminish the integrity of a range of characteristic features and elements or cause them to be lost; - change a sense of place.
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