

BRIGHTON AND HOVE CITY COUNCIL

LIST OF MAJOR OR CONTROVERSIAL APPLICATIONS

OR APPLICATIONS CONTRARY TO COUNCIL POLICY

<u>No:</u>	BH2006/02369	<u>Ward:</u>	REGENCY
<u>App Type</u>	Full Planning		
<u>Address:</u>	Land at and adjacent to West Pier and 62-73 Kings Road Arches Kings Road, Brighton		
<u>Proposal:</u>	Partial demolition of the existing pier structure and construction of an observation spire (approximately 183 metres in height above ordnance datum) and heritage centre (use class D2) with ancillary retail uses at lower promenade level and all works incidental to the development of the site including relocation of two lamp standards and works of alteration to arches 62-73 Kings Road. Application accompanied by an Environmental Statement, Transport Statement, Travel Plan, Sustainability Checklist, Planning Statement, Access Statement, Design Statement, Tall Buildings Statement, Operational Statement, Site Waste Management Plan, View Verification Statement and Statement of Community Involvement. Application accompanied by Listed Building Consent Application BH2006/02372. Additional information submitted including Stabilisation Report, Ecology Report, Supplementary Townscape and Visual Assessment, Supplementary Transport Assessment, Supplementary Flood Risk Assessment, Response to Consultee Comments Report and Revised Planning Application Drawings. (Amended Description)		
<u>Officer:</u>	Luke Perkins, tel: 292178	<u>Received Date:</u>	17 July 2006
<u>Con Area:</u>	REGENCY SQUARE	<u>Expiry Date:</u>	16 October 2006
<u>Agent:</u>	DP9, Cassini House, 57-59 St James's Street, London		
<u>Applicant</u>	Marks Barfield Limited, c/o agent		
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1 SUMMARY

This report considers and application for planning permission for the demolition of the 'root end' and 'sea wreck' of the West Pier and for the erection of a 183 metre tall observation spire and heritage centre on the site of the root end of the pier. The application is considered to be a thorough and carefully prepared submission which is accompanied by an Environmental Statement and a comprehensive suite of other documents which fully explain the likely impacts of the proposed development and the mitigation measures necessary to

address these impacts. The application is a departure from policy HE5 of the Brighton & Hove Local Plan which seeks the restoration and re-use of the West Pier but the report explains that there are material considerations which justify the granting of planning permission. The main issues in the determination of this application are considered to be conservation, transport, safety and amenity and these as well as all other relevant considerations are set out under the appropriate headings in section 8 of this report.

2 RECOMMENDATION

That the Sub-Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 10 of this report and resolves that it is **minded to grant** planning permission subject to:

(i) Section 106 Obligation to secure the following:

1. A contribution of £10,000 towards public transport enhancements;
2. a contribution of £50,000 towards traffic signage;
3. a contribution of £5,000 towards pedestrian signage;
4. a contribution of £10,000 towards enhancement of the lighting in the Regency Square car park subway;
5. the submission and implementation of a Travel Plan and review at least every 12 months, the appointment of a Travel Plan co-ordinator and the approval of publicity material relating to access to the development;
6. a contribution of £2000 towards a Traffic Regulation Order to prohibit coach parking on Kings Road immediately outside the site and if appropriate to secure additional disabled persons' car parking spaces in the vicinity;
7. a requirement for the applicant to ensure that the Highway Authority and landowner are satisfied that the Upper Esplanade and arches beneath can accommodate the development;
8. the submission and implementation of a Construction Environmental Management Plan;
9. the appointment of a suitably qualified artist to design the lighting features for the spires and their implementation;
10. the removal of 'the sea wreck'; and
11. a contribution of 1% of the net ticket revenue generated by the development for environmental renewal, maintenance and improvement works.

(ii) the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

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Reason: To comply with Section 91 (as amended) of the Town and Country Planning Act 1990.

2. No development shall take place until a written statement consisting of a Site Waste Management Plan, confirming how demolition and construction waste will be recovered and reused on site or at other sites, has been submitted to and approved in writing by the Local Planning Authority. The agreed Site Waste Management Plan shall then be implemented in strict accordance with the approved details.

Reason: To ensure that the development would include the re-use of limited resources, to ensure that the amount of waste for landfill is reduced, because only an outline Site Waste Management Plan has been submitted and to comply with policy W10 of the East Sussex and Brighton & Hove Structure Plan, WLP11 of the East Sussex and Brighton & Hove Waste Local Plan, policy SU13 of the Brighton & Hove Local Plan and Supplementary Planning Document 03 Construction and Demolition Waste.

3. The hoarding erected around the construction site, as referred to in paragraph 6.5 of the Environmental Statement submitted 17 July 2006 and the 'Stabilisation Works to Arches 62-73 Kings Road' report submitted 8 September 2006, shall be decorated within 2 weeks of its erection in a manner to be agreed with the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the construction hoarding, to mitigate the adverse visual impact of the hoarding on the Regency Square conservation area and to comply with policies QD1, QD6 and HE6 of the Brighton & Hove Local Plan.

4. Before any development commences, a scheme for the lighting of the spire, and the tower crane during construction, shall be submitted to and approved in writing by both the local planning authority and Civil Aviation Authority. Any lighting must be installed and operated in strict accordance with the scheme agreed by both the local planning authority and Civil Aviation Authority.

Reason: To ensure that a comprehensive view of the provision of lighting is taken in the interests of visual amenity, security and safety and to protect the character and appearance of Regency Square conservation area and the AONB, to ensure the provision of public art and to comply with policies QD1, QD4, QD6, QD25, QD26, QD27, QD28, HE3, HE6 and NC8 of the Brighton & Hove Local Plan and policy EN14 of the East Sussex and Brighton & Hove Structure Plan.

5. Prior to the commencement of the development a scheme of works for the protection of the development from flooding and a flood management plan shall be submitted to and approved in writing by the local planning authority. The scheme of works shall include the details of measures to protect the development from

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flooding. The flood management plan shall detail how safe access and egress to and from the development will be achieved during flood events. The scheme of works shall be implemented in strict accordance with the agreed details and maintained thereafter and the flood management plan shall be adhered to at all times.

Reason: To safeguard the development from flooding, to provide safe access and egress during flood events, to reduce reliance on emergency services and to comply with policies SU4 and SU7 of the Brighton & Hove Local Plan, policy S1 of the East Sussex and Brighton & Hove Structure Plan, policy INF1 of RPG9 and policies NRM3 and NRM6 of the draft South East Plan.

6. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed. **Reason:** To prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policies SU3 and QD27 of the Brighton & Hove Local Plan and PPS23 Planning and Pollution Control.
7. The method of piling foundations for the development hereby approved shall be carried out in accordance with a scheme to be approved in writing by the local planning authority prior to the commencement of development. **Reason:** So that the local planning authority may maintain control over the method of piling used which should not include driven piles in order to prevent vibration which would affect the amenity of the occupiers of buildings nearby and affect the stability of structures and buildings nearby and to comply with policies QD27, SU8, SU9 and SU10 of the Brighton & Hove Local Plan and policy S1 of the East Sussex and Brighton & Hove Structure Plan and PPG14 Development on Unstable Land.
8. Before development commences, details of the proposed temporary route constructed over the shingle beach as described in section 3.10.3 of the Environmental Statement, shall be submitted to and approved in writing by the local planning authority. The temporary route shall make provision for vehicles, pedestrians and wheelchairs. The temporary route shall then be implemented in full before the commencement of the development and retained for the duration of the construction period unless otherwise agreed in writing by the local planning authority. **Reason:** To ensure that the temporary route provided is safe, appropriate and accessible for all users of the seafront and to

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comply with policies TR7, TR8, TR13, QD2 and QD27 of the Brighton & Hove Local Plan.

9. Before development commences, details of the proposed controlled crossing over the Kings Road cycle path and footway when deliveries take place, as described in section 3.10.3 of the Environmental Statement, shall be submitted to and approved by the local planning authority. The controlled crossing shall then be implemented and used when deliveries during the construction period take place.

Reason: To ensure the safe use of the footway and cycle path during the construction period and to comply with policy TR7 and QD27 of the Brighton & Hove Local Plan.

10. Any facilities for the storage of chemicals shall be sited on impervious bases and surrounded by impervious bund walls, details of which shall be submitted to the Local Planning Authority for approval before the development is commenced. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to 110% of the capacity of the largest tank, or 25% of the total combined capacity of the interconnected tanks whichever is the greatest. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment and to comply with policies SU3 and QD27 of the Brighton & Hove Local Plan and PPS23 Planning and Pollution Control.

11. Prior to the commencement of development details of the measures which shall be taken to protect the public sewers within the vicinity of the site shall be submitted and agreed in writing by the local planning authority in consultation with Southern Water. The agreed measures shall then be implemented in full and retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.

Reason: To protect drainage apparatus within the vicinity of the site and to comply with policies SU3 and QD27 of the Brighton & Hove Local Plan and PPS23 Planning and Pollution Control.

12. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil separator designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the separator.

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Reason: To prevent pollution of Controlled Waters and to comply with policies SU3 and QD27 of the Brighton & Hove Local Plan and PPS23 Planning and Pollution Control.

13. Any facilities for the storage of fuels shall be sited on impervious bases and surrounded by impervious bund walls. The bund capacity shall give 110% of the total volume for single and hydraulically linked tanks. If there is multiple tankage, the bund capacity shall be 110% of the largest tank or 25% of the total capacity of all tanks, whichever is the greatest. All filling points, vents, gauges and sight glasses and overflow pipes shall be located within the bund. There shall be no outlet connecting the bund to any drain, sewer or watercourse or discharging onto the ground. Associated pipework shall be located above ground where possible and protected from accidental damage. **Reason:** To prevent pollution of the water environment and to comply with policies SU3 and QD27 of the Brighton & Hove Local Plan and PPS23 Planning and Pollution Control.
14. No development shall take place until samples of the materials be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The samples shall include the cladding of the spire, the external finishes of the pod, the external finishes of the heritage centre including the external staircases and lift, the balustrade on the upper deck of the heritage centre, the external finishes of the kiosks (including paint colours) on the upper deck, the glass screen and canopy fronting Kings Road and behind the kiosks, the queuing system to be used, the flooring of the upper deck of the heritage centre and the seating and weather screens (including paint colours) on the upper deck. The development shall be carried out in strict accordance with the approved details.
Reason: To ensure a satisfactory appearance to the development, to preserve and enhance the character and appearance of the Regency Square conservation area and to comply with policies QD1, HE1, HE3, HE5 and HE6 of the Brighton & Hove Local Plan.
15. No development shall take place until full details of the proposed reconstructed West Pier tollbooth kiosk and proposed reconstructed West Pier seating and weather screens, including 1:20 sample elevations and 1:1 joinery profiles have been submitted to and approved by the Local Planning Authority. The details of the proposed reconstructed West Pier tollbooth kiosk shall demonstrate how it will encompass at least one dropped counter to make provision for people who use wheelchairs as explained in paragraph 4.3 of the Access Statement submitted on 17 July 2006 whilst also preserving the architectural and historic importance of the appearance of this reconstructed building.

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The scheme shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

Reason: As insufficient information has been submitted, to ensure a satisfactory preservation to the development, to ensure the preservation and enhancement of the Regency Square conservation area, to preserve the setting of nearby listed buildings, to make adequate provision for people with disabilities and to comply with policies QD1, QD2, HE1, HE3, HE5 and HE6 of the Brighton & Hove Local Plan.

16. Before any works commence that would restrict the storage of boats on the beach to the east of the site of the West Pier, alternative provision for boat storage must be completed and made available for use to the satisfaction of the local planning authority. The alternative facilities shall remain available thereafter unless otherwise agreed in writing by the local planning authority. **Reason:** To avoid unnecessary disturbance to people storing boats on the beach and to comply with policy SR18 of the Brighton & Hove Local Plan.
17. The development shall not commence until a scheme of surfacing and landscaping has been submitted to and approved in writing by the local planning authority. This shall include full details of works to the Upper Esplanade and footway adjoining Kings Road. The agreed scheme shall be carried out in full prior to the occupation of the development.
Reason: In the interests of visual amenity, to ensure a satisfactory appearance to the development, to ensure the preservation and enhancement of the Regency Square conservation area and to preserve the setting of listed buildings and reconstructed West Pier features on the site and to comply with policy QD1, QD15, HE3, HE5 and HE6 of the Brighton & Hove Local Plan.
18. Details of the heat pumps to provide air heating and cooling in the pod and heritage centre and referred to in the 'Sustainability Checklist' submitted on 17 July 2006 and the 'Response to Consultee Comments' report submitted 8 September 2006 shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. The details shall demonstrate how the heat pumps contribute to the efficiency of the development in its use of energy. The heat pumps shall then be implemented within the scheme prior to the occupation of the development and thereafter made available for use at all times.
Reason: To ensure that the development will be efficient in its use of energy and to comply with policy SU2 of the Brighton & Hove Local Plan.
19. Details of the scheme for greywater and rainwater recycling measures referred to in the 'Sustainability Checklist' submitted on the 17 July 2006 shall be submitted to and approved in writing by

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the local planning authority prior to the commencement of the development. The agreed measures shall then be implemented in full prior to the occupation of the development and thereafter made available for use at all times.

Reason: To ensure that the development will be efficient in its use of water and to comply with policy SU2 of the Brighton & Hove Local Plan.

20. No development shall take place until a scheme for the storage of refuse and materials for recycling has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in full as approved prior to occupation and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and to comply with policies SU2, SU9 and QD27 of the Brighton & Hove Local Plan.

21. No development shall take place until full details of the glass balustrade surrounding the perimeter of the upper deck of the heritage centre, full details of the glass screening and canopy facing Kings Road and full details of the glass lift, including 1:20 sample elevations and 1:1 joinery profiles have been submitted to and approved by the local planning authority. The scheme shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

Reason: As insufficient information has been submitted, to ensure a satisfactory preservation to the development, to ensure the preservation and enhancement of the Regency Square conservation area, to preserve the setting of nearby listed buildings and to comply with policy QD1, HE3 and HE6 of the Brighton & Hove Local Plan.

22. The development hereby permitted shall not commence until details of the proposed queuing system have been submitted to and approved in writing by the local planning authority. These facilities shall then be fully implemented and made available for use prior to the occupation of the development hereby approved and shall thereafter be retained.

Reason: To ensure that adequate provision is made for queuing, to avoid crowding on the upper esplanade outside the development site and to comply with policies TR1, TR5, TR7, TR8, TR13, TR14, TR15, SU15 and QD27 of the Brighton & Hove Local Plan and policy S3 of the East Sussex and Brighton & Hove Structure Plan.

23. The reconstructed West Pier tollbooth kiosk and the existing West Pier tollbooth kiosk shall match in materials, colour, style, bonding, texture, dimensions, design and appearance, unless otherwise agreed in writing by the local planning authority.

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Reason: To ensure that the architectural and historic importance of these buildings is not compromised, to ensure a satisfactory appearance to the development, to ensure the preservation and enhancement of the Regency Square conservation area and to comply with policies HE1, HE3, HE5 and HE6 of the Brighton & Hove Local Plan.

24. Notwithstanding the details shown on the plans hereby approved, the balustrade on the external staircases immediately adjoining the eastern and western sides of the heritage centre, shall match in materials, colour, style and appearance the existing grade II listed balustrade on the staircases between the upper and lower promenade to the west of the site opposite Oriental Place.

Reason: To compensate for the loss of listed seafront railings as a result of the development, to ensure a satisfactory appearance to each balustrade, to preserve the setting of the existing grade II listed railings and to preserve and enhance the character and appearance of the Regency Square conservation area and to comply with policies HE1, HE3 and HE6 of the Brighton & Hove Local Plan.

25. In the event that evidence is found of any bats roosting on the site or within the vicinity of the site during the construction period, construction shall cease until the mitigation measures specified in section 12 of the Environmental Statement have been implemented in full and retained thereafter to the satisfaction of the local planning authority unless otherwise agreed in writing by the local planning authority.

Reason: To protect bats roosting in the vicinity of the site who might be disturbed by the development and to comply with policy QD17 of the Brighton & Hove Local Plan.

26. No cables, wires, aerials, pipe work (except rainwater down pipes as shown on approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.

Reason: To safeguard the appearance of the building and the visual amenities of the locality and the Regency Square conservation area and to comply with policies QD1, QD27 and HE6 of the Brighton & Hove Local Plan.

27. Notwithstanding the provisions of Schedule 2, Parts 24 and 25 of the Town and Country Planning (General Permitted Development) Order 1995 (or amendments or re-enactment thereof) no plant, machinery or other equipment shall be installed on or attached to any part of the development hereby approved without the prior written consent of the Local Planning Authority to whom a planning application must be made.

Reason: As such works could have a significant visual impact on the development, could adversely affect the character, appearance and setting of the Regency Square conservation

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area and to comply with policies QD1, QD23, QD24 and HE6 of the Brighton & Hove Local Plan.

28. A scheme for the fitting of odour control equipment to the development shall be submitted to and approved in writing by the Local Planning Authority. The use of the heritage centre shall not commence until all odour control equipment works relating to the heritage centre have been carried out in accordance with the approved scheme to the satisfaction of the Local Planning Authority. The odour control equipment shall be maintained thereafter to the satisfaction of the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU9 and QD27 of the Brighton & Hove Local Plan.
29. A scheme for the sound insulation of odour control equipment referred to in the condition set out above shall be submitted to and approved in writing by the Local Planning Authority. The use of any unit shall not commence until all sound insulation works relating to that unit have been carried out in accordance with the approved scheme to the satisfaction of the Local Planning Authority. The sound insulation works shall be maintained thereafter to the satisfaction of the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of nearby properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
30. A scheme for the suitable treatment of all plant and machinery against the transmission of sound and/or vibration shall be submitted to and approved in writing by the Local Planning Authority. The use of the development shall not commence until all specified works relating to the development have been carried out to the satisfaction of the Local Planning Authority. The odour control equipment shall be maintained thereafter to the satisfaction of the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of nearby properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
31. Noise associated with all plant and machinery incorporated within the development shall be controlled such that the Rating Level, measured or calculated at 1 metre from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997.
Reason: To avoid noise nuisance caused by the development and to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.

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32. Amplified music or other entertainment noise generated within the structures shall not be audible at any adjacent residential properties.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
33. Any public address system installed shall be inaudible at any time assessed from Digital Audio Tape recordings obtained at a height of 4 metres above the back of the pavement 1 metre from the windows of the nearest residential property on the south east corner and the south west corner of Regency Square. Within 7 days of the system being commissioned the applicant shall obtain a series of recordings over a period representing the equipment in use. The schedule of recordings shall be agreed with the local planning authority.
Reason: To avoid noise nuisance caused by the proposed public address system and to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.
34. Prior to the first occupation of the development hereby approved, full details of the hours of opening shall be submitted to and approved in writing by the Local Planning Authority. Hours of opening shall not subsequently be altered without the prior written consent of the Local Planning Authority.
Reason: In the interests of amenity and to comply with policies QD27 and SR18 of the Brighton & Hove Local Plan.
35. Vehicular movements for the purposes of loading or unloading associated with the development hereby approved shall only take place at locations and between hours which shall be submitted to and agreed in writing by the local planning authority prior to the occupation of the development. The agreed locations and hours shall not be varied unless first agreed in writing by the local planning authority.
Reason: To safeguard the amenities of seafront users and of the occupiers of nearby properties and to comply with policies TR1, TR7 and QD27 of the Brighton & Hove Local Plan.
36. The wind turbines shown on the plans hereby approved and referred to in section 3.6 of the Environmental Statement and the 'Sustainability Checklist' submitted 17 July 2006, shall be implemented in full prior to the occupation of the development and thereafter made available for use at all times.
Reason: To ensure that the development will be efficient in its use of energy and to comply with policy SU2 of the Brighton & Hove Local Plan.
37. The development shall not be open to the public until the steps leading from the Kings Road upper esplanade footway down to the Regency Square car park subway at the lower esplanade level have been filled in, all street furniture associated with these

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steps removed, the footway surface made good and the surface of the in-filled section presented to the Regency Square subway finished to an appropriate finish which should have been previously approved in writing by the Local Planning Authority.

Reason: To ensure adequate footway on the Kings Road upper esplanade is available for use following the occupation of the development and to comply with policies TR1, TR5, TR7, TR8, TR13 and SU15 of the Brighton & Hove Local Plan and policy S3 of the East Sussex and Brighton & Hove Structure Plan.

38. The development shall not be open to the public until a scheme for the repositioning of the cycle path on the Kings Road upper esplanade within the site boundary, has been submitted to and approved in writing by the local planning authority. The agreed scheme shall then be implemented in full prior to the occupation of the development.

Reason: To avoid an increase in conflict between pedestrians and cyclists on the upper promenade as a result of the development and to comply with policies TR1, TR5, TR7, TR8, TR13, TR14, TR15 and SU15 of the Brighton & Hove Local Plan and policy S3 of the East Sussex and Brighton & Hove Structure Plan.

39. The development hereby approved shall not be open to the public until the recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with policies SU2 and QD27 of the Brighton & Hove Local Plan.

40. The development hereby permitted shall not be occupied until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car and to comply with policy TR14 of the Brighton & Hove Local Plan and policy TR18 of the East Sussex and Brighton & Hove Structure Plan.

41. The development hereby permitted shall not be occupied until the male and female staff changing and showering facilities shown on drawing number 019 have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.

Reason: To ensure satisfactory facilities for staff who cycle to the development and to encourage travel by means other than the private car and to comply with policy TR14 of the Brighton & Hove Local Plan.

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42. The two listed lamp standards indicated on drawing number 028 shall be repositioned as indicated prior to the occupation of the development hereby approved. Any damage which occurs to either lamp standard during the removal, relocation or re-erection of each lamp standard shall be repaired in full prior to the occupation of the development hereby approved.
Reason: To ensure that these two listed structures are not lost and that any damage to them during relocation is repaired, to preserve and enhance the character and appearance of the Regency Square conservation area and to comply with policies HE1, HE2, HE3, HE4 and HE6 of the Brighton & Hove Local Plan.
43. The development shall not be open to the public until the two tollbooth kiosks and covered seating areas shown on drawing 018 submitted on 8 September 2006 have been provided and made available for use. The two tollbooth kiosks and covered seating areas shall thereafter be retained and made available for use at all times.
Reason: To ensure the provision of these parts of the development, in the interests of the efficient and safe operation of the development and in the interests of the character and appearance of the Regency Square conservation area and in the interests of the setting of nearby listed buildings and to comply with policies QD27, TR1, TR5, TR7, TR8, TR13, HE1, HE3, HE5 and HE6 of the Brighton & Hove Local Plan.
44. The development hereby approved shall not be open to the public until it has achieved 'Secured by Design' accreditation.
Reason: To contribute to the prevention of crime and to comply with policy QD2 and QD7 of the Brighton & Hove Local Plan.
45. No shutters or other physical protective security measures shall be installed on any elevation of the heritage centre without the prior written consent of the Local Planning Authority to whom a planning application must be made. **Reason:** To ensure that a comprehensive view of the provision of shutters is taken in the interests of visual amenity, providing an acceptable frontage to pedestrians and in the interests of the character and appearance of Regency Square conservation area and to comply with policies QD1, QD4, QD5, QD8, QD10, HE3, HE5 and HE6 of the Brighton & Hove Local Plan.
46. Notwithstanding the details in the documents submitted, no LED signs, plasma screens, LCD screens or televisions shall be displayed on any external elevation of the development hereby approved.
Reason: To ensure a satisfactory appearance to the development, to avoid a proliferation of clutter that would compromise the appearance of the development and to comply with policies QD1, HE3 and HE6 of the Brighton & Hove Local Plan.

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47. The development hereby approved shall be used only as an observation tower and heritage centre associated with the history of the West Pier and for purposes which are ancillary to these uses and shall not be used for any other purpose.
Reason: Because the environmental effects described in the Environmental Statement for the development hereby approved relate only to the use of the development as an observation spire and heritage centre with ancillary retail uses and the significant environmental effects of the use of the development for any other purpose have not been tested via an Environmental Impact Assessment reported in an Environmental Statement.
48. During the hours of business of the development hereby approved, toilet facilities within the development shall be made available for use by members of the public not paying to ride on the observation spire or visit the heritage centre.
Reason: To compensate for the loss of the existing public toilet facilities which would be displaced as a result of the development hereby approved and to comply with policy HO20 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on the BH2 planning application form, covering letter, Planning Statement, Design Statement, Tall Building Statement, Sustainability Checklist, Access Statement, Operational Statement, Travel Plan, Statement of Community Involvement, View Verifications Statement, Outline Site Waste Management Plan and Environmental Statement (Volumes 1, 2, 3 and Non-Technical Summary) received on 17 July 2006 and on drawing numbers 001, 002, 003, 004, 005, 012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 025, 026, 027, 028, 031 received on 8 September 2006 and on the Ecology Report, Stabilisation Works Report, View Verification Addendum, Supplementary Transport Statement, Response to Consultee Comments Report, Supplementary Townscape and Visual Assessment, Supplementary Flood Risk Assessment and covering letter received on 8 September 2006.
2. This decision to grant planning permission has been taken:
 - (i) having regard to the policies and proposals (as set out below) from the draft South East Plan, Regional Planning Guidance for the South East, the East Sussex and Brighton & Hove Structure Plan, the Brighton & Hove Local Plan, Supplementary Planning Documents and Supplementary Planning Guidance and to all other relevant material planning considerations including Planning Policy Statements, Planning Policy Guidance Notes and other national planning policy documents.

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Draft South East Plan:

CC1	Sustainable Development
CC2	Climate Change
CC3	Resource Use
CC4	Sustainable Construction
CC5	Infrastructure and Implementation
CC8a	Urban Focus and Urban Renaissance
CC12	Character of the Environment and Quality of Life
T1	Manage and Invest
T5	Mobility Management
T7	Parking
T8	Travel Plans and Advice
NRM1	Sustainable Water Resources, Groundwater and River
Water	Quality Management
NRM3	Sustainable Flood Risk Management
NRM4	Conservation and Improvement of Biodiversity
NRM6	Coastal Management
NRM7	Air Quality
NRM8	Noise
EN1	Development Design for Energy Efficiency and Renewable Energy
EN5	Location of Renewable Energy Development
W2	Sustainable Design, Construction and Demolition
M1	Sustainable construction
C2	Areas of Outstanding Natural Beauty
BE1	Management for an Urban Renaissance
BE7	Management of the Historic Environment
TC1	Development of Town Centres
TC2	Strategic Network of Town Centres
TC3	New Development and Redevelopment in Town Centres
TSR1	Coastal Resorts
TSR4	Tourism Attractions
TSR6	Visitor Management
TSR7	Priority Areas for Tourism

Regional Planning Guidance of the South East (RPG9) (as altered and amended July 2004 and June 2006):

Q1	Urban Areas as the Prime Focus for New Development
Q2	Improvements to the Urban Environment
Q3	Making Better Use of Land
Q5	Urban Renaissance, Social Inclusion and Sustainable Development
Q7	Quality and Character of the Rural Environment
E1	Protection of Areas of Nature Conservation Value, Landscape Quality and Cultural Importance
E2	Biodiversity
E7	Pollution Control and Air Quality Improvement

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RE4	Sustainable Development and Business
RE7	Supporting Economic Regeneration and Renewal in
Priority	Areas for Economic Regeneration (PAERs)
RE11	Tourism, Arts and Culture
T1	Manage and Invest
T2	Key Management Issues
T4	Regional Hubs
T5	Regional Spokes
T9	Public Transport
T10	Mobility Management
T12	Parking
T13	Travel Plans and Advice
INF1	Flooding
INF2	Water Resources
INF3	Waste
INF4	Development Design for Energy Efficiency and
	Renewable Energy
INF6	Regional Renewable Energy Targets
INF7	Sub-Regional Renewable Energy Targets
INF8	Location of Renewable Energy Development
INF9	Development Criteria for Renewable Energy
TSR1	Coastal Resorts
TSR4	Tourism Attractions
TSR6	Visitor Management
TSR7	Priority Areas for Tourism
<u>East Sussex and Brighton & Hove Structure Plan 1991-2011:</u>	
S1	Twenty one criteria for the 21 st century
S3	Infrastructure
S4	Strategic pattern of development
S6	Development and change within towns
S13	Brighton & Hove area
E1	Economy and employment
TR1	Priorities of the integrated transport and environment
	strategy
TR2	Travel awareness
TR3	Accessibility
TR4	Walking
TR5	Cycling
TR6	South coast cycle route
TR7	Public passenger transport
TR8	Integration between public passenger transport and
	other forms of transport
TR9	Access onto public passenger transport for people
	with disabilities and young children
TR11	Encouraging the use of buses
TR16	Parking standards for development
TR17	Commuted payments

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TR18	Cycle parking
TR19	Public off-street and on-street parking
TR31	Targets for road traffic
TR33	Brighton & Hove
SH3	Shopping proposals not within or on the edge of existing main shopping centres
EN1	Sustaining, conserving and enhancing the natural and built environment
EN2	Areas of Outstanding Natural Beauty
EN3	Areas of Outstanding Natural Beauty
EN6	The coast
EN11	Water quality and conservation
EN13	Air quality
EN14	Light pollution
EN14	Noise pollution
EN15	Targets for noise pollution and air quality
EN18	Increasing the extent and diversity of natural resources
EN22	Identification, recording, safeguarding, investigation and preservation of archaeological sites, monuments and historic and listed buildings
EN23	Sites and features of demonstrable historical or archaeological importance
EN25	Maintenance and enhancement of archaeological and historic features
EN26	Built environment
EN27	Conservation of energy
EN28	Renewable energy generation
EN31	Environmental education
LT1	Leisure and tourism activities and facilities
LT2	Leisure, tourist and conference facilities
LT3	New tourist attractions
LT4	Protection and enhancement of the environment for tourists
LT5	Grouping of tourist facilities
LT6	Conservation, environmental enhancement and traffic management strategies
LT7	Access to visitor destinations
LT8	Vehicular access and parking at tourist facilities
LT18	Visual, creative and performing arts
LT19	Arts support
W2	Waste management
W10	Reducing construction industry waste
W11	Reducing construction industry waste disposed to landfill
W13	Increasing the proportion of waste that is recycled

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East Sussex and Brighton & Hove Waste Local Plan:

WLP11 Minimisation, re-use and recycling of demolition and construction waste

WLP12 Facilities for the re-use recycling and composting of waste

Brighton & Hove Local Plan:

TR1 Development and the demand for travel

TR2 Public transport accessibility and parking

TR3 Development in areas of low public transport accessibility

TR4 Travel Plans

TR5 Sustainable transport corridors and bus priority routes

TR7 Safe Development

TR8 Pedestrian routes

TR12 Helping the independent movement of children

TR13 Pedestrian network

TR14 Cycle access and parking

TR15 Cycle network

TR18 Parking for people with a mobility related disability

TR19 Parking standards

TR20 Coach parking

TR21 Long term coach and overnight lorry park

SU1 Environmental impact assessment

SU2 Efficiency of development in the use of energy, water and materials

SU3 Water resources and their quality

SU4 Surface water run-off and flood risk

SU6 Coastal defences

SU7 Development within the coastal zone

SU8 Unstable land

SU9 Pollution and nuisance control

SU10 Noise nuisance

SU11 Polluted land and buildings

SU13 Minimisation and re-use of construction industry waste

SU14 Waste management

SU15 Infrastructure

SU16 Production of renewable energy

QD1 Design - quality of development and design statements

QD2 Design - key principles for neighbourhoods

QD3 Design - full and effective use of sites

QD4 Design - strategic impact

QD5 Design - street frontages

QD6 Public art

QD7 Crime prevention through environmental design

QD8 Shopshutters

QD10 Shopfronts

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QD15	Landscape design
QD16	Trees and hedgerows
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD19	Greenways
QD20	Urban open space
QD25	External lighting
QD26	Floodlighting
QD27	Protection of amenity
QD28	Planning Obligations
HO20	Retention of community facilities
EM4	New business and industrial uses on unidentified sites
SR2	New retail development beyond the edge of existing established shopping centres
SR8	Individual shops
SR18	Seafront recreation
SR20	Protection of public and private outdoor recreation space
NC8	Setting of the Sussex Downs Area of Outstanding Natural Beauty
HE1	Listed Buildings
HE2	Demolition of a listed building
HE3	Development affecting the setting of a listed building
HE4	Reinstatement of original features on listed buildings
HE5	West Pier
HE6	Development within or affecting the setting of conservation areas
HE8	Demolition in conservation areas
HE9	Advertisements and signs within conservation areas and on, or in the vicinity of a listed building
<u>Supplementary Planning Documents:</u>	
SPD02:	Shop Front Design
SPD03:	Construction and Demolition Waste
<u>Supplementary Planning Guidance:</u>	
SPGBH4:	Parking Standards
SPGBH11:	Listed Building interiors
SPGBH13:	Listed Building - general advice
SPGBH15:	Tall Buildings
SPGBH16:	Energy Efficiency & Renewable Energy
SPGBH21:	Brighton & Hove Sustainability Checklist
Regency Square Conservation Area Character Statement	
<u>Planning Policy Statements:</u>	
PPS1:	Delivering Sustainable Development
PPS6:	Planning for Town Centres
PPS9:	Biodiversity and Geological Conservation
PPS22:	Renewable energy

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PPS23: Planning and Pollution Control

PPS25: Development and flood risk (draft)

Planning Policy Guidance:

PPG 4: Industrial, commercial development and small firms

PPG 8: Telecommunications

PPG 13: Transport

PPG 14: Development on unstable land

PPG 15: Planning and the historic environment

PPG 16: Archaeology and planning

PPG 24: Planning and noise

PPG 25: Development and flood risk

Central Government Circulars:

5/2005 Planning Obligations

1/2003 Safeguarding Aerodromes, Technical Sites and Military Explosive Storage Areas

11/1995 Use of Conditions in Planning Permission

Other documents:

Good Practice Guide on Tourism; and

(ii) for the following reasons:

The West Pier is in a dilapidated and damaged state. Restoration is not possible and a viable alternative use for a reconstructed pier is unlikely to be found. The sea wreck detracts from the character and appearance of the Regency Square Conservation Area and the pier has lost much of its special architectural and historic interest.

Regional planning policies identify Brighton as a focus for large scale leisure development and tourism uses which attract a large number of people. The development would contribute to economic regeneration and would not compete with existing tourist attractions.

The proposal would be an imaginative and appropriate use of an under-used brownfield site and would make a positive contribution to the Regency Square Conservation Area. Its design is of a high quality and it would have an acceptable impact upon the city's townscape.

The site is in a sustainable location and sustainable travel would be encouraged and supported through S106 measures. Sustainable features are incorporated in the building. An element of public art would be secured and issues of aviation and public safety have been satisfactorily addressed. Flood risks, crime prevention, lighting, waste minimisation and ecological impacts of the development have all been considered, as has

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the need for the provision of alternative public toilets. Full access is provided for disabled persons.

3. The applicant is advised that the responsibility and subsequent liability for safe development and secure occupancy of the site rests with the developer and/or landowner. The granting of planning permission does not give warranty of support or stability of any part of the site.
4. The applicant is advised that details of the development must be sent to the Ministry of Defence in order for the development to be chartered for aviation purposes and to accord with ODPM Circular 1/2003. Details must be sent to: Robert Graham, Defence Geographic & Imagery Agency, D-UKDVOF & Power Lines, Air Information Centre, Defence Geographic Centre, DGIA, Elmwood Avenue, Feltham, Middlesex, TW13 7AH, telephone: 0208 818 2708, email ais@msms.com The details must be sent prior to the commencement of the development and must include: the precise location of the development, the date of the commencement of construction, the date of the completion of the construction, the height above ground level of the tallest structure, the maximum extension height of any construction equipment and details of how the site will be lit.
5. The applicant is advised to refer to the DTI document on Wind Energy and Aviation Interests – Interim Guidance <http://www.bwea.com/pdf/Wind-Energy-and-aviation-interim-guidelines.pdf>
6. The applicant is advised that several high voltage cables exist within the site area and that EDF Energy Networks should be contacted if these are likely to be affected by the proposed development: EDF Energy Networks, Connections, Projects South, Bircholt Road, Parkwood, Maidstone, Kent, ME15 9XH, telephone 0845 234 0040.
7. The applicant is advised that a formal application for connection to the public sewerage system is required in order to service the development. To initiate a sewer capacity check to identify the appropriate connection point for the development please contact Southern Water's Network Development Team (Wastewater) based in Otterbourne, Hampshire or www.southernwater.co.uk
8. The applicant is advised that a formal application for connection to the water supply is required in order to service this development. Please contact Southern Water's Network

Development Team (Water) based in Chatham, Kent or
www.southernwater.co.uk

- (iii) the expiry of the publicity period on 6 October 2006**
(Providing no new material planning considerations are raised which are not already addressed in this report or in the Late List).
- (iv) the application not being 'called-in' by the Secretary of State under Section 77 of the Town and Country Planning Act 1990 (as amended), prior to the issue of planning permission.**

3 THE SITE

The site consists of the West Pier 'root end', the derelict pier structure stretching out over the beach into the sea, the former paddling pool area to the east of the root end and part of the footway of Kings Road to the north.

The West Pier originally opened on 6 October 1866 but was amended and added to until it was completed in 1916. It was built on the axis of Regency Square, to the north, to the design of the famous pier engineer, Eugenius Birch. Although originally designed as a promenade pier, with small kiosks and no entertainment pavilions, the early part of its life saw a number of significant physical changes. The pier was widened and a central windscreen added. Competition from the Palace Pier (now Brighton Pier) led to a large seaward end platform with landing stages being added in the 1890s to accommodate a large pavilion decorated with oriental towers. The Pavilion was converted into a theatre in 1903. The Concert Hall was completed in 1916.

Following the First World War, the Pier's fortunes gradually waned. During the Second World War, a section of the pier south of the Concert Hall was removed to avoid the threat of it being used to disembark German troops in the event of an invasion. Following the war the level of maintenance of the Pier was reduced. The pier gradually fell into disrepair, with gradual closure of some areas, until eventually it closed completely on 30 September 1975. The pier was purchased by the West Pier Trust from the Crown Commissioners in 1978. In 1982 it became a grade I listed building. It was the only grade 1 listed pier structure in the country because it was considered by English Heritage to be an exceptionally rare surviving example of Victorian and Edwardian pier architecture. The pier was badly damaged and split in two by the hurricane of October 1987. Part of the root end of the pier was demolished in 1991 on safety grounds, to prevent access to the structure. In December 2002 there was a partial collapse and this was followed by a major collapse in 2003 following two serious fires in March and May 2003. A further storm on 23 June 2004 resulted in the more or less total loss of the central section of the pier, now referred to as 'the

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sea wreck'. After this Heritage Lottery Fund withdrew its grant offer for the restoration of the pier.

The former paddling pool area has been cleared of the paddling pool structure and is currently vacant and covered by tarmac. The western, southern and eastern sides of the root end are bounded by high palisade fencing which provides a storage area underneath where parts of the West Pier have been stored and where a WWII gun emplacement is understood to be located. Excluded from the site is the 'sea island' part of the West Pier. This is the part of the pier structure furthest out to sea which is still standing.

Underneath the root end of the pier is a cycle hire facility but it is unclear whether this still operates. To the east of the root end is a café set into the arches underneath the upper esplanade. To the west of the root end are temporary public toilets in front of the Kings Road arches where it appears that permanent toilet facilities may once have operated. On the root end itself is the 'Rock Shop' within the one remaining original West Pier tollbooth building, a porta-cabin which houses the West Pier Trust's offices, a disused booth and a Seafood Bar kiosk.

Also within the site boundary is a large section of the upper esplanade footway including the arches underneath which support it. Railings run along the southern side of the upper esplanade all of which are grade II listed, as are all of the lamp posts. There is a grade II listed lamp post located immediately to the east and west of the root end. The upper esplanade footway area includes steps within the pavement down to the subway underneath the footway. This pedestrian subway joins the lower esplanade to the Regency Square car park. Running along the upper esplanade is route 2 of the National Cycle Network which runs west to east along the whole of Brighton & Hove seafront. Kings Road, which forms part of the A259 main coast road which runs along Brighton & Hove seafront, is allocated in the Brighton & Hove Local Plan as a Greenway and a Sustainable Transport Corridor. A bus lay-by is located adjacent to this cycle lane. There are at-grade pedestrian crossings over the Kings Road a few hundred meters either side of the root end of the pier.

Regency Square is sited immediately to the north of the site on the northern side of Kings Road. It contains a set-piece of grade II* listed buildings around a central garden enclosure. Beneath the garden enclosure is the Regency Square NCP car park which has approximately 510 car parking spaces of which 5 are allocated for use by disabled people. To the north east of Regency Square is Sussex Heights, a block of flats which is currently the tallest building in the city.

The whole of the site area is within the Regency Square conservation area.

4 RELEVANT HISTORY

Given the historic nature of much of the pier's structure and its long period of closure to the public, there is limited relevant planning history. However, the following applications, largely connected with restoration plans, have been determined in recent years:

91/0336/LB: Demolition of section of West Pier. Approved 14/5/1991.

92/0460/FP: Provision of temporary screening below root end of pier and temporary rides for adults/children. Approved 1/7/1992.

92/0461/LB: Provision of temporary screening below root end of pier and temporary rides for adults/children. Approved 1/7/1992.

92/0859/FP: Erection of 17 temporary kiosks, tent, 5 flag poles and two signboards on foreshore decks and provision of temporary stalls on lower esplanade on beach area. Approved 10/12/1992.

92/0860/LB: Erection of 17 temporary kiosks, tent, 5 flag poles and two signboards on foreshore decks and provision of temporary stalls on lower esplanade on beach area. Approved 10/12/1992.

93/0999/AD: Erection of four timber advertisement board. Approved 4/10/1994.

93/01134/LB: Erection of four timber advertisement board. Approved 4/10/1994.

96/0781/FP: Retention of Go-Kart track including barriers and kiosk (Retrospective). Approved 21/11/1996.

96/0782/LB: Retention of Go-Kart track including barriers and kiosk (Retrospective). Approved 21/11/1996.

96/1023/FP: Emergency phase one works to provide temporary structural works to West Pier below deck level and temporary access link from root to pier. Approved 3/1/1997.

96/1024/LB: Emergency phase one works to provide temporary structural works to West Pier below deck level and temporary access link from root to pier. Approved 3/1/1997.

BH1998/02324/LB: (The Rock Shop) Installation of three panel antenna to external elevations at high level and equipment cabinets internally. Refused 11/2/1999.

BH1999/00120/FP: (Kiosk at root end) Removal of container on west side of pier decking and replacement with kiosk. Approved 26/2/1999.

BH1999/00121/LB: (Kiosk at root end) Removal of container on west side of pier decking and replacement with kiosk. Approved 26/2/1999.

BH1999/00360/FP: phase 1 restoration works to deck and substructure below. Approved 4/1/2000.

BH1999/00373/LB: phase 1 restoration works to deck and substructure below. Approved 4/1/2000.

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BH2000/02026/FP: Use of beach as a street market on Saturdays and Sunday between 1 April and 30 September in any year. Approved 3/4/2001.

BH2001/01905/FP: Variation of Condition 1 of planning permission BH2000/02026/FP to allow operation to continue until 31st December 2001 and to allow markets on Bank Holidays except for Christmas Day. Approved 5/11/2001.

BH2001/02531/FP: Renewal of planning permission BH2000/02026/FP for two years (2001 to 2003 inclusive) and to allow markets on Saturdays, Sundays and Bank Holidays (except Christmas Day) between 31st March and 31st December and on weekdays (Monday to Friday inclusive) between 1st July and 31st August.

BH2002/00793/FP: Temporary permission for four years for the retention of existing office portacabin and for a new linked extension portacabin to form restoration enabling development exhibition, site works accommodation and West Pier Trust office accommodation (Retrospective). Approved 14/8/2002.

BH2002/00881/FP: Restoration and refurbishment of building on the West Pier and provision of two new buildings for retail (A1), food and drink (A3) and leisure (D2) uses, adjacent to the landside end of pier, together with provision for access and servicing. Withdrawn 27/4/2005.

BH2002/00886/LB: Creation of opening in existing listed railings for pedestrian access. Restoration and refurbishment of building on the West Pier and provision of two new buildings for retail (A1), food and drink (A3) and leisure (D2) uses, adjacent to landside end of pier, together with provision for access and servicing. Withdrawn 27/4/2005.

BH2002/00887/CA: Demolition of walls around paddling pool and petanque area. Withdrawn 27/4/2005.

BH2003/00615: Renovation and internal alterations to the Concert Hall, including creation of an additional floor. Widening pier deck between Concert Hall and Pavilion by two metres and creation of covered walkway between Concert Hall and Pavilion. Withdrawn.

BH2003/03040/LB: Removal of the remains of the derelict landing stages from pier head. Approved 26/1/2004.

BH2004/01552/FP: Renewal of planning permission BH2000/0231/FP for a street market at West Pier, to allow operation to continue until 31st December 2005. Approved 7/7/2004.

BH2004/03363/FP: Renewal of planning permission BH1999/00360/FP for phase 1 restoration works to deck and substructure below. Withdrawn 19/4/2006.

BH2004/03674: Phase 1 restoration works to deck and substructure below. Withdrawn 20/1/2005.

BH2005/0527: Confirmed use of area around pier on lower esplanade for street market. Amendments to previous conditions relating to days and hours of trading and number of stalls. Approved 2/12/2005.

BH2006/02531: Two non-illuminated boards. Under consideration.

BH2006/02372: for Listed Building consent for these currently proposed works is also included on this agenda.

5 THE APPLICATION

Planning permission is sought for the partial demolition of the West Pier and for the erection of a heritage centre and observation tower known as the “i360”. The sections of the West Pier the applicant proposes to dismantle and remove are ‘the root end’ which is the part closest to Kings Road and ‘the sea wreck’ which is all those parts which have fallen into the sea and all of those parts which protrude from the beach. The ‘sea island’ which is the end part of the pier out to sea which is still standing would not be demolished as part of this application.

The heritage centre would be built on the site of the root end of the pier and would consist of a simple, single storey glass building approximately 75 metres wide and 30 metres deep. New external staircases would be built either side of the heritage centre to provide access between the upper and lower promenade, compensating for the two staircases which currently form part of the root end which would be lost as part of the proposals. A glass lift would be built on the eastern side of the heritage centre providing access between the upper and lower promenade for people with disabilities. Two grade II listed lamp posts, which are currently located immediately to the east and west of the root end of the pier, would be relocated slightly further from the site to accommodate the heritage centre. Two small sections of the grade II listed seafront railings would be removed to accommodate the new external staircases and the glass lift. Visitor cycle stands providing parking for 42 cycles would be located on the upper esplanade to the west of the upper deck.

The roof of the heritage centre would provide a deck area level with the upper promenade of Kings Road. This decked area would be surrounded by a glass balustrade. Rising from the centre of the heritage centre would be the observation tower. This would consist of a spire with a diameter of approximately 4 metres which rises 172 metres up above the upper deck of the heritage centre. The spire would carry a glass and steel torus shaped observation pod approximately 18 metres in diameter with the capacity to carry approximately 100 people. The pod would carry passengers up to a height of approximately 139 metres above Kings Road at a speed of approximately 30 centimetres per second. It is expected that each ‘ride’ would last approximately 20-25 minutes.

Passengers for the observation pod would enter the pod from the upper deck of the heritage centre. The upper deck of the heritage centre would be furnished with two restored tollbooth kiosks to the

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original design of Eugenius Birch, one on the eastern side of the upper deck of the heritage centre, the other on the western side of the upper deck of the heritage centre. These kiosks would be used for passengers to buy tickets and collect pre-bought tickets. The eastern kiosk would also house toilets for use by passengers waiting to board the pod. A queuing system with the capacity to hold 300 people would be in operation adjacent to the Kings Road upper esplanade for passengers waiting to collect and buy tickets. After obtaining tickets, passengers would pass through a glass screen separating the upper deck of the heritage centre from the queuing area. At this point passengers would undergo security checks. The upper deck would contain replica weather screens and covered seating modelled on seating from the original West Pier. This seating would provide for approximately 170 people waiting to board the pod.

Passengers would leave the pod on the lower level beneath the upper deck, within the heritage centre. The heritage centre would contain an exhibition space to inform visitors of the history, engineering and architectural importance of the West Pier. It is understood that the heritage centre would contain artefacts from the West Pier. The heritage centre would also contain a souvenir shop, café with seating for approximately 116 people and toilets as well as staff offices and control rooms. Space for the parking of 8 staff cycles would be provided within the building. The basement of the building, below the level of the lower promenade, would contain plant and machinery required to raise and lower the pod. It is intended that columns from the existing West Pier structure would be restored and re-used where possible within the heritage centre.

The spire itself would be formed of steel tubes bolted and welded together. These tubes would be clad with two metre high steel panels, each covering a quarter of the circumference of the spire. Four vertical slots would be left around each side of the spire between the steel panels and these would contain recessed low level lighting above the height of Sussex Heights. The part of the spire above the summit of the pod would be furnished with LED lights. Above these lights would be two vertical wind turbines topped by a medium intensity steady red light. The wind turbines would be 10 metres high and 3 metres in diameter. The lighting proposed has been developed in consultation with the Civil Aviation Authority such that all of the spire above the height of Sussex Heights, which is the next tallest building adjacent to the site, could be illuminated.

A report produced by the Economic Research Associates anticipates that the proposed development would attract up to 589,667 visitors in its opening year and that 20% of these visitors would be visitors who would not visit the city had it not been for this development.

6 CONSULTATIONS

External:

Neighbours: A total of 179 representations had been received at the time this report was finalised, comprising of the following:

- 73 representations from residents objecting to the scheme;
- 1 representation from an organised group objecting to the scheme;
- 90 representations from residents supporting the scheme;
- 5 representations from organised groups and businesses supporting the scheme; and
- 10 representation from residents commenting on the scheme.

The addresses of those who had made representations on the scheme by the time this report was finalised are contained within an appendix to this report and the listed building consent which accompanies it. Some of the representations received on behalf of organised groups and businesses are outlined in more detail in this report under the individual headings of the organised groups or businesses. Any representations received after this report was finalised will be reported in the Late List which forms part of the agenda for this meeting.

In summary, representations received objecting to the application are on the grounds that the proposed development would:

- result in the almost total loss of the grade I listed West Pier which is an important and beautiful structure which represents a huge part of Brighton's history and appeal, which attracts tourists and photographers and which should be left to sink into the seabed;
- not secure the removal of the pier until after the attraction opens;
- be out of keeping with the character and appearance of the seafront, the Regency Square conservation area and would compromise the setting of listed buildings nearby;
- have an adverse impact on the amenity of residents because of an increase in noise, disturbance, light pollution, traffic and pollution, a loss of light, views and privacy which will increase visual intrusion and anxiety resulting in psychological impacts;
- result in an increase in traffic from cars and coaches which would have an adverse impact on the congested coast road and the existing car parks which already fill to capacity and would lead to an increase in pedestrians walking on the cycle lane;
- be unsuccessful as it will not attract the number of tourists predicted and the taxpayer will have to pick up the bill if the project fails;
- provide views over an uninteresting landscape which consists of 50% sea and which can already be viewed from a large number of other high locations;

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- be a terrorist target, a health and safety risk and a danger to life as it is an untried and untested technology sited in an area which is subject to very high winds and storms;
- be an unsustainable development as it would consume large amounts of energy in raising the pod up and down;
- include an insufficient number of toilets;
- pose a threat to wildlife including peregrine falcon because of the wind turbines;
- be a bland, ugly, vulgar, monstrous eyesore which bears no relation to the buildings around it, which is too tall and which would use materials and colours which are not appropriate to the location;
- compromise views along the coastline and would have an adverse impact on the AONB and the proposed South Downs National Park and has been subject to no 'viewshed' analysis;
- have an adverse impact on businesses and property values and would destroy what Brighton has to offer tourists and residents;
- have a limited educational value and would duplicate the purpose of other buildings in the city which already offer views from high locations;
- result in the loss of the Rock Shop, café, bicycle workshop and street market, and
- need continuous cleaning and repairs to maintain its appearance because of its location in a coastal area and would be subject to vandalism because of its use of glass and location next to a shingle beach.

In summary, representations received in support of the application, are on the grounds that the proposed development would:

- improve the city's position as a tourist destination, raising its profile and attracting tourists from around the world by providing them with a compelling reason to visit the city;
- improve the economy of the city through the provision of job opportunities, indirect investment, a multiplier effect and the provision of a year-round attraction benefiting local businesses and residents;
- be an exciting and attractive 21st century iconic addition to the city which would enhance its skyline and which would not be out of character with the seafront and which would act as a fitting replacement for its Victorian predecessor;
- be a beautiful, modern and slender addition to the city which would have the elegance of the Eiffel Tower in Paris whilst also resulting in the restoration of Victorian parts of the West Pier including the tollbooths and seating;
- result in the tidying-up of the beach via the funding of the removal of the sea wreckage which currently compromises the regeneration of the city whilst also leaving options open for the future of the West Pier;

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- be as successful as the Spinnaker Tower and the London Eye because of the proven track record of the architects for this scheme who also created the London Eye;
- entertain residents and visitors by providing them with a new perspective of the city whilst also informing and educating visitors about the West Pier through the heritage centre;
- provide visitors and residents with an understanding of the beauty of both the surrounding area and the unique architectural heritage of the city;
- not obstruct views in the way that a tall building usually would because of its slender and elegant design; and
- have only a small environmental impact because of its slender design and its location which is accessible by public transport.

In summary, comments received state that the proposed development:

- would be too unconventionally slim;
- includes a Travel Plan which relates only to staff and not visitors;
- will be subject to fog, sea mists and low cloud during all seasons of the year and visitors who have booked in advance will be disappointed by the lack of visibility;
- will be difficult to sustain financially; and
- should include a bond provided by the developer for removal of the development if it is unsuccessful.

Adur District Council: The proposed observation tower is a bold design which will form a distinctive landmark on this part of the south coast and will have leisure/tourism and economic benefits for Brighton & Hove and to some degree Adur as an adjacent authority. Concerns relate to the impact of the development on the wider highway network. The large number of developments proposed over the coming years will cumulatively impact on the major highway network.

Archaeologist: It is not considered that any archaeological remains are likely to be affected by the proposals. It is noted that the WWII gun emplacement will be displaced. Although this is only of recent historic value this feature should be fully recorded prior to removal and the record deposited with the Brighton & Hove museum archives or the city library reference section.

Architects' Panel: The Panel welcomed this excellent scheme. Their only comments were in relation to the kiosks; the handrails; the sea island; the queuing area and whether the whole scheme could be repositioned further south.

Brighton & Hove Bus Company: The need and appropriateness for a shuttle bus service from Brighton Station to the site is unclear. Bus stops

in Western Road by Waitrose and Clarence Square would be convenient for visitors and there are many bus routes available.

Brighton & Hove Economic Partnership: Support the application as the spire will make an interesting addition to the city's offer as a destination and fits well with other attractions. Are concerned about transport, the lack of cycle parking and increases in congestion. The advertising material for the attraction should include information on parking facilities around the city. The proposals highlight the need for a major new park and ride facility on the outskirts of the city. Coaches should pick-up and drop-off and should not be allowed to park near on the A259.

Brighton & Hove Hotels Association: Support the proposed development as Brighton & Hove is lacking in visitor attractions. Brighton & Hove needs to compete with the tourism offer of other UK cities and other European cities which are now easily accessible because of cheap flights. The proposed development will help the city ensure its place as an international tourism destination for decades to come.

Brighton Sailing Club: Oppose the proposed development. The removal of the 'sea wreck' is welcomed but the scope of the proposals is not believed to go far enough to ensure public safety and improvement of the visual amenity of the area. We agree the "sea island" should probably remain, the debris on the sea bed surrounding should also be removed. We are concerned that the impact of the removal of the 'sea wreckage' on the beach profile immediately east of the West Pier has not been considered and no proposal drawn up for mitigating sea defences or landscaping. We do not believe there is ample car parking in the area. Vehicular access to the sailing club is already very restricted and we believe this development will have a very negative effect on access and transport in the immediate area. We do not believe that adequate provision has been made for temporary or permanent storage and security of our rescue boat and dinghies. There will be a very large increase in the number of pedestrians on the adjacent section of the lower promenade, yet the available open space will be temporarily and permanently reduced with no provision for landscape mitigation. We understand the Council will receive an income from the revenue generated by the development and believe that this money should be used to regenerate the immediate landscape surrounding the development including improved lighting along the lower promenade, greater provision of CCTV, improvements to the Regency Square subway, suitable use of lockers in the arches between the development and the sailing club and improved security of the the rescue boat and dinghies of the sailing club.

Brighton Society: The proposed development would significantly alter the appearance of the historic seafront and the views submitted are inadequate as no view of the development from the promenade between West Street and the Peace Statue has been provided. The development will lead to car parking and access problems and will increase congestion. The Section 106 should secure the renovation of the birdcage bandstand and the seafront railings. The development will remove any possibility of the West Pier being restored.

British Airports Authority: No objection. The proposed development is outside the safeguarded area for Gatwick Airport.

CABE: The proposal appears to be a splendid idea, one that we would like to see built. We have every confidence that these architects can realise a successful viewing tower of this form in this location. We imagine there may be concerns over the tower's height and impact. In our view, the slimness of the form, the public nature of its purpose and Brighton's history as a host to unusual attractions, make its height and visibility entirely acceptable.

Civil Aviation Authority: The proposed development would have to be lit for aviation purposes. Lighting becomes legally mandated for all structures of a height of 150 metres or more. At a height of 183 metres the i360 will require lighting in accordance with, or at least in the spirit of, Article 133 of the UK Air Navigation Order. The lighting proposal does not comply with the specific demands of Article 133 but we have already been involved with the architects in relation to the lighting. The CAA will need to issue a 'permission' for the development not to comply with the legislative requirement. Any planning permission should include a requirement for the lighting proposal to be subject to CAA agreement which will take the requirements of Article 133 into account. There is a requirement for all structures over 300 feet high to be chartered for aviation purposes.

Conservation Advisory Group (Original Comments): The group expressed reservations with regard to the transport impact this attraction would have and the relationship of the spire and pod with Regency Square, also more information on the materials for the spire is required; a brushed rather than a polished finish would be preferred. However they were otherwise very supportive of the scheme and were pleased with the low impact the development would have at ground level.

Conservation Advisory Group (Further Comments): The group considered the analysis of the views from Brunswick Square and Bedford Square reassuring. They were concerned that in removing the lamp columns for relocation these should not be subsequently lost.

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Regarding the response from the architects on the materials for the column, the group were concerned that this fundamental aspect of the development should be left to be dealt with at a later date. Their view was that this information should be made available well in advance of the planning committee meeting.

Countryside Agency: Do not object to the proposed spire due to its slender nature and location in the centre of Brighton seafront which would limit the impact of views from within the AONB. But comments from the South Downs Joint Committee are endorsed. Concerned that the proposed lighting at the top of the tower could be visually intrusive, particularly if it involved rapid, flashing changes in colour or if it is to be left on throughout the night. Do not object providing the South Downs Joint Committee is satisfied with the nature and hours of operation of the proposed light display.

Defence Geographic Centre: (Verbal) Do not object to the proposed scheme but ask to be notified of decision in order for their database of aviation obstructions to be updated.

East Sussex County Council: No comment.

EDF Energy Networks: We have several high voltage cables within the area. The applicant should contact us if these would be likely to be affected.

English Heritage: Strongly support the granting of planning permission and welcome a project which would provide an outstanding feature on the seafront and a worthy companion to any successor to the West Pier, whether rebuilt or replaced. It would achieve an outcome not unlike the original promenade pier by allowing viewing of the whole of Brighton seafront not from seaward but from above. The impact would be wide but the slenderness of the structure would allow it to be read more as a mast than a building and its careful siting on the axis of Regency Square would allow it to complement the monumentality of the square.

The West Pier was the most significant pier in England for a number of reasons. Technologically challenging as well as being popular, it was monumentally conceived while also decorative. Believe that i360 would be a fitting addition to Brighton's seafront, the right location for a building type which is entirely congruent with the city's spirit. The axial relationship of the shaft of the tower to the layout of Regency Square is important, as the proposal in its response to the monumentality of Regency Square takes the opportunity to enhance the conservation area and the wider seafront.

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Would suggest that hard and soft landscaping, advertising, lighting, paint colours, including self-coloured materials and lighting, ancillary structures (bus shelters, for instance), highway works and details of the retained sections of original fabric outside the Lower Promenade building are controlled by condition. Although English Heritage looks with considerable regret on the recent history of the West Pier, consider that the current proposal would prove a fine addition to the seafront.

English Nature: We are pleased to see that our concerns over potential impact on the peregrines have been incorporated into the Environmental Statement. The vertical axis design of the blades is likely to make the turbine more visible to peregrines and efforts to dissuade pigeons and starlings from roosting here may reduce the visits that peregrines make to the area. It should be noted however that efforts to prevent birds from roosting in an area are not always successful and that a peregrine stooping on a bird in this area may have difficulty avoiding even a relatively visible turbine. English Nature does not object to the proposal on this basis but we would point out that we consider that a turbine in this area could present a risk to peregrine that are known to hunt in this area. This is because peregrines hunt by stooping at very high speeds down onto their bird prey and are entirely focussed on the chosen prey during such a stoop. We agree that every effort has been made to mitigate this but a small risk to the birds is likely to remain.

Environment Agency: No objection subject to the imposition of appropriate conditions relating to groundwater protection, flooding, drainage and chemical and fuel storage. This site lies on Beach & Tidal Flat Deposits over Upper Chalk, the latter classified as a Major Aquifer under our "Policy and Practice for the Protection of Groundwater". This groundwater resource must be protected from pollution. The hard structure of the 'sea wreck' is a rarity in the area in the vicinity of this application proposal, which will support a contrasting community of marine fauna and flora to the surrounding dominant sand and shingle habitats, and potentially provide a shelter for adult and juvenile fish. This may have a local ecological importance. Though it is stated that this is a wildlife niche equivalent to a reef, no details of any survey or mitigation or enhancement measures are proposed to ameliorate the negative ecological effects which will occur with the removal of this structure to seabed level.

Section 12.4.1 of the Environmental Statement states that the proposal is to comply with Local Plan Policies QD17 and QD18 and that detailed surveys and appropriate mitigation measures will be implemented to ensure the proposal does not have any adverse affect on ecology and nature conservation. This is not the case for the 'sea wreck' structure, for which it is simply stated that no rare or protected species have been recorded. Without surveys, which will inform appropriate development

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and mitigation and enhancement measures, this could result in the loss of a locally important site for marine fauna and flora, and a missed opportunity to for enhancement.

Ecological enhancements should be an intrinsic part of the plans in a development of this scale. This is in keeping with PPS1 'Delivering sustainable development' and the South East Regional Plan. In addition, the South East Plan NRM4 seeks to avoid a net loss of biodiversity and to actively pursue opportunities to achieve a net gain across the region. This is also supported by the Brighton & Hove adopted Local Plan, policy QD17.

To ensure that the development complies with approved details in the interests of protection of Controlled Waters, if during development, any visibly contaminated or odorous material not previously identified is found to be present at the site, this must be investigated. The Planning Authority must be informed immediately of the nature and degree of contamination present. It will be necessary for the developer to submit a Method Statement which must detail how this unsuspected contamination shall be dealt with.

Where it is proposed to store more than 200 litres (45 gallon drum = 205litres) of any type of oil on site it must be stored in accordance with the Control of Pollution (oil storage) (England) Regulations 2001. Drums and barrels can be kept in drip trays if the drip tray is capable of retaining 25% of the total capacity of all oil stored.

Care should be taken during site works to ensure that all fuels, lubrication oils and any other potentially contaminating materials should be stored (for example in bunded areas secured from public access) so as to prevent accidental/unauthorised discharge to ground.

Georgian Group: A structure of the form and scale of the i360 would not be appropriate in this location. The site of the proposed i360 lies at the heart of the Regency Square conservation area. There is an incredibly dense concentration of historic buildings surrounding the site. We are of the opinion that to introduce such a structure as the i360 into Regency Square would severely disrupt the established architectural hierarchy, that is, with the north side of the square being the most architecturally dominant, and with the vistas formerly extending dramatically out along the West Pier. The Committee expressed their continuing regret at the unfortunate circumstances that have resulted in the near total loss of the West Pier. Given that the documentation states that the i360 would be funded entirely by private finance, the Committee questioned where the funds endowed in the West Pier Trust would now be invested. The Committee also questioned as to how the i360 would provide any significant conservation gains in Brighton, a particularly

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important consideration given that the project is supported by the West Pier Trust. If such a project on this site were approved, then it should be clearly linked to conservation gains within the historic environment of Brighton. To restore the two entrance kiosks and to remove the debris of the West Pier from the beach would not be sufficient on balance to outweigh the detrimental impact that the i360 would have on the appearance and character of the historic townscape of Brighton. It is clear that there will be a positive heritage gain from the construction of the i360 to mitigate for the impact of the structure on the appearance and character of the historic environment of Brighton. Therefore, while the Group would regret the erection of a structure of this scale in this location, we welcome the potential gain to the enhancement of the historic environment of Brighton.

Health & Safety Executive: The proposed development does not meet agreed consultation criteria. As such the executive does not wish to comment.

Highways Agency: Do not wish to comment.

Lewes District Council: No objection.

Mid Sussex District Council: No comment.

Ministry of Defence: No objection. The site is outside the Ministry of Defence safeguarding areas. The height of the development will necessitate that aeronautical charts and mapping records are amended. It is recommended that an informative is place on the decision notice to this effect.

National Air Traffic Services: No objection. The proposed development has been examined from a technical safeguarding aspect and does not conflict with safeguarding criteria.

Regency Society: "We wish to warmly welcome the proposal. We do have concern about the lighting on the tower. If this becomes a regular night time spectacle it could be very irritating for a large number of local residents. We would wish any lighting display to be restricted to a limited number of events. We should also welcome consultation on the details of the materials".

Regency Square Area Society: Concerned about noise from the wind turbine, mechanical noise form the pod and the public address system. Would like the number of coaches visitng the site to be limited via a planning condition. The traffic data used in the application is four years old and there is no capacity in existing car parks. Traffic trying to access Regency Square car park causes gridlock and this will be made worse.

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The proposed development is an improvement on earlier schemes as it will not block sea views from the square. The proposed glass screens must be kept clean. Birds will be at risk from the turbines, particularly peregrine falcons. The views of the RSPB should be sought.

RSPB: No response.

Save Hove: Object. Traffic is at saturation point and will be made worse by the recently approved plans for Brighton Marina. The proposed development will not add to the quality of life on the seafront road or within Brighton & Hove. The proposed development will look vulgar and will compromise the setting of the Grand Hotel. The tower will be festooned with red lights. The proposed development will increase noise disturbance and may reduce the economic viability of the surrounding high end business including the conference trade. People visiting for drunken hen and stag nights will be drawn to the proposed development. The lighting will add to the nocturnal presence of seagulls and other bird life and the pod will act as a bird perch.

Shoreham Airport: The spire will be required to meet with the required Civil Aviation Authority and air navigation order requirement for marking and lighting. It is outside our safety critical area and as such we have no specific requirements to place upon this application.

South Downs Society: No objection in principle as the spire is slender and this would limit the impact on views from the AONB. However, the society feels that if permission is granted then conditions should be imposed regarding the lighting to ensure that no bright, intermittent flashing lights of which it would be possible to see for many miles and which would be visually intrusive to the surrounding AONB, are used. Also, any light display to be limited to certain hours of operation and not to be left running throughout the night.

South Downs Joint Committee: No objection to the proposed spire due to its slender nature and location in the centre of the seafront which would limit the impact of views from the AONB. However, the committee is concerned that the proposed lighting at the top of the tower could be visually intrusive, particularly if it involved rapid, flashing changes in colour, or if it is to be left on throughout the night. Objects to the application pending the availability of further information regarding the nature and hours of operation of the proposed light display. If the city council is minded to approve the application the committee would wish to see the permission subject to conditions regarding the design and use of the light display, including hours of operation.

South East England Development Agency: No response.

South East England Regional Assembly: The proposed development would not materially conflict with or prejudice the implementation of the Regional Spatial Strategy (RPG9 and alterations) or the draft South East Plan. The city council should use appropriately worded conditions or legal agreements to secure an appropriate package of transport infrastructure and other measures to promote alternatives to the car and a travel plan in accordance with the objectives of policies T1, T10 and T13 (RPG9 as altered) and policies CC5, T1, T5 and T8 of the draft South East Plan.

Southern Water: Sewers exist within the vicinity of the site. Their exact position must be determined by the applicant. The sewers are 6 metres and 1.5 metres in diameter and are 8 meters deep. No development or new planting should be located within 6 meters either side of the outside of the public sewer and all existing infrastructure should be protected during the course of construction works. A condition is recommended regarding sewer protection works. Initial investigations indicate that Southern Water can provide foul sewerage disposal to service the proposed development. Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer. A public water main crosses the site. The exact position of the public water main must be determined by the applicant. All existing infrastructure should be protected during the course of construction works. No excavation, mounding or tree planting should be carried out within 3 metres of the public water main without consent from Southern Water. Following initial investigations, Southern Water can provide a water supply to the site. Southern Water requires a formal application for connection and on-site mains to be made by the applicant or developer.

Sussex Enterprise: The proposed development will attract thousands of visitors to Brighton each year boosting the local tourism industry and contributing to a thriving local economy. The tower will contribute to the image of Brighton as a top destination which will increase revenue for local businesses. The wind turbines are a positive step in achieving a sustainable strategy. The lack of additional car parking is concerning.

Sussex Ornithological Society: No response.

Sussex Police Community Safety Branch: The location is a high risk crime area with particular problems relating to alcohol fuelled violent crime, criminal damage and graffiti. It is strongly recommended that all glazing is laminated. All surfaces should be protected against graffiti. There is every possibility that such a structure would become a target for terrorists. The applicant will need to discuss appropriate measures with the Anti-Terrorist Officer including stand-off distances, deliveries and coach parking. There is a need for a centrally monitored alarm

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system. CCTV is recommended. The glass screening should be 2.4 metres high to provide adequate protection. This height needs to be provided to the street elevation and for a short distance behind each of the kiosks. The proposed development will enhance the location considerably, providing a safe and secure environment. The applicant has made a commitment to seek approval under the police initiative “Secured by Design” which shows absolute commitment to policy QD7 of the Brighton & Hove Local Plan.

Sustrans: The cycle hire facility currently on site will be lost. The removal of access to the subway from the upper promenade offers the chance to remove the existing constriction to pedestrian and cycle traffic. The supporting documentation pays no attention to the use of cycles to access the site, despite its prime location by the national cycle network. Their own figures (in the Transport Statement) show cycle traffic past the site at present around 5-10% of all traffic (the counts are not directly comparable), but the estimated modal split for cycling is 1%, giving about 1032 cycle trips to the site a year, or less than 3 a day. These estimates need to be revisited, and cycling should be promoted.

Theatres Trust: As the West Pier pavilion is now a shell and severed from the mainland this application falls outside our remit and we therefore have no comment to make.

Toursim South East: Support the proposed development as it will fit with the region's tourism strategies and will support wider destination marketing objectives because it is an iconic building which will help people to identify Brighton as a destination. It will help to sustain the city's visitor numbers and will be a high quality attraction which will attract high value visitors. It will lure people to the area as an attractive place to view land and water based activity as well as eat, shop and walk. It will be an attractive addition to the city's conference offer and will be a quality venue for holding events. The predicted target number of visitors is achievable.

Transco: No response.

West Sussex County Council: No response.

Worthing Borough Council: No objection.

Internal:

Access Consultant: The Access Statement submitted shows a very clear understanding of the issues and sets out the correct approach to inclusive design. A lift is included to move people between levels and accessible toilets are proposed.

Cityclean: Access will be required for a heavy goods vehicles to empty the communal bins. Any bins nearby the site can be moved.

Coast Protection Engineer: The work undertaken by the applicant appears to be sound. There appears to be no effect at all on coastal processes, but the risk of flooding is severe. Given the importance of the basement to the operation of the observation pod there are concerns about whether it can be built to keep out the sea whilst still allowing access to at the lower promenade level. It would need to be effective at keeping the sea out. Clear assurances are required on how it is proposed to build and operate the lower levels.

Conservation and Design: The documents to make up a very thorough and carefully prepared submission. In general terms, the applicant's desire to provide both residents and visitors a new experience of Brighton, and one that safeguards some of the heritage of the West Pier and promotes further regeneration of the seafront is highly commendable. It is the particular type of tower that most justifies city wide visibility. The mobile viewing pod will bring a unique attraction to the city, and an appropriate replacement for the West pier. It is an exciting development entirely appropriate to the character of the city and one that will enhance the city and more particularly the seafront as a tourist destination. A sound case has been made for the location of the 'ride' in this location. Moreover it will provide an entirely appropriate replacement for the West Pier and serve a not dissimilar function. It will accommodate and re-use parts of the pier, including cast iron columns, decorative Victorian seating and toll booths.

The Pier, in its existing condition and temporary use, detracts from the appearance of the seafront and Regency Square. Residents' and visitors' enjoyment of the beach and views along the seafront suffer in consequence. The restoration of the Pier is no longer considered a practical proposition. The proposed development will provide an eye-catching structure, the height and siting of which has been carefully selected to sit well within the context of Regency Square.

The skeletal iron structure of the pier head and theatre (the 'sea island') is to remain. Understands the West Pier Trust remain committed to its retention and possible future restoration. Uncertainty over its future including the possibility of a new link to the shore therefore remains. Nevertheless welcomes the applicant's agreement to make compensatory financial contributions to environmental improvements within the wider area and suggest these might cover the maintenance and further improvement of the seafront, the effect of which will be to enhance the setting of and approaches to this new visitor attraction.

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The case for the pier's demolition has been justified, as required by policy and government guidance (PPG15). Satisfied that an alternative use is unlikely to be found for the pier, that there are community benefits from its redevelopment and that the pier's physical condition has deteriorated to a point where the cost of reconstructing the pier outweighs its importance and the value that might be derived from the retention of the existing root end. Accepts that there is no prospect of retaining the root end and locating the 'ride' further offshore.

There remains very little of the pier structure amongst the wreckage that is likely to be of interest, but nevertheless this needs to be monitored as works progress, and recorded for archaeological purposes. The root end including the 2nd World War gun emplacement also requires the recording of details of the structure(s) by measured drawings, text and photographs as agreed by the applicant.

The spire is quite properly sited on the central axis of Regency Square. It provides an appropriate sea front use, has appropriate slender proportions and will maintain the symmetry of the square and improve the square's visual connection to the sea over that previously enjoyed prior to the progressive collapse of the Pier. Therefore the setting of Regency Square will be preserved and that the spire's townscape contribution will on balance be a positive one.

The submission reveals that the spire will project above the rooflines of Bedford Square and Brunswick Square. This would be unfortunate if the rooflines are otherwise uninterrupted.

This planning application neither proposes the restoration of the pier, nor does the new development significantly encroach on the land beside the existing pier. This policy therefore has little relevance in determining this application, particularly since there would seem to be little prospect that any pier restoration could preserve its architectural or historic interest or that a commercially viable and sympathetic enabling development could be achieved, in the absence of public subsidy.

The spire responds positively to the symmetry of Regency Square and likewise the heritage centre and terrace matches the width of the Square to good effect. The use is entirely appropriate to the character of the seafront, which will be enhanced further by the removal of the pier wreckage and the unsightly structures on the Pier. Close up the spire will not be seen in its entirety. In such close proximity the 4 metre steel column may appear heavy and utilitarian against the richness of the Victorian pavilions, lighting, shelters etc along the sea front, and this will have some local slight adverse impact. However on balance overall the contribution is a positive one. It will bring forward a quality scheme and end the uncertainty surrounding the future of the derelict pier. The

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introduction of a heritage centre and the i360 are uses entirely appropriate to the lively 'seaside' character of this part of the Regency Square Conservation area.

As the distance increases the impact of the spire would reduce. Nevertheless it would be seen as a distinctive landmark, clearly changing the skyline, but seen to its full height and slender proportions it could be appreciated as a marker for the centre of the city's historic sea front. It will be seen in the context of Brighton Pier and the cluster of tower blocks in and adjoining the Regency Square conservation area and provide an appropriate vertical accent to the coast line.

It will however in some views across the central area, rise above the historic roof tops. This is a less satisfactory effect, but one reduced when seen in the context of Sussex Heights, but either way the spire will appear distant and unobtrusive, and not cause significant harm to the roofscape of adjoining conservation areas. Care will however need to be taken to ensure the proposed lighting is equally unobtrusive in such views.

The visual images from the urban fringe show the spire to have very limited prominence, particularly as it will be seen against the sea and sky and in proximity to Sussex Heights and other towers. The spire will also appear very tall and slender, in comparison, and in my view will provide an acceptable addition to the skyline and central coastal strip, without causing harm to strategic or downland views. The quality of the views from the observation pod will far outweigh any visual impact of the spire on the wider cityscape.

The spire is a bold, striking structure also serving an appropriate landmark function. The simple design of the spire, observation pod and heritage centre provides a simple, and appropriate contrast to its Victorian surroundings. The height of the spire is justified by its slender overall proportions. Mixing of new with old construction is an accepted design approach; the simple glazed pavilion will provide the desired light into the heritage centre, which in turn will maintain a visual connection with the past for passers by. Clarification is however sought on how the glazing will be protected during autumn/winter storms. The proposed lighting of the spire is carefully considered, and will provide a characterful and artistic addition to the existing lighting of the seafront. However care should be taken to ensure this does not draw unexpected attention to the tower in key views above rooftops.

Moreover details of the proposed decking, glazing, wind breaks, lift, canopies, steps, railings, balustrading, signage and lighting will be required and all need careful consideration, as will means of

heating/ventilation to the lower spaces. These matters can however be settled by condition.

The guidance describes the cultural, retail and commercial core of the city as a 'natural' location for additional high quality tall buildings. Whilst the West Pier cannot reasonably be judged to be within this central tall building node; the location meets many of the selection criteria. Moreover the spire will not have the bulk of residential towers. Satisfied that this spire will enhance the character of the seafront and the setting of Regency Square. A 360 degree view analysis has been provided and shows that the negative impacts on the conservation areas have been minimised. The SPG particularly advises that aligning tall buildings to terminate visual axes or frame scenes can create a strong reference point. But also cautions that tall buildings should not visually impinge on the setting of listed buildings, particularly the backdrop of groups of listed buildings.

The applicant has made a sound case for the demolition and redevelopment proposals, and has justified these against the above policies. The case is persuasive and on balance satisfies the above policies. In reaching this view has given considerable weight to the fact that the Pier has lost much of its special architectural or historic interest, that it causes harm to the appearance of the historic seafront, and that benefits will accrue from the removal of the pier wreckage to both the beach and sea front generally.

Ecologist: The mitigation measures proposed are adequate with regards to bats, peregrine falcons and other bird species. A small risk to peregrine falcons remains but not sufficient to justify refusal of this application on nature conservation grounds. Part of the submarine structure of the West Pier (the 'sea wreck') will be removed as part of this application. This would have a damaging effect on the acknowledged special interest of the marina fauna and flora in the area and clarification should be sought on whether this is the case. Appropriate compensation for any such loss is required, for example by Policy QD17 of the Local Plan and PPS9. In this case, appropriate compensation might be considered to be some form of interpretation (display boards, models) of the marine environment in the vicinity of the proposal. This could be combined with any artistic component to enhance the proposal and improve its nature conservation credentials.

Economic Development: Fully supports the application as it will provide the city with a further tourist attraction, which because of its nature is not in direct competition with any other attraction. It will enhance the tourist offer that the city currently enjoys attracting additional visitors to the city. The applicant has provided significant levels of information in relation to visitor numbers, revenue generation (anticipated) and employment levels in support of the application. With regard to

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projected visitor numbers, the applicant has based their findings around similar attractions that they have been directly involved with including the London Eye and these appear to be realistic. The figures are based around existing visitors coming to Brighton & Hove and using this additional attraction together with new visitors coming to experience the attraction as their main purpose of visit and then remaining in the city to enjoy the other tourist facilities on offer. With regard to revenue generation again the applicant has based their findings around similar attractions and these again appear to be realistic. Based on their experiences elsewhere it is stated that the attraction will result in over £10 million of additional tourism revenue, half of which will be spent at the attraction itself. With regards to employment levels associated with the development, the applicant states that there will be a total of 107 full-time equivalent jobs created as a result of the development. These are divided between 37 jobs directly linked to the application (including construction) and a further 72 jobs created in the service sector as a result of the development. For the purpose of this application the latter has to be discounted as this will be hard to demonstrate; initially, however, the application will directly create 37 full-time equivalent jobs (including the construction phase), which are welcomed. The applicant states that they will encourage contractors to adopt local opportunities and training initiatives, offer training in construction and work with local regeneration agencies to assist the local workforce to take advantage of vacancies, all of which are welcomed and supported. The applicant should be encouraged to enter into a S106 agreement linking the construction phase with the Constructing Futures programme currently being implemented within the city as it will provide a unique opportunity for those on the programme.

Environmental Health (Air Quality): The routing of construction traffic is a very important issue with respect to air quality as HGV's produce considerably more emissions than other road vehicles and can therefore have a negative impact on the Air Quality Management Area and other known air quality hot spots. It is concerning that this development will increase local traffic levels by 1.54%. Therefore the greatest emphasis is placed on sustainable transport options rather than reliance on the private vehicle, in line with council policy. The dust mitigation measures as stated in the Environmental Statement are considered acceptable and should be included in the Construction Environmental Management Plan.

Environmental Health (Land Contamination): The application site does not appear on any departmental records suggesting potentially contaminated land through historic uses. It appears that the applicant has carried out the early stages of a desktop survey to examine previous uses and any issues that may influence or affect land

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contamination. Notes that the report does identify reasonable risks associated with contaminated land and creating accidental pathways of any unforeseen contaminants into ground-waters. The report goes on to state that such risks would be mitigated with an appropriate Environmental Plan on site.

Environmental Health (Pollution Control): It is considered that the proposal adequately addresses the potential nuisance problems. All areas of concern are covered in the Environmental Statement. However, measures are recommended to secure mitigation relating to noise nuisance from the proposed public address system, plant and machinery and the method of piling. A Construction Environmental Management Plan is recommended.

Percentage for Art: Artist-designed lighting for the entire structure is supported. The applicant has commissioned similar work in other developments including the Tate and the London Eye and has worked with artists and lighting designers. A lighting commission would have a technical function but would also a very artistic and enhancing function. When the structure is not in use at night it still must have a relationship to the landscape. The applicant has suggested how the lighting might function which could include for example a subtle relationship to the environment, for example some subtle changeable element of the lighting that responds to the weather or tides. It is difficult to quantify this component but the costs will exceed the 1% required by planning policy.

Planning Policy (Original Comments): The principle of the proposed use at this location is considered to conform with regional planning guidance for new tourism attractions as set out in RPG9 and taken forward in the emerging South East Plan. It is considered that the proposed use would complement the city's tourism offer, the innovative concept of a 'vertical pier' and the West Pier heritage centre would provide an all-year round facility which would support increased tourist visitors and expenditure in the city. It is also considered that the principle of the proposed use accords with policies LT2 and LT3 of the Structure Plan and Policy SR18 of the Brighton & Hove Local Plan. It is welcomed that a sustainability checklist has been provided by the applicant and that as part of the design of the observation spire a wind turbine is incorporated which will produce 20% of the energy needs of the i360 pod. However it is considered that further detail is required in order to assess whether the proposal fully meets Policy SU2. This detail includes whether the proposal will create new habitats, the contribution the wind turbine provides to the overall energy needs of the development, the role of the heat pumps and how this will impact on the energy needs, heating/ ventilation of the development (in particular the glass structure of the heritage centre), how measures for

greywater and rainwater recycling indicated in the checklist will be incorporated, the actual rating that will be achieved for the development. Also, further clarification should be sought regarding, the durability of materials in a coastal location with respect to SU7, the stability of the arches underneath the pavement on the northern part of the site, the recycling facilities that will be provided on site.

Planning Policy (Further Comments): In response to the additional/further information provided by the applicant, queries regarding recycling facilities and sustainability appraisal have been adequately addressed.

Quality of Life and Green Spaces: Landscaping work will need to be addressed around the proposed site. The Ticket Revenue Contribution should be held against and used towards future maintenance of the seafront. Notes it is suggested that this is set against the repair of the seafront railings. How this sum is allocated against the various maintenance priorities will be determined against a range of all the competing priorities. The applicant needs to meet with the Sailing Club to discuss and agree how any proposed temporary relocation of boats might be achieved.

Seafront Office: No response.

Head of Tourism: The visitor numbers and modelling of visitor patterns seems to be an accurate estimation. This can be supported this by comparing to overall visitor numbers at other paid-for attractions such as the Royal Pavilion (302,000 in 2005), as well as overall visitor numbers to the City (8 million in 2005), Brighton Pier (4.5 million in 2005) and other regional paid-for attractions including Portsmouth Historic Dockyard (512,000 in 2005), Hop Farm Country Park (503,000 in 2005), Tully's Farm (500,000 in 2005), Wakehurst Place (429,000 in 2005). With 1.177 million visitor to the Eden Project in 2005, it would be surprising if the i360 was unable to achieve its estimated 550,000 visitors in a year. The distribution of visitors also seems to be have been modelled appropriately for the city. The operational plans do not appear to have modelled the demands of groups such as corporate events, ceremonies or other types of business which one might expect an attraction of this type to accommodate. The plan is focussed on the leisure markets. The i360 would have the potential to support wider destination marketing objectives. The 2006 Constructions Skills survey would evidence the power of iconic buildings and landmarks to help persons identify a destination. In the survey over half of Portsmouth's own locals were unable to recognise Portsmouth Docks when shown an image without the Spinnaker Tower compared to 89% when the image had the Tower included. Another paid-for attraction would also support the local visitor economy in other ways. It would provide employment (direct and

indirect), it would provide reasons for people to visit and more importantly for those who have already visited, to return. It would help sustain the City's visitor numbers and as a 'quality' attraction would help the city, and its businesses, to expand the number of high-value visitors. It would also provide an attractive addition to the city's conference offer, presenting another quality venue for entertaining and for holding events. The proposal supports the vision and objectives of the 2004 Tourism Strategy.

Transport Planning: The applicants have submitted a Transport Assessment (TA) and, following discussions with officers, a Supplementary Transport Statement which substantially improves the consideration of transport issues. The basic approach used does not rely on sophisticated modelling or statistics but uses comparators elsewhere, particularly the London Eye, to estimate visitor numbers, times and modes of transport. This is appropriate and the method is fundamentally sound, although it should be noted that visitor numbers are 'imported' into the document and require separate validation. There are also a small number of technical problems which do not, however, alter the overall conclusions.

The applicants do not propose to provide parking but they have demonstrated by the use of July 2006 surveys of local car parks that there will be spare capacity, mainly in Regency Square, for car borne visitors at peak times. No problem of displaced car parking could arise locally in any case because the area is in the Controlled Parking Zone. The applicants have also demonstrated using the standard LINSIG program that there will be adequate capacity at the Kings Road/West Street junction for the increased traffic generated at peaks.

Experience elsewhere as documented in the Transport Assessment indicates that about 66% of visitors will be car borne. The applicants have carried out substantial investigation of possible means of maximising the use of sustainable modes of transport as required by Local Plan policy TR1. They have discussed the possible provision of a shuttle bus connecting i360 to Brighton & Hove Stations with the bus company who consider that, particularly bearing in mind the dense network of existing services in this area, there is no business case for such provision. The applicants have proposed the use of the existing bus stop on the south side of Kings Road near the West Pier as a coach set down/pick up bay but this is unacceptable due to potential problems arising from the high existing volume of pedestrians and cyclists on the adjacent footway, the proposed RTS system, the requirement for fire access and the proximity to the Kings Road/Preston Street junction. The alternative of using the lay-by outside the Brighton Centre has been agreed. The applicants have discussed their proposals with representatives of the taxi trade and the trade would support the

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creation of a taxi rank on the south side of Kings Road but this would not be acceptable for the reasons applying to the coach facility. Taxi ranks are available in Preston Street and at the south end of Regency Square and it may be helpful to extend the hours of operation of the latter.

If Traffic Regulation Order(s) are required for alterations to taxi rank(s) or other regulations arising from this application, these should be funded by the applicants. Examples could include amendments to regulations on the south side of Kings Road or outside the Brighton Centre. Similarly if a Stopping Up Order is required for part of the Lower Esplanade the process should be carried out/funded by the applicants.

The applicants have discussed their proposals with the tuc-tuc operators and the possibility of discounted fares for those visiting i360 will be pursued if consent is granted. It is proposed to provide 42 cycle parking spaces for visitors and 8 for staff. SPGBH4 does not have cycle parking standards for this use but the amount proposed does comply with the BRE recommendations in 'Designing for cyclists- A guide to good practice'. The visitors spaces are to be provided on the upper esplanade west of the application site. This is not ideal but in practice the proposed site will not cause significant obstruction. However, a Highway Authority licence will be required to provide these and the licensing process should be funded by the applicants. Details of the cycle parking provision should be controlled by condition.

The applicants have submitted a supplementary statement on sustainable modes for staff and this will form a good basis for a Staff Travel Plan which should be required by condition. There is a similar statement for visitors and this focuses on the provision of transport information to visitors and operation of the pricing structure to spread the times of visits.

As no dedicated car parking at all is proposed, there are no disabled parking spaces as required by Local Plan policy TR18. The applicants propose the use of the existing disabled spaces in Regency Square Car Park for which no separate occupancy surveys have been carried out and which are connected to the i360 site by either the poor quality existing subway or a circuitous level route. The applicants have agreed to contribute £10,000 to improve lighting in the subway but nevertheless it is suggested that the applicants should be required to investigate the possibilities of (1) Providing extra disabled spaces in the car park (2) Extending the existing Shopmobility scheme to the site of i360.

Some structural works will be necessary to ensure the structural integrity of the building and the upper and lower esplanades and to meet Building Control and Highway Authority requirements and it is

understood that discussions regarding these works are in hand. There is existing concern about the potential hazard arising from the shortness of the railings at the south side of the upper esplanade around the application site but the applicant has demonstrated that as much provision for those waiting to go on the i360 as can be reasonably expected has been proposed within the development site. The applicants will also fund the infilling of the subway steps on the south side of the A259 to footway level to increase the width available for pedestrians. The Section 106 Agreement should also include or make provision for a Construction Management Plan and for the Highway Authority's supervision and inspection fees to be charged to the applicant.

Contributions should also be sought for (1) Signing improvements to discourage the use of the A23/London Road corridor and the Preston Circus Air Quality Management Area by motorists driving to and from the site. (2) Steps such as the provision of real time information to encourage the use of public transport to access the development.

Finally, as the provision of information to encourage the use of sustainable modes is an important ingredient of the applicants' proposals to comply with policy TR1 the Council should require the right to approve relevant publicity material for the i360. It would also be appropriate for part of the continuing contribution of a proportion of receipts which has been discussed with the applicants to be used for local improvements for sustainable modes.

7 **PLANNING POLICIES**

The development plan policies relevant to the determination of this full planning application are contained within the **East Sussex and Brighton & Hove Structure Plan** and the **Brighton & Hove Local Plan**. However, as the proposal constitutes major development under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, it is considered that it is also appropriate to assess the proposal against **Regional Planning Guidance for the South East** (RPG9) and the draft **South East Plan** which will, in due course, replace RPG9 and the East Sussex and Brighton & Hove Structure Plan. RPG9 and the draft South East Plan and the policies contained within them are material considerations in the determination of this application. The relevant development plan policies, Supplementary Planning Guidance and other relevant policy documents including the Waste Local Plan and its relevant policies, are listed below.

Draft South East Plan:

- CC1 Sustainable Development
- CC2 Climate Change

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- CC3 Resource Use
- CC4 Sustainable Construction
- CC5 Infrastructure and Implementation
- CC8a Urban Focus and Urban Renaissance
- CC12 Character of the Environment and Quality of Life
- T1 Manage and Invest
- T5 Mobility Management
- T7 Parking
- T8 Travel Plans and Advice
- NRM1 Sustainable Water Resources, Groundwater and River Water Quality Management
- NRM3 Sustainable Flood Risk Management
- NRM4 Conservation and Improvement of Biodiversity
- NRM6 Coastal Management
- NRM7 Air Quality
- NRM8 Noise
- EN1 Development Design for Energy Efficiency and Renewable Energy
- EN5 Location of Renewable Energy Development
- W2 Sustainable Design, Construction and Demolition
- M1 Sustainable construction
- C2 Areas of Outstanding Natural Beauty
- BE1 Management for an Urban Renaissance
- BE7 Management of the Historic Environment
- TC1 Development of Town Centres
- TC2 Strategic Network of Town Centres
- TC3 New Development and Redevelopment in Town Centres
- TSR1 Coastal Resorts
- TSR4 Tourism Attractions
- TSR6 Visitor Management
- TSR7 Priority Areas for Tourism

Regional Planning Guidance of the South East (RPG9) (as altered and amended July 2004 and June 2006):

- Q1 Urban Areas as the Prime Focus for New Development
- Q2 Improvements to the Urban Environment
- Q3 Making Better Use of Land
- Q5 Urban Renaissance, Social Inclusion and Sustainable Development
- Q7 Quality and Character of the Rural Environment
- E1 Protection of Areas of Nature Conservation Value, Landscape Quality and Cultural Importance
- E2 Biodiversity
- E7 Pollution Control and Air Quality Improvement
- RE4 Sustainable Development and Business
- RE7 Supporting Economic Regeneration and Renewal in Priority Areas for Economic Regeneration (PAERs)

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- RE11 Tourism, Arts and Culture
- T1 Manage and Invest
- T2 Key Management Issues
- T4 Regional Hubs
- T5 Regional Spokes
- T9 Public Transport
- T10 Mobility Management
- T12 Parking
- T13 Travel Plans and Advice
- INF1 Flooding
- INF2 Water Resources
- INF3 Waste
- INF4 Development Design for Energy Efficiency and Renewable Energy
- INF6 Regional Renewable Energy Targets
- INF7 Sub-Regional Renewable Energy Targets
- INF8 Location of Renewable Energy Development
- INF9 Development Criteria for Renewable Energy
- TSR1 Coastal Resorts
- TSR4 Tourism Attractions
- TSR6 Visitor Management
- TSR7 Priority Areas for Tourism

East Sussex and Brighton & Hove Structure Plan 1991-2011:

- S1 Twenty one criteria for the 21st century
- S3 Infrastructure
- S4 Strategic pattern of development
- S6 Development and change within towns
- S13 Brighton & Hove area
- E1 Economy and employment
- TR1 Priorities of the integrated transport and environment strategy
- TR2 Travel awareness
- TR3 Accessibility
- TR4 Walking
- TR5 Cycling
- TR6 South coast cycle route
- TR7 Public passenger transport
- TR8 Integration between public passenger transport and other forms of transport
- TR9 Access onto public passenger transport for people with disabilities and young children
- TR11 Encouraging the use of buses
- TR16 Parking standards for development
- TR17 Commuted payments
- TR18 Cycle parking
- TR19 Public off-street and on-street parking
- TR31 Targets for road traffic

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- TR33 Brighton & Hove
- SH3 Shopping proposals not within or on the edge of existing main shopping centres
- EN1 Sustaining, conserving and enhancing the natural and built environment
- EN2 Areas of Outstanding Natural Beauty
- EN3 Areas of Outstanding Natural Beauty
- EN6 The coast
- EN11 Water quality and conservation
- EN13 Air quality
- EN14 Light pollution
- EN14 Noise pollution
- EN15 Targets for noise pollution and air quality
- EN18 Increasing the extent and diversity of natural resources
- EN22 Identification, recording, safeguarding, investigation and preservation of archaeological sites, monuments and historic and listed buildings
- EN23 Sites and features of demonstrable historical or archaeological importance
- EN25 Maintenance and enhancement of archaeological and historic features
- EN26 Built environment
- EN27 Conservation of energy
- EN28 Renewable energy generation
- EN31 Environmental education
- LT1 Leisure and tourism activities and facilities
- LT2 Leisure, tourist and conference facilities
- LT3 New tourist attractions
- LT4 Protection and enhancement of the environment for tourists
- LT5 Grouping of tourist facilities
- LT6 Conservation, environmental enhancement and traffic management strategies
- LT7 Access to visitor destinations
- LT8 Vehicular access and parking at tourist facilities
- LT18 Visual, creative and performing arts
- LT19 Arts support
- W2 Waste management
- W10 Reducing construction industry waste
- W11 Reducing construction industry waste disposed to landfill
- W13 Increasing the proportion of waste that is recycled

East Sussex and Brighton & Hove Waste Local Plan:

- WLP11 Minimisation, re-use and recycling of demolition and construction waste
- WLP12 Facilities for the re-use recycling and composting of waste

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Brighton & Hove Local Plan:

- TR1 Development and the demand for travel
- TR2 Public transport accessibility and parking
- TR3 Development in areas of low public transport accessibility
- TR4 Travel Plans
- TR5 Sustainable transport corridors and bus priority routes
- TR7 Safe Development
- TR8 Pedestrian routes
- TR12 Helping the independent movement of children
- TR13 Pedestrian network
- TR14 Cycle access and parking
- TR15 Cycle network
- TR18 Parking for people with a mobility related disability
- TR19 Parking standards
- TR20 Coach parking
- TR21 Long term coach and overnight lorry park
- SU1 Environmental impact assessment
- SU2 Efficiency of development in the use of energy, water and materials
- SU3 Water resources and their quality
- SU4 Surface water run-off and flood risk
- SU6 Coastal defences
- SU7 Development within the coastal zone
- SU8 Unstable land
- SU9 Pollution and nuisance control
- SU10 Noise nuisance
- SU11 Polluted land and buildings
- SU13 Minimisation and re-use of construction industry waste
- SU14 Waste management
- SU15 Infrastructure
- SU16 Production of renewable energy
- QD1 Design - quality of development and design statements
- QD2 Design - key principles for neighbourhoods
- QD3 Design - full and effective use of sites
- QD4 Design - strategic impact
- QD5 Design - street frontages
- QD6 Public art
- QD7 Crime prevention through environmental design
- QD8 Shopshutters
- QD10 Shopfronts
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD17 Protection and integration of nature conservation features
- QD18 Species protection
- QD19 Greenways
- QD20 Urban open space
- QD25 External lighting

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QD26 Floodlighting
QD27 Protection of amenity
QD28 Planning Obligations
HO20 Retention of community facilities
EM4 New business and industrial uses on unidentified sites
SR2 New retail development beyond the edge of existing established shopping centres
SR8 Individual shops
SR18 Seafront recreation
SR20 Protection of public and private outdoor recreation space
NC8 Setting of the Sussex Downs Area of Outstanding Natural Beauty
HE1 Listed Buildings
HE2 Demolition of a listed building
HE3 Development affecting the setting of a listed building
HE4 Reinstatement of original features on listed buildings
HE5 West Pier
HE6 Development within or affecting the setting of conservation areas
HE8 Demolition in conservation areas
HE9 Advertisements and signs within conservation areas and on, or in the vicinity of a listed building

Supplementary Planning Documents:

SPD02: Shop Front Design
SPD03: Construction and Demolition Waste

Supplementary Planning Guidance:

SPGBH4: Parking Standards
SPGBH11: Listed Building interiors
SPGBH13: Listed Building - general advice
SPGBH15: Tall Buildings
SPGBH16: Energy Efficiency & Renewable Energy
SPGBH21: Brighton & Hove Sustainability Checklist
Regency Square Conservation Area Character Statement

Planning Policy Statements:

PPS1: Delivering Sustainable Development
PPS6: Planning for Town Centres
PPS9: Biodiversity and Geological Conservation
PPS22: Renewable energy
PPS23: Planning and Pollution Control
PPS25: Development and flood risk (draft)

Planning Policy Guidance:

PPG 4: Industrial, commercial development and small firms
PPG 8: Telecommunications
PPG 13: Transport

PPG 14: Development on unstable land
PPG 15: Planning and the historic environment
PPG 16: Archaeology and planning
PPG 24: Planning and noise
PPG 25: Development and flood risk

Central Government Circulars:

5/2005 Planning Obligations
1/2003 Safeguarding Aerodromes, Technical Sites and Military Explosive Storage Areas
11/1995 Use of Conditions in Planning Permission

Other documents:

Good Practice Guide on Tourism

8 CONSIDERATIONS

The key considerations in the determination of this planning application are:

- the impact of the proposed development on the future use and restoration of the West Pier,
- the visual impact of the proposed development on the character of the seafront, conservation areas, listed buildings, and the city's townscape generally,
- the impact of the proposed development on transport infrastructure (including air navigation because of its height), and
- the impact of the proposed development on amenity (in terms of noise, light pollution, vibration and air quality).

Other considerations which need to be taken into account include sustainability, land stability, flooding, safety, ecology, air quality, land contamination, waste, the impact on the AONB, electronic interference, landscaping, public art, retail policy, crime prevention, the alternatives considered and the cumulative effect of this and other developments. Each issue is discussed in detail under the relevant headings below, after an assessment of the relevant policy context and an assessment of the principle of the proposed development.

The policy context

The main policy considerations from the Brighton & Hove Local Plan are policy HE5 which relates to the West Pier, policy HE2 which relates to demolition of a listed building, policies HE3 and HE6 which concern development affecting the setting of listed buildings and conservation areas respectively, policy QD4 which concerns the impact of development on strategic views, policy TR1 which requires developments to cater for the travel demand they create and SPGBH15 which is the Council's adopted Supplementary Planning Guidance on Tall Buildings. A wide range of other planning policies are

also relevant to the determination of this application and these are referenced throughout the 'Considerations' section of this report and listed in the 'Planning Policies' section of this report.

The proposed development's relationship to the local plan

Policy HE5 is the site specific policy relating to the West Pier, and land beside it, in the Brighton & Hove Local Plan. It states that the restoration and re-use of the West Pier must preserve its architectural integrity and that new development on land beside the West Pier will be acceptable provided it forms part of a proposal for the restoration and re-use of the pier. It further states that such enabling development must not materially detract from the architectural and historic interest of the pier, or harm its setting, and it must be demonstrated to be the minimum amount necessary to secure the viable future of the West Pier.

Whilst the proposed development would re-use parts of the West Pier and could form part of a very long term plan to rebuild a pier in this location, the proposed development does not in itself involve 'restoration' of the West Pier and restoration of the West Pier would not be secured by legal agreement as part of the scheme which is the subject of this planning application. As such, the proposed development's compliance with policy HE5 is questionable. The applicant has stated that the proposal will restore and re-use part of the West Pier and will not prejudice the ability to restore and re-use other parts of the West Pier if and when this becomes feasible and/or viable. As such, the applicant considers that the proposal will not significantly prejudice the implementation of the development plan's policies and proposals (i.e. policy HE5) but will on the contrary, provide a platform to facilitate the restoration and re-use of other parts of the pier if and when this proves feasible and/or viable. However, the local planning authority considers that the proposed development's compliance with policy HE5 is doubtful.

Therefore, a precautionary approach has been considered appropriate in this instance and this application has been formally advertised as a "departure" application under the Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999. This is because the proposed development would not result in the substantive restoration or re-use of the West Pier in the literal sense but could instead arguably prevent its restoration and re-use which would significantly prejudice the implementation of policy HE5 of the Brighton & Hove Local Plan. Consequently, if the local planning authority does not propose to refuse planning permission for this application, the application must then be referred to the Secretary of State in order that the Secretary of State has the opportunity to decide whether the application should be 'called-in' for the Secretary of State's own

determination, under Section 77 of the Town and Country Planning Act 1990.

Statement of material considerations

Where the local planning authority does not propose to refuse planning permission for a “departure” application, it must produce a ‘statement of material considerations’ for the Secretary of State, for the purposes of Section 38 (6) of the Planning and Compulsory Purchase Act 2004. Section 38 (6) of the Planning and Compulsory Purchase Act provides that decisions on planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. Therefore, this statement must enable the Secretary of State and other interested parties to understand how and why the local planning authority has reached its decision, in the determination of this planning application. It is considered that there are five material considerations which are relevant in the determination of this application. These are:

1. that policy HE5 is out of date,
2. that “restoration” of the West Pier is not possible,
3. that the replacement development is of a high quality,
4. that the interests of the character and appearance of the Regency Square conservation area should override the need for compliance with HE5, and
5. that health and safety should override the need for compliance with HE5.

Each of these material considerations, relative to the numbered points above, are explained below.

1. Policy HE5, despite being adopted in July 2005, is now considered to be out of date. It was transposed into the Brighton & Hove Local Plan adopted 21 July 2005, from the Brighton & Hove Local Plan Second Deposit Draft in 2001, albeit with some minor alteration. However, the adoption of the policy occurred after the partial collapse of the pier in December 2002, the destruction by the fires of April and May 2003 and the major collapse of the structure on 23 June 2004. In the light of these significant events, it was intended that policy HE5 would be deleted from the local plan prior, to its adoption. However, the West Pier Trust maintained an interest in a private sector commercial project to enable “rebuilding” of the pier. On that basis, policy HE5 was retained in order to provide protection from inappropriate development on the site. But the development which is the subject of this application was not anticipated at the time when policy HE5 was adopted. Given the current condition of the pier structure and the benefits of the development now proposed, it is considered that there is a considerable case for setting aside policy HE5.

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2. English Heritage, who are the lead national body for the historic environment, in their letter of 14 August 2006 relating to the listed building consent which accompanies this planning application, consider the West Pier to be in a heavily dilapidated and damaged state and recommend listed building consent for the removal of the wreckage, despite the structure's grade I listed status and its protection from demolition by national and local planning policy in the form of PPG15 and policy HE2 of the Brighton & Hove Local Plan. The applicant has included English Heritage's report into 'The Case for Repairing the West Pier', dated 27 July 2004, as an appendix to the Planning Statement submitted as part of this planning application. The report makes a clear distinction between "restoration" and "reconstruction". "Restoration" is defined as 'returning existing fabric of a place to a known earlier state by reassembling existing components without the introduction of new material.' "Reconstruction" is defined as 'returning a place to a known earlier state by the introduction of new material into the fabric'. The report states that the damage to the pier following the storm of 23 June 2004 is sufficient to cast considerable doubt on the intellectual case for the reconstruction of the pier. As such, it is considered that "restoration" is now not possible. Despite the requirements of policy HE5, it is considered that a reconstructed pier would lack historic credibility and integrity. Whereas earlier schemes for the restoration of the West Pier sought to re-use enough original material to retain historic integrity and credibility. The West Pier Trust has stated that it has been absolutely clear for many years that the West Pier could only be restored if significant public monies were granted, in the region of £15 million to £20 million. When Heritage Lottery funding was withdrawn in 2004 it became clear that the granting of public monies for the rebuilding of the pier would be unlikely. English Heritage's report states that whilst reconstruction even after the storm might be acceptable in conservation terms, the general test should also be passed, that national and local authorities and the local community should be satisfied of the need for reconstruction. English Heritage state that as the lead national body for the historic environment, they must weigh the need for reconstruction against national priorities for scarce resources and must consider whether it would be responsible in that context to support any further bid for public money for the pier when the heritage merit of the project is no longer clear. In summary restoration is not possible and reconstruction may be irresponsible, despite policy HE5.
3. English Heritage, also in their letter of 14 August 2006 relating to this planning application, strongly support the granting of planning permission for the i360 structure which would effectively replace a

significant part of the existing West Pier structure. English Heritage support the proposed development on the basis that it would be an outstanding feature which would achieve a not dissimilar outcome to the original pier. CABE, central government's advisors on architecture and the built environment, consider the proposed development to be a splendid idea and one that they would like to see built. They consider that the height, visibility and impact of the i360 are entirely acceptable given the proposed development's slimness of form, public nature and Brighton's history as a host to unusual attractions. Given the receipt of these key consultation responses, the quality of the design and the standard of architecture are not considered to be in question and it is considered that the proposed development would be a not inappropriate replacement structure for the West Pier, despite the requirements of policy HE5.

4. The 'sea wreck' is in a very advanced stage of decay. Whilst it remains a grade I listed structure and whilst some members of the community feel that the structure is beautiful (as reflected in the representations received), it is within a conservation area, the character or appearance of which the local planning authority has a statutory duty to preserve or enhance in exercising its planning functions under section 72 the Planning (Listed Building and Conservation Areas) Act 1990. The burnt-out, derelict, collapsed wreck is considered to be detracting significantly from the character and appearance of the Regency Square conservation area and is arguably an eyesore. As such, it is considered that the removal of the sea wreck would be beneficial, despite policy HE5.
5. The 'sea wreck' is dangerous, as indicated by signage attached to the remaining structure. Therefore, in the spirit of policy QD27 of the Brighton & Hove Local Plan, it is considered that its removal is necessary, in the interests of health and safety and the enjoyment beach users, despite policy HE5.

The principle of the loss of the 'root end' and 'sea wreck' of the West Pier

The West Pier is protected from demolition by its status as a grade 1 listed building. Any application to demolish (or partially demolish as in this case) a grade I listed building must be assessed against the requirements of national planning policy in the form of PPG15 and in Brighton & Hove, local plan policy in the form of HE2. Policy HE5 is the site specific local plan policy relating to the West Pier. HE5 is relevant to the determination of this application as a whole because the proposed development involves development on land beside the West Pier. However, the policy does not specify any requirements in relation to any demolition of the pier. Therefore, the policy does not appear to be

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relevant to the consideration of whether the partial demolition of the West Pier is acceptable. Although it is noted that the policy anticipates the restoration and re-use of the pier, rather than demolition.

Jointly, PPG15 and policy HE2 specify criteria which must be satisfied before the demolition of a listed building can be justified. These criteria can be summarised in the following three points and each is discussed in detail below:

1. New or alternative uses cannot be found for the building and preservation is not possible,
2. Redevelopment of the building would produce substantial benefits for the community which would outweigh the loss resulting from its demolition, and
3. The condition of the building has deteriorated to a point where cost of retaining building outweighs its importance. Pertinent to this point is the possibility of grants being made available from public sources.

Each of these criteria, relative to the numbered points above, are explained below.

1. The Council's Conservation and Design Manager has stated that an alternative use for the pier is unlikely to be found and that restoration of the pier is no longer considered a practical proposition. English Heritage consider the pier structure to be in a heavily damaged state. Their report dated 27 July 2004 mentioned earlier in this report is also relevant here. Given the contents of the report, "restoration" is not possible, due to the extent of damage to the pier by storms and fires. The extent of the damage is such that the amount of new material that would need to be introduced to the structure would be so significant that the architectural and historic integrity and credibility of the listed structure would be significantly undermined. On this basis it is considered that new uses cannot be found for the existing structure and that preservation is not possible. Therefore the proposal complies with the requirements of PPG15 and HE2 in this respect.
2. The Council's Conservation and Design Manager considers the structures on the pier to be unsightly and considers that the pier detracts from the appearance of the seafront and Regency Square to the extent that it causes harm to the appearance of the historic seafront. He considers that residents' and visitors' enjoyment of the beach and views along the seafront suffer as a consequence. Therefore, it is considered that community benefits will accrue to the beach and the seafront generally, from the removal of the pier wreckage. It could be suggested that the root end should be retained, but the Conservation and Design Manager accepts that there is no prospect of retaining the root end and locating the i360

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further offshore. It is worth noting that any development on to the beach itself would be contrary to policy SR18 of the Brighton & Hove Local Plan and furthermore the Conservation and Design Manager considers that the pier's physical condition has deteriorated to a point where the cost of reconstructing the pier outweighs the value that might be derived from the retention of the existing root end. He also considers that the replacement development would provide an entirely appropriate replacement for the West Pier and would serve a not dissimilar function. On this basis it is considered that there are community benefits to be derived from the partial demolition and the provision of the replacement development. As such, the proposed works comply with the requirements of PPG15 and HE2 in this respect.

3. English Heritage state that the significance of the pier relates to the original 1866 Eugenius Birch promenade pier, because of its pioneering structure, its use of kiosks, the very high quality of its craftsmanship, its setting as part of a greater architectural ensemble and its meaning in terms of the development of Brighton as a resort. English Heritage consider the pier's later history to be secondary. When the West Pier closed in 1975, the structure was significantly different from that which was built in 1866 because of the various additions and alterations which had been made to the structure over the years. The Council's Conservation and Design Manager considers that the pier has lost much of its special architectural or historic interest and states that there remains very little of the pier structure amongst the wreckage that is likely to be of interest. Therefore, despite its grade I listing, it is considered that the importance of the pier in its current condition, is in question and has been significantly undermined. Furthermore, the Conservation and Design Manager considers that the physical condition of the pier has deteriorated to a point where the cost of reconstructing the pier outweighs its importance. This point is particularly important given that English Heritage consider the damage which the pier has suffered has been sufficient to cast considerable doubt on the intellectual case for the reconstruction. English Heritage consider that a restoration project now would have a dubious connection with the original pier and would lack architectural and historic credibility and integrity because of the extent of new material that would be needed for construction. As such it would not be "restoration" but "reconstruction", the cost of which could only be covered with the use of public grant funding. English Heritage question whether the use of public grant funding for reconstruction would be responsible in the context of scarce resources and a lack of justification for the need for reconstruction. Therefore, not only is it considered that "restoration" is not possible, but the cost would outweigh the structure's importance. Therefore, it is considered that

the proposed works of demolition are justified and comply with the requirements of PPG15 and HE2 in this respect.

The loss of the WWII gun emplacement

The proposed heritage centre would displace the WWII gun emplacement which is located on the lower esplanade underneath the root end of the pier. By virtue of its location within the curtilage of the pier, the gun emplacement is grade I listed. However, the West Pier's listing entry makes no reference to this feature and English Heritage and the Council's Conservation and Design Manager have raised no objection to its loss, although the County Archaeologist and the Council's Conservation and Design Manager recommend that details of the gun emplacement should be fully recorded prior to destruction and the records deposited with the Brighton & Hove museum's archives or the city library local history reference section. This is considered to be reasonable and necessary in terms of the gun emplacement's architectural and historic interest and as such it is recommended that a condition to this effect is imposed, in accordance with policy HE2 of the Brighton & Hove Local Plan and policy EN22 of the East Sussex and Brighton & Hove Structure Plan.

The loss of the street market

The street market which currently operates from the site exists by virtue of a temporary permission only. This is because when temporary planning permission was granted for the market, it was considered that the market could have an adverse impact on the Regency Square conservation area and the West Pier as a grade I listed building in the long term. Policy SR11 from the Brighton & Hove Local Plan relates to markets, but provides no protection for the street market's retention. Therefore there is no policy objection to the loss of the street market and it is considered that a refusal of planning permission because of the loss the street market could not be justified.

The principle of the provision of the i360 and heritage centre

In terms of tourism planning policy, at the regional level policies TC2 and TC3 of the draft South East Plan identify Brighton as a focus for large scale leisure development and tourism uses which attract a large number of people. The i360 West Pier observation tower and heritage centre would jointly be a major leisure development and therefore complies with these policies. Policy Q5 in Regional Planning Guidance for the South East (RPG) states that larger town centres are to be the focus for major leisure development, to support 'urban renaissance', the promotion of social inclusion and the encouragement of more sustainable patterns of development. In particular, RPG9 allocates Brighton as a Priority Area for Economic Regeneration (PAER). Policy RE7 from RPG9 seeks economic regeneration and renewal in PAERs. It is considered that the proposed development would make a significant

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contribution to economic regeneration by attracting new visitors to the city and encouraging new and existing visitors to stay longer by virtue of there being more tourist attractions to enjoy. This also complies with policy TSR7 of the draft South East Plan and RPG9.

At the structure plan level, high quality leisure and tourist facilities are supported by policies LT2 and E1 of the East Sussex and Brighton & Hove Structure Plan as are new tourist facilities which 'update' the tourism offer of coastal resorts (policy LT3). Of particular relevance is policy EN31 which supports proposals to increase public understanding and appreciation of built resources. In essence it is considered that this is what the proposed heritage centre and observation tower would achieve. Policy TSR1 from the draft South East Plan and RPG9 seeks the consolidation and upgrading of tourist facilities to reduce seasonality and encourage urban regeneration. Policy TRS4 from the draft South East Plan and RPG9 encourages new regionally significant attractions (generating more than 250,000 visitors per annum) in locations easily accessible by public transport within the PAERs or where it would contribute to the renaissance of a coastal resort. The i360 and heritage centre is estimated to attract 550,000 people in its first year and would be located close to the city centre which is considered to be a very accessible location.

Policy TSR4 of the draft South East Plan and RPG9 also seeks tourist attractions which will help reinforce the distinctiveness of the locality, wet weather facilities which will help extend the season and complementary facilities which will not compete with existing attractions. The heritage centre will focus on the historic West Pier, thereby reinforcing local distinctiveness and the historic value of the site, the i360 and heritage centre will still be able to be enjoyed in wet weather and would be an entirely new attraction which would not compete with existing tourist attractions in the city. Instead, it would complement existing attractions such as Brighton Pavilion, Brighton Pier and the Sea Life Centre and as such it would be fully compliant with TSR4 in all these respects, although it should be noted that PPS6 makes it clear that it is not the role of the planning system to restrict competition or to preserve existing commercial interests. The Council's Head of Tourism is supportive of the proposed development and comments that it would support wider destination marketing objectives and would support the visitor economy by providing direct and indirect employment and providing reasons for people to visit as well as providing a reasons for those who have already visited to visit again.

In terms of the use of this particular site, structure plan policy requires the efficient and effective renewal and re-use of underused brownfield sites, particularly in existing coastal towns (policies S1, S4, S6 and EN26 of the East Sussex and Brighton & Hove Structure Plan). In particular policy

S13 seeks the regeneration of the physical fabric of Brighton & Hove in a manner that strengthens its important role as an international resort and sub-regional centre and which enhances its outstanding townscape quality. Policy LT3 supports tourist attractions which renew and update the tourism infrastructure of coastal resorts and which take advantage of built heritage. In terms of the partial demolition of the West Pier and the erection of the i360 and heritage centre this is considered to be exactly in accordance with these policies. Furthermore, it is considered that the proposed development would make an efficient and effective use this derelict site, in accordance with policy QD3 of the Brighton & Hove Local Plan.

Environmental Impact Assessment

The applicant considers the proposed development to fall under category 12 (a) of Schedule 2 of the Environmental Impact Assessment Regulations which relates to ski-runs, ski-lifts and cable cars and associated developments. The relevant threshold beyond which Environmental Impact Assessment needs to be undertaken is if the height of any building or other structure would exceed 15 metres. Clearly, at a height of 183 metres AOD the proposed structure would exceed this threshold by a significant amount and Environmental Impact Assessment is required. Policy SU1 of the Brighton & Hove Local Plan requires the submission of an Environmental Statement for all developments exceeding the relevant thresholds in Schedule 2 of the Environmental Impact Assessment Regulations. As such the applicant's submission of an Environmental Statement is in compliance with this policy. The statement includes an assessment of the likely significant impacts of the development on the city's townscape, cultural heritage, traffic and transport, and air navigation, air quality, noise, coastal processes and flooding, nature conservation and ecology, contaminated land and hydrology, socio-economics, services, sustainability, health and safety and land stability. The impact of the development in each of these issues is discussed in this report.

Impact on the character of the seafront, listed buildings, conservation areas and the city's townscape

Because of the proposed development's location within the Regency Square conservation area and its likely impact on the setting of other conservation areas in the city, policy HE6 of the Brighton & Hove Local Plan and PPG15 apply. Policy HE6 states that proposals within or affecting the setting of a conservation area should preserve or enhance the character or appearance of the area. PPG15 states that special attention must be paid to the preservation or enhancement of the character or appearance of conservation areas when applications for planning permission are considered. Many objections have been received which state that planning permission should be refused as it is within a conservation area. However, PPG15 points out that whilst

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conservation of the character or appearance of conservation areas (whether by preservation or enhancement) must be a major consideration, this cannot realistically take the form of preventing all new development. PPG15 further states that there is no requirement in the legislation that conservation areas should be protected from all development which does not enhance or positively preserve and that whilst the character and appearance of conservation areas should always be given full weight in planning decisions, the objective of preservation can be achieved either by development which makes a positive contribution to an area's character or appearance, or by development which leaves its character and appearance unharmed. It is considered that the proposed development would make a positive contribution to the Regency Square conservation area and that the harm that might be caused would not be significant.

The positive contribution which the proposed development would make would be the restoration of the existing West Pier tollbooth (currently in use as the Rock Shop), the re-creation of the second West Pier tollbooth and the re-creation of covered seating. Each of these components will be visible at street level and will make a significant contribution to the character and appearance of the Regency Square conservation area, in accordance with PPG15 and policy HE6 of the Brighton & Hove Local Plan. In addition, the applicant proposes to pay 1% of the net ticket revenue to the Council each year to fund a range of 'environmental renewal maintenance and improvement works'. It is anticipated that this contribution would fund seafront improvements which would in turn preserve and enhance the seafront, its conservation area status and the setting of the listed buildings and structures within in.

In terms of the harm which might be caused by the development, this would emanate from the design of the heritage centre and the design and prominence of the spire and pod. (Issues relating to lighting are covered under a separate heading later in this report.) The heritage centre is a simple, plain, glazed building. The Council's Conservation and Design Manager considers that the mixing and contrasting of new with old construction is an accepted design approach. It is considered that the simple nature of this building is appropriate and will mean that it would not compete with the richness of the features which will be restored and reconstructed as part of the scheme or with the richness of its Victorian seafront setting. It is considered that the width and proportions of the building, as well as the proposed location of the tollbooths, would be appropriate in relation to the width and dimensions of Regency Square.

English Heritage have raised concerns about the extent of replication within the heritage centre by virtue of the re-use of columns from the

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West Pier. As this concern relates to the inside of the building, the relevance of this aspect in terms of the impact on the conservation area is limited. However, given the requirement for 're-use of the West Pier' in policy HE5 of the Brighton & Hove Local Plan, this is a relevant consideration in terms of planning and it is considered appropriate that a condition is imposed requiring details of the extent of replication to be agreed. It is also recommended that a condition is imposed requiring details of all the materials, finishes, glazing and screening to be agreed.

English Heritage have raised a further concern about the proposed glazed screening on the north elevation of the heritage centre, facing Kings Road. Their concern is that this would be a prominent and dominant feature which would be an unfortunate addition to the seafront as no other part of the seafront in Brighton & Hove has such glazed screening and it would be subject to salt spray from the sea. They consider that whilst such screening might be necessary, justification for it is required. However, the applicant has stated that the height and design of the glazed screens has evolved through consultation with Sussex Police. Sussex Police consider that 2.4 metre high screening to the street elevation, and along a short section on the east and west elevations behind the kiosks, is necessary to provide adequate protection. The Council's Conservation and Design Manager has raised no objection to the screening. Therefore it is considered that, whilst the screening might not be an entirely welcome addition to the street scene, it would be entirely necessary, particularly considering the requirements of policies QD2 and QD7 relating to crime prevention. The transparent nature of the screening will mean that the restored features behind it including the seating and the side elevations of the kiosks, will remain visible, providing that the screening is kept clean. English Heritage and the Architects' Panel have also suggested that the glass screening could be recessed back from the pavement but given the extent of the queuing area proposed it is not considered that setting back the glass screening would be appropriate.

In terms of the harm which might be caused by the visual impact of the spire and pod, CABE consider the spire to be 'a splendid idea' and one that they 'would like to see built'. They consider that the height, visibility and impact of the spire are entirely acceptable given its slimness of form, its public nature and Brighton's history as a host to unusual attractions. English Heritage strongly support the granting of planning permission on the basis that the proposed development would be an outstanding feature, a fine addition to the seafront and a worthy companion to any successor to the West Pier which would achieve an outcome not unlike the original promenade pier by allowing viewing of the whole of Brighton seafront not from seaward but from above. They state that the i360 would be a fitting addition to Brighton's seafront and

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the right location for a building type which is entirely congruent with the city's spirit. They consider that the impact would be wide but the slenderness of the structure would allow it to be read more as a mast than a building and its careful siting on the axis of Regency Square would allow it to complement the monumentality of the square.

The Council's Conservation and Design Manager considers that the spire would provide an appropriate seafront use which is entirely appropriate to the lively seaside character of the this part of the Regency Square Conservation area, stating that it will bring forward a quality scheme, ending the uncertainty surrounding the future of the derelict pier. Like English Heritage and CABE, the Conservation and Design Manager considers that the proposed development will provide an entirely appropriate replacement for the West Pier and will serve a not dissimilar function.

The Design Statement submitted with the planning application demonstrates that the height of the spire is approximately equal to the length of Regency Square and approximately equal to half the length of the West Pier. Therefore it is considered that the proportions of the spire relate comfortably to the proportions of Regency Square and the West Pier, reflecting the scale of the area, in accordance with policy HE6 of the Brighton & Hove Local Plan.

The Council's Conservation and Design Manager considers that the height and siting of the spire have been carefully selected to sit well within the context of Regency Square. He states that the spire is properly sited in relation to the central axis of Regency Square and that this will maintain the symmetry of the square, thereby preserving its setting. The Council's adopted Supplementary Planning Guidance particularly advises aligning tall buildings to terminate visual axis or frame scenes to create a strong reference point. English Heritage agree that the axial relationship of the spire to the layout of Regency Square is important in its response to the monumentality of Regency Square and takes the opportunity to enhance the conservation area and the wider seafront. Therefore, it is considered that the spire would not have an adverse effect on the setting of Regency Square and is in accordance with policies HE3 and HE6 of the Brighton & Hove Local Plan and SPGBH15.

The spire would be centred exactly on the central axis of the West Pier. However, it should be noted that the pier itself was not built exactly on the central axis of the Square and it was positioned at a 90° angle to the seafront which itself is very slightly off-set from Regency Square. However, the amount by which it is off-set is so small it is barely noticeable, but this becomes apparent when the proposed southern elevation drawing of the spire is examined. It is considered that it would

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not be appropriate to require the applicant move the spire to be on the central axis of Regency Square given that the spire would be centred exactly on the central axis of the root end of the pier and given that the root end of the pier is at a right angle to the seafront but Regency Square is not.

The Conservation and Design Manager states that close up the spire will not be seen in its entirety and may appear heavy and utilitarian against the richness of Victorian features along the seafront. However, he considers that the simple design of the spire and pod will provide an appropriate contrast to the Victorian surroundings and that the spire is a bold, striking structure which would serve an appropriate landmark function. Overall, he considers the spire's townscape contribution to be positive as it is the particular type of tower that most justifies city wide visibility. The impact of the spire would reduce as distance from it increases and this is evident in the views of the proposed development submitted. Nevertheless it would clearly change the skyline and in some places would rise above historic rooftops. However, the views the applicant has submitted, particularly those from Brunswick Square and Bedford Square which are in the Regency Square and Brunswick Town conservation areas respectively, demonstrate that this effect would not be significantly adverse, largely because of the slenderness of the spire. Also, the Conservation and Design Manager considers that this effect is reduced when seen in the context of Sussex Heights.

The Environmental Statement reports that the steel and glass from which the development would be built has the potential to reflect the sun and cause dazzling. However, the size and impact of the reflections would depend on the position of the viewer and the height of the pod when viewed. Due to the moving nature of the pod, impacts of glare from the pod would be temporary and reflections from the spire would appear only as a thin line because of its cylindrical nature. Therefore the impact of glare on views is not considered to be significant.

The site relates most closely to the 'Central Seafront' tall building node in the Council's adopted Supplementary Planning Guidance on Tall Buildings. This node is made up of a small area to the east of Sussex Heights and includes Churchill Square, the Brighton Centre and the Odeon Cinema. The guidance describes this central node in the cultural, retail and commercial core of the city as a 'natural' location for additional high quality tall buildings. The Conservation and Design Manager states that whilst the West Pier site cannot reasonably be judged to be within this central tall building node, the location meets many of the selection criteria and that moreover the spire will not have the bulk of residential towers and its height will be justified by its slender overall proportions. It is considered that the slender nature of the spire would mitigate its impact significantly. Whilst it is a very tall structure, it is

considered that its impact would not be like that of any other very tall building, because its width is so little in proportion to its height.

Given all of the above considerations in this section, it is considered that the visual impact of the development on the character of the seafront, listed buildings, conservation areas and the city's townscape generally, is acceptable and the proposed development is considered to comply with policies SU7, SR18, HE3, HE6, QD1 and QD2 of the Brighton & Hove Local Plan, the Tall Buildings Supplementary Planning Guidance, policies S1, S6, EN1, EN6, EN23 of the East Sussex and Brighton & Hove Structure Plan, policy Q1 of Regional Planning Guidance for the South East and policies BE1, BE7, TC3 of the draft South East Plan.

Materials

The applicant proposes the use of modern materials for the heritage centre and spire including glass and steel. Concern has been raised by the Council's Conservation and Design Manager and Sussex Police about how the glass of the heritage centre would be protected from storms and vandalism. Sussex Police have required that the glazing is laminated. Concern has been raised by some consultees about a lack of information on materials and in particular a lack of samples of materials being submitted with the application. However, it is considered that the local planning authority has enough information about the type of materials proposed to determine the application and a refusal of planning permission for this reason could not be justified, as a condition can be imposed on any grant of planning permission requiring samples of the materials to be submitted to and approved by the local planning authority prior to the commencement of the development. It is recommended that a condition to this effect is imposed and this will enable the local planning authority to retain absolute control over the materials that would be used in the construction of the external elevations of the development. The appropriateness of the proposed materials would then be considered bearing in mind the useful advice received from consultees relating the requirements for materials for a development of this nature in this particular location.

Impact on strategic views and the Sussex Downs Area of Outstanding Natural Beauty

Local Plan policies seek the protection of strategic views including views of the sea and views along the coast. The West Pier Conservation Area Character Statement states that from Regency Square there are wide views over the West Pier of the sea and beyond. But it is not considered that the proposed development would have a significant adverse impact on these views, or views along the seafront, because of the slenderness of the spire. The Brighton Society consider that insufficient views have been submitted. In particular they consider that

more views of the development from the east should be provided. However, it is considered that the applicant has submitted a comprehensive set of views of the proposed development from locations all around the city which, in addition to the elevation drawings submitted, adequately demonstrate the visual impact of the proposed development, which is considered to be in accordance with policies QD4, SU7 and SR18 of the Brighton & Hove Local Plan.

Planning policy at the local, structure and regional plan level seeks to protect the Sussex Downs AONB from development which would harm its setting or views in or out of it. Objectors to this development state that it would cause serious damage to the natural beauty of the AONB and the proposed National Park. However, the Conservation and Design Manager considers that the visual images from the urban fringe show the spire to have very limited prominence, particularly as it will be seen against the sea and sky and in proximity to Sussex Heights and other towers. He states that the spire will appear very tall and slender in comparison and will provide an acceptable addition to the skyline without causing harm to strategic or downland views. He considers that the quality of the views from the observation pod will far outweigh any visual impact of the spire on the wider cityscape. On that basis the impact of the proposed development on the Sussex Downs Area of Outstanding Natural Beauty and proposed National Park is considered to be acceptable and the development is therefore in accordance with policy NC8 of the Brighton & Hove Local Plan, policies S1, EN2 and EN3 of the East Sussex and Brighton & Hove Structure Plan, policies Q7 and E1 of Regional Planning Guidance for the South East and policy C2 of the draft South East Plan. It should be noted that the spire will be illuminated at night.

Impact of the ancillary works

To enable the development to proceed, various ancillary works need to be undertaken including the removal of two small sections of the listed seafront railings, the relocation of two listed seafront lamp posts and stabilisation works to arches 62-73 underneath the Kings Road footway. The removal of two small sections of listed railings is exceptional but this would not significantly undermine the overall architectural or historic importance of these listed structures. It is considered that the relocation of the lamp posts would not compromise their architectural or historic importance and would not have any significant adverse effect on the Regency Square conservation area. The stabilisation works to the arches are important as their strength is limited but given their lack of prominence and the fairly minor but important nature of these works, they are considered acceptable. It is not considered that these works would contravene any planning policy.

Transport issues

Planning policy at the local, regional and national level seeks the encouragement of walking, cycling and public transport in lieu of car travel to reduce the impact of transport on the environment. The location of any development is an important factor in making public transport, walking and cycling possible and desirable alternatives to car travel. It is considered that the site of the proposed development is a sustainable location. Whilst public transport to the site itself is lacking, the site is within walking distance of Brighton Railway station and all of the main bus routes in the city which run along Western Road which is a short walk from the site via Preston Street or West Street.

Policy LT5 of the East Sussex and Brighton & Hove Structure Plan seeks a grouping of tourism facilities to help sustain a critical mass of attractions which are accessible by public transport. It is considered that the location of the proposed development, within walking distance of other major attractions such as Brighton Pier, the Sea Life Centre and the Royal Pavilion will help to encourage visitors to travel to the attraction by non-car modes and visitors are likely to visit other attractions before or after their visit to the proposed development.

The applicant has submitted a Transport Assessment, in accordance with policy TR1 of the Brighton & Hove Local Plan and policies TR1 and TR3 of the East Sussex and Brighton & Hove Structure Plan. The Transport Assessment uses comparative attractions elsewhere, including the London Eye, to estimate visitor numbers, times and modes of transport and this is considered to be an appropriate approach for a development of this nature.

Parking, highway and air quality issues

Based on experience elsewhere, the Transport Assessment predicts that 66% of visitors could be car borne. Whilst figure may appear to be high, it is considered that the number of additional car trips generated by the development will, in part, be limited by a high average vehicle occupancy of 3.7 which the applicant states is based on the Great Britain Day Visits Survey 2002-2003 for seaside leisure visits in England. The proposed development does not make extra provision for car parking. This is considered appropriate given the accessibility of the development by alternatives to the car and the requirements of policies TR19 and LT9 of the East Sussex and Brighton & Hove Structure Plan which seek to manage the demand for car parking where alternative means of travel exist. The applicant has demonstrated, by the use of July 2006 surveys of Regency Square, Russell Road and Churchill 1 and 2 car parks, that there will be spare capacity for car borne visitors at peak times. As such it is considered that the proposed development would make an efficient use of existing car parking stock, as required by policy T12 of Regional Planning Guidance for the South

East. The Transport Planning Manager considers that no problem of displaced car parking could arise locally as the area is within a Controlled Parking Zone. He also considers that adequate capacity exists on the Kings Road/West Street junction for the additional traffic which would be generated by the development at peak times.

No additional disabled car parking is proposed as required by policy TR18 of the Brighton & Hove Local Plan. Five disabled car parking spaces exist within Regency Square car park. However it is considered that the applicant should develop a scheme for the provision of car parking spaces for people with disabilities to address the concern that existing provision may be deficient and it is recommended that this is addressed in the S106 Obligation to ensure compliance with policy TR18. Existing motorcycle bays are located on Kings Road to the east of the site.

Existing vehicular signage within the vicinity of the proposed development will ensure that existing car parking stock is efficiently used. However, a planning obligation has been pursued to fund additional signage to the attraction to help visitors avoid existing congested routes and the Air Quality Management Area at Preston Circus so that the proposed development does not worsen existing conditions in these locations. This contribution will ensure compliance with policy SU9 of the Brighton & Hove Local Plan, policies S1, S6, TR31, EN13 and EN16 of the East Sussex and Brighton & Hove Structure Plan, policy E7 of Regional Planning Guidance for the South East and policy NRM7 of the draft South East Plan, all of which require consideration of the impact of developments on Air Quality Management Areas.

Public transport

The applicants have explored with Brighton & Hove Bus Company the possibility of providing a shuttle bus service from Brighton Station and Hove Station to the proposed development. However the bus company consider that there is no business case for such a service given the existing dense network of services already in existence close by. Nevertheless, the applicant has offered a financial contribution of £10,000 toward public transport enhancements. It is anticipated that this would be used for improvements on the Western Road corridor in the form of additional Real Time Information or kerb treatments etc, as required. The applicant has also offered £5,000 for directional signage for pedestrians in the vicinity of the site. It is envisaged that this signage would be for signs to direct visitors to the site from Western Road as it may not be clear where the site is to visitors alighting services on Western Road as the tower may be obscured from view by buildings on Western Road.

The applicant agrees that the provision of information to encourage the use of sustainable modes is important and as such has agreed to the Council having approval of all the relevant publicity material for the development to encourage visitors to travel to the attraction by sustainable modes instead of by car. This agreement and the financial contributions above will ensure compliance with the relevant development plan policies including TR1, TR2, TR8, TR13, SU15 and QD28 of the Brighton & Hove Local Plan, policies S3, S6, S13, TR7, TR8 and TR11 of the East Sussex and Brighton & Hove Structure Plan and policy T9 of Regional Planning Guidance for the South East.

Coach parking facilities

The applicants originally proposed the construction of a coach pick-up/drop-off facility adjacent to the site on the south side of Kings Road. This has been resisted by officers on safety grounds because of the facility's location immediately adjacent to the National Cycle Lane on the Kings Road upper esplanade. If the picking up and dropping off of coach passengers occurred here, passengers would alight from the coach and step straight on to the cycle lane in the path of oncoming cyclists. This would be a significant safety problem and would contravene policy TR7 of the Brighton & Hove Local Plan as well as policies TR5 and TR15 which seek to protect this cycle route. Brighton & Hove is one of the Department for Transport's National Exemplar Cycling Demonstration Towns for 2005-2008. It is considered that to allow the provision of a coach bay in this location which could significantly interfere with the safe and convenient use of this cycle lane would also be inappropriate for this reason.

A coach facility in this location could also interfere with the proposed RTS route in this location, the requirement for access for emergency vehicles and would also be unsatisfactory because of its proximity to the Kings Road/Preston Street junction. As a substitute, officers have recommended the use of the existing coach pick-up/drop-off facility outside the Brighton Centre on the opposite side of the road to the east of the development. Coaches would only pick-up and drop-off here and would have to park on Madeira Drive. It is considered that the use of the Brighton Centre facility would help the development to cater for the travel demand it would create, in accordance with policies TR1, TR20 and TR21 of the Brighton & Hove Local Plan and structure plan policy TR19 which requires coach parking requirements to be considered.

Taxi provision

The applicants have discussed their proposals with representatives of the taxi trade. The trade would support the creation of a taxi rank on the south side of Kings Road but this would not be acceptable for some reasons applying to the coach facility. Taxi ranks are available in

Preston Street and at the south end of Regency Square and this provision is considered acceptable and will help the proposed development to comply with policy TR1 of the Brighton & Hove Local Plan. The applicant has also discussed the proposal with the tuc-tuc operators.

Cycling and cycle parking

The site is very accessible by bicycle by virtue of the cycle lane on the Kings Road upper esplanade. It is considered that this factor will be particularly important in encouraging staff to travel to the site by sustainable modes. Existing cycle parking on the seafront is very heavily used and additional cycle parking is considered to be needed as evidenced by the number of cycles inappropriately chained to the listed seafront railings and other street furniture in the locality. The applicant has made provision for 8 staff cycles within the heritage centre building and has agreed to provide 21 cycle stands to provide parking for 42 cycles on the upper esplanade to the west of the heritage centre. This is considered to be an appropriate location given that is close to the site, at the same level as the cycle lane and is close to where there are currently two very dilapidated cycle stands already, both of which would be displaced by the proposed development. It is considered that these measures will ensure the proposed development will comply with policy TR1, TR14, TR15 and SU15 of the Brighton & Hove Local Plan, policies TR3, TR6 and TR18 of the East Sussex and Brighton & Hove Structure Plan, policy T10 of Regional Planning Guidance for the South East and policy T7 of the draft South East Plan.

Travel plans

The applicant has submitted a Sustainable Transport Modes for Visitors Statement, a Sustainable Transport Modes for Staff Statement and a Staff Travel Plan. This is appropriate and is in accordance with policies TR3 and TR4 of the Brighton & Hove Local Plan, policy TR16 of the East Sussex and Brighton & Hove Structure Plan, policies RE4, T10, T13 and TSR6 of Regional Planning Guidance for the South East and policies T8 and TSR6 of the draft South East Plan. The documents explain the measures that would be taken to encourage staff and visitors to travel to the development by sustainable modes and the implementation of these measures are secured either by conditions or by the Section 106 agreement which has been negotiated. The measures in the documents include website publicity, the use of existing park and ride services, the display of transport information in the heritage centre, ticket price incentives to encourage people to visit at off-peak times, the encouragement of pre-booked tickets, the provision of cycle parking, the encouragement of car sharing for staff and the appointment of a Travel Plan coordinator for the development.

Walking

The Environmental Statement predicts that the proposed development will generate an additional footfall of approximately 3,355 pedestrians around the West Pier area on a busy weekend day. The existing pedestrian footway on the Kings Road upper esplanade is not of a particularly high quality and would be subject to a significant amount of additional wear and tear as a result of the development. On this basis it is considered that the applicant should contribute to the enhancement and improvement of this footway in time for the opening of the development and it is recommended that these works are secured by a condition. To provide additional space for pedestrians within the vicinity of the site the applicant has offered to fill in the steps within the Kings Road upper esplanade which lead down to the Regency Square subway. These steps take up a significant amount of the footway and are superfluous as alternative means of access to the subway are already available. The applicant has also offered to make a financial contribution toward lighting enhancements in the Regency Square car park subway and realign the cycle lane so that it is parallel with the road as the cycle lane currently flows around these steps in a circuitous manner. It is considered that these measures would ensure compliance with policies TR8, TR13, QD27, QD28 and SU15 of the Brighton & Hove Local Plan, policies TR3, TR4, S3 and LT4 of the East Sussex and Brighton & Hove Structure Plan, policy T10 of Regional Planning Guidance for the South East and policy T5 of the draft South East Plan, all of which seek pedestrian infrastructure enhancements.

Concern has been raised about the safety of the listed seafront railings as a result of the increase in pedestrians using the Kings Road upper esplanade. The concern is whether these railings could withstand additional crowd loadings and whether the applicant should contribute to their maintenance and enhancement. However, it is considered that the applicant has made adequate provision for crowd control and queuing within the application site and this would sufficiently mitigate the impact of crowding on the upper esplanade of Kings Road. As such it is not considered that works to the railings are required for the development to proceed. Visitors to the development would spill out from the development at the lower level onto the lower esplanade, removing the impact of the development on the railings as people leave the attraction. Given these considerations it is not considered that the proposed development would result in any significant contravention of policies TR7 or QD27 of the Brighton & Hove Local Plan. However, the applicant has agreed for the 1% Ticket Revenue Contribution which would be paid to the Council to be capable of use for the maintenance and enhancement of the seafront railings as well as for environmental renewal, maintenance and improvement works generally.

Given all of the above measures to ensure that the development caters for the travel demand it would create, the proposed development is considered to be in accordance with policies TR1, TR2, TR4, TR5, TR7, TR8, TR13, TR14, TR15, TR18, TR19, TR20, TR21, SU2, SU15 and SR18 of the Brighton & Hove Local Plan, policies S1, S3, TR1, TR2, TR3, TR31, TR33 and LT7 of the East Sussex and Brighton & Hove Structure Plan, policies T1, T2, T4, T5, RE4 and RE11 of Regional Planning Guidance for the South East and policy T1 of the draft South East Plan.

Accessibility of the development

The Environmental Statement predicts that the proposed development will attract a significant number of visitors with disabilities. Policies QD10 and SR18 of the Brighton & Hove Local Plan, policy TR3 of the East Sussex and Brighton & Hove Structure Plan and policy T2 of Regional Planning Guidance for the South East require developments to be accessible to everybody including people who use wheelchairs. The applicant has submitted an Access Statement and this has been assessed by the Council's Access Consultant. He considers that this demonstrates a very clear understanding of the issues and sets out a correct approach to inclusive design. The new lift to the east of the heritage centre will make the development accessible and accessible toilets are proposed on both levels of the heritage centre. The Access Statement states that the glazed gates on the northern side of the upper deck of the heritage centre will be clearly identified as distinct from the adjacent fixed glazed walls by means of manifestation making them more visible for the visually impaired and dropped counters will be provided at the tollbooths for users of wheelchairs. The Access Statement states that all stairs will have risers to part M of the Building Regulations standards with contrasting nosings, and handrails with raised indicators on level approaches.

Construction issues

In order for the development to be constructed a three metre high hoarding would need to be erected around the entire site, including on the beach surrounding the sea wreck. The Environmental Statement states that on-site construction period for the heritage centre and observation tower would be just over a year and the estimated amount of time for the dismantlement and removal of the sea wreck would be approximately 22 weeks. Whilst these are not particularly long development times, it is considered that the erection of such a hoarding could have a detrimental impact on the Regency Square conservation area. The applicant proposes to mitigate this impact by decorating the hoarding and it is recommended that a condition is imposed requiring details of the decoration to be submitted to the local planning authority and agreed before the hoarding is erected. During the construction and dismantling period, an east-west route along the beach would need to be maintained for pedestrians, service vehicles

and construction vehicles. As all of the lower esplanade within the site boundary would be taken in within the construction compound, the applicant proposes the provision of a temporary route over the shingle beach for vehicles and pedestrians. This is considered acceptable as a temporary measure but further details of the temporary route are required and it is recommended that these are secured by condition so that the appropriateness of the route can be agreed with the Council's Public Safety team in the Environmental Health department and to ensure compliance with policies TR7, TR8, TR13, QD2 and QD27 of the Brighton & Hove Local Plan.

Land stability

During the consideration of this application by officers, it came to light that arches underneath the Kings Road upper esplanade may be unstable. As such, policy SU8 of the Brighton & Hove Local Plan and policy S1 of the East Sussex and Brighton & Hove Structure Plan apply as does PPG14 on Development on Unstable Land. These policies require appropriate mitigation measures to ensure that any development on such land is safe. To address this issue the applicant submitted further information in the form of a Stabilisation Report explaining what measures would be taken to stabilise the arches during the construction period. These measures include repair works to the arches and temporary propping-up of the arches. It is proposed that these issues are covered in the S106 Obligation which will require the applicant to ensure that the Highways Authority and landowner are satisfied that the Upper Esplanade and arches beneath can accommodate the development.

Air navigation and safety

There is general concern where the development of tall structures is concerned that they will be at a risk from collision with aircraft. Because of the height of the proposed observation tower, the local planning authority consulted the Civil Aviation Authority, Shoreham Airport, Gatwick Airport, the Ministry of Defence, National Air Traffic Services and the Health and Safety Executive. None of these consultees have objected to the development and none of them consider that the proposed development would be an obstruction to aircraft, providing that it is lit in accordance with the Civil Aviation Authority's requirements (see the heading 'Lighting' below).

Sussex Police consider that a development of this nature could become a target for terrorists but it must be noted that they do not recommend a refusal of planning permission on this basis do not object to the proposed development. Instead they recommend that the applicant works with their Anti-Terrorist Officer for advice on appropriate security measures. It must be noted that the planning system does not exist to duplicate other means of control and that the responsibility for the

prevention of terrorism rests primarily with the Police. Objectors to the scheme cite the risk of the proposed development being a terrorist target as a reason for refusing planning permission. However, it is not considered that it would be appropriate to recommend a refusal of planning permission on this basis as any public building is arguably at a risk from terrorism.

The applicant has explained that the two storey heritage centre would be subject to Building Regulations. However, the spire itself (including the pod) in terms of statutory control, would be classified as a "passenger carrying device". As such it would be controlled through a scheme published and monitored by the Health and Safety Executive which involves an inspection and certification process known as the Amusement Devices Inspection Procedures Scheme (ADIPS). As required in the ADIPS scheme, an independent inspection body will carry out pre-use inspections, testing and an annual in-service inspection. A "Declaration of Conformity" will be issued once the pre-use independent inspections and tests have been satisfactorily completed. The Declaration of Conformity will be valid for 12 months whereupon a review will be taken. It is considered that conformity with the above procedures will ensure that there would be no contravention of policy QD27 of the Brighton & Hove Local Plan which requires that proposed developments must not be liable to be detrimental to human health.

The Environmental Statement states that the mains power supply will be secured (to prevent it being tampered with), there will be on-site temporary power generation facilities in the motor room, the spire and pod have been designed so that the pod can be lowered to the ground even if one or more of the components fail and that in an emergency, trained members of staff will be able to access the pod at high level from the summit position via internal access ladders through the tower. The applicant envisages an annual shutdown period in January/February to allow intensive technical maintenance, renewal and replacement of essential equipment. The applicant has explained that the proposed development would be designed to withstand strong winds and ensure passenger comfort and would also have a designated 'operation wind speed limit' which would be the maximum gust wind velocity above which the device will be closed down. The reason for this proposed course of action is for passenger comfort and operational convenience rather than direct life-safety reason.

Lighting

For the purposes of aviation safety, the spire would need to be lit to ensure that it is visible to aircraft. The lighting of tall structures for safety reasons is controlled by The Air Navigation Order 2005. The order gives guidance regarding structures which are 150 metres or more. Such

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structures are known as “en-route obstacles” and these must be lit in accordance with Article 133 of the order. Article 133 requires that such structures are fitted with medium intensity steady red lights positioned as close as possible to the top of the obstacle and at intervals of 52 metres or less all the way down to ground level so as to be visible at night in all directions. However, given the nature of the structure, the design of the spire and the moving nature of the pod, it is not possible for the proposed development to comply with Article 133. The Civil Aviation Authority have stated that whilst lighting proposed should be ‘in the spirit of’ Article 133 there is some flexibility associated with its requirements. Therefore, the applicant proposes an alternative method of lighting which has been confirmed as the minimum necessary to satisfy the Civil Aviation Authority. The Civil Aviation Authority have confirmed verbally that the tower would need to be lit at night and at such times as they may specify, for safety reasons. The red light at the top of the spire would need to be lit at all times but the Civil Aviation Authority do not anticipate that the rest of the lighting (i.e. the vertical slots, the pod and the shaft between the turbines and pod summit position) would need to be lit during the day.

Nearby residents have objected to the proposed development on the basis of the lighting proposed, stating that it would impact on amenity. Some consultees including the Countryside Agency are concerned that the proposed lighting would be visually intrusive and could impact on the AONB. However, the South Downs Society and South Downs Joint Committee have stated that they would not object if the proposed lighting were not left on all night

It is not considered that the lighting would significantly impact on residential amenity. None of the spire would be lit below the height of the summit of Sussex Heights with the exception of the pod which would generally only be lit at night and which would be in motion whilst at a height level with the windows of any residential properties nearby. It is anticipated that there would be light emitted from the heritage centre but it is not considered that this would cause any significant loss of amenity given its low rise nature and its location on the opposite side of the Kings Road dual carriageway away from any residential property.

It is accepted that the lighting aspects of the scheme would have an impact on the AONB and may have an adverse impact on the character of the area generally. This would be unfortunate. However, it is considered that if this development is to proceed, there is a compromise to be made between the impact on the AONB and the character of the area and safety. It is considered that safety must be the first priority which should override the need to protect the AONB and the character of the area. The impact is considered acceptable given the role of the lighting in fulfilling the Civil Aviation Authority’s

minimum safety requirements. In any event, it is not considered that the inclusion of such lighting could be seen as entirely inappropriate given the extent of lighting on other seafront buildings and structures in Brighton including Brighton Pier. The Council's Conservation and Design Manager considers that the lighting has been carefully considered and would provide a characterful and artistic addition to the existing lighting of the seafront. The Countryside Agency specifically refer to the lights flashing or rapid changes in colour being a concern. This is considered to be a valid concern and as such it is recommended that a condition is imposed requiring full details of the lighting scheme to be submitted to the local planning authority and agreed before the development commences so that the local planning authority can maintain control over this aspect of the development, bearing in mind the concern of consultees and the requirements of policy QD25 of the Brighton & Hove Local Plan and policy EN14 of the East Sussex and Brighton & Hove Structure Plan, both of which relate to lighting.

Public art

For major developments, policy QD6 of the Brighton & Hove Local Plan requires a public art contribution which equates to 1% of the construction costs. As with other schemes approved in the city, the possibility of integrating the public art part of the development into the structure itself has been explored and the applicant has agreed with the Council's Head of Arts and Creative Industries that the lighting could represent the development's public art contribution, particularly as the applicant is known to have successfully commissioned similar schemes elsewhere. Whilst the lighting would have a technical function it is considered that it could also have an artistic function. To this effect the applicant has agreed to appoint a suitably qualified artist to design the lighting features for the spire. The overall cost of the lighting features is estimated to exceed the 1% contribution required by policy. The proposed development is therefore considered to be in accordance with policy QD6 and QD28 of the Brighton & Hove Local Plan and policies LT18 and LT19 of the East Sussex and Brighton & Hove Structure Plan in this respect.

Other amenity issues

Objectors to the scheme have referred particularly to a loss of light and privacy as reasons why the proposed development is unacceptable. The Environmental Statement explains the shadow of the spire will take 14 minutes to pass a single point on properties closest to the spire. Properties further away would be affected even less and it is not considered that this represents a significant loss of light which could justify a refusal of planning permission. In terms of a loss of privacy, it is generally accepted by planning practitioners that a distance in excess of 20 metres is required between buildings to maintain privacy and prevent overlooking. The closest residential properties to the spire are in

Regency Square and these are over 50 metres away from the pod. This distance will increase even further as the pod rises up the spire. Therefore it is not considered that there would be any significant loss of privacy as a result of the development.

Negative microclimatic conditions (increases in wind) and electronic interference (the disruption of television signals for example) are other amenity considerations where tall buildings are concerned. However, it is not considered that the proposed development would have any significant impact on either of these due to its aerodynamic shape and very slender design as explained in the submission documents.

Objectors have also cited an increase in noise and disturbance as reasons why the scheme is unacceptable. The Council's Environmental Health team have suggested a number of conditions to deal with noise issues, including noise from any proposed public address system and it is recommended that all the suggested conditions are imposed. It is not considered that there would be any significant noise from the proposed wind turbines as they would be so high up and far above the height of any residential properties. A Construction Environmental Management Plan would be secured via the Section 106 agreement negotiated as part of the scheme and this would deal with amenity issues relating to the construction period. However, the applicant has stated that the construction of the development would not be like conventional construction site, as much of the development will be prefabricated off-site and only assembled on the site. Given these considerations it is not considered that the proposed development would lead to any significant loss of amenity and would be in accordance with policies SR18, QD27, SU9 and SU10 of the Brighton & Hove Local Plan, policies S1, EN14 and EN16 of the East Sussex and Brighton & Hove Structure Plan, policy INF8 of Regional Planning Guidance for the South East and policies policy INF8 and NRM8 of the draft South East Plan.

Efficiency in the use of energy, water and materials

Measures in the design of the proposed development to ensure its efficiency in its use of energy, water and materials are the two vertical axis wind turbines, the installation of heat pumps to provide air heating and cooling in the pod and heritage centre, greywater and rainwater recycling and the provision of storage areas within the heritage centre for recyclable materials. It is noted that refuse storage appears to be omitted from the floor plans but it is considered that sufficient storage would exist within the heritage centre for a refuse storage area to be secured by a condition.

The two wind turbines will have a total output of approximately 35,400 kWh per year. The submission documents explain that the energy produced will be used to operate the pod when there is demand and

exported to the grid when not in use. It is estimated that the turbines will provide approximately 20% of the energy demand for movement and internal environmental engineering. The applicant has stated that the heat pumps will provide 30% of the total thermal heating energy use and are currently the optimum renewable energy efficient low carbon emission equipment available for space heating and can also produce space cooling if required. It is considered that the heat pumps would improve the environmental performance of the development but it is recommended that a condition is imposed requiring the submission of further information in this respect. Equally, the greywater and rainwater recycling features are welcomed but it is recommended that further information is required via a condition.

It is considered that all of the measures above would ensure the proposed development's compliance with policies SU2 and SU16 of the Brighton & Hove Local Plan, Supplementary Planning Guidance Notes 16 and 21, policies S1, EN27 and EN28 of the East Sussex and Brighton & Hove Structure Plan, policies INF4, INF6, INF7, INF8 and INF9 of Regional Planning Guidance for the South East, and policies CC2, CC3, CC4, EN1, EN5, INF4, INF6, INF7, INF8 and INF9 of the draft South East Plan.

Groundwater protection

The Environment Agency raise no objection to the proposed development as far as the protection of groundwater is concerned, providing that the conditions they recommend relating to groundwater are imposed. As such it is recommended that all the Environment Agency conditions relating to groundwater are imposed to ensure compliance with policies SU3, SU9 and QD27 of the Brighton & Hove Local Plan, policies S1 and EN11 of the East Sussex and Brighton & Hove Structure Plan, policy INF2 of Regional Planning Guidance for the South East and policy NRM1 of the draft South East Plan.

Flood risk

Policy SU4 and SU7 of the Brighton & Hove Local Plan, policy S1 of the East Sussex and Brighton & Hove Structure Plan, policy INF1 of Regional Planning Guidance for the South East and policies NRM3 and NRM6 of the draft South East Plan all seek to prevent allowing development which would be at risk of flooding. The Council's Coast Protection Engineer is concerned that the development would be at risk from flooding and the Environmental Statement states that there is a high risk of flooding of the lower promenade during extreme storm events which might cause the lower promenade level and basement of the heritage centre to be inundated. There is also a potential risk of electrical and mechanical failure of the pod. If the pod were in operation during the time of flood there would be a potential risk of the motors failing and people becoming stranded inside the pod. However, the applicant has

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stated in the Environmental Statement that the pod would not operate during adverse weather conditions.

Under planning policy, (in particular the new draft PPS25) the applicant should demonstrate that no other sites, which are less likely to flood, are available. The applicant has, in accordance with this sequential approach, undertaken a review of alternative sites but this review concludes that there are no other feasible sites where the proposed development could be located that would be sequentially preferable in terms of flooding. The review is considered to be reasonable in that it is not considered that there are other locations where the development could be located. The applicant considers that whilst there is a possibility that the development could flood, the proposal should be considered to be an 'exceptional case' in terms of planning policy given that appropriate mitigation measures would be implemented. PPS25 allows for exceptional cases where a development would make a positive contribution to sustainable development, where the development would be on brownfield land, where there are no alternative sites and where the risk of flooding can be appropriately mitigated.

The applicant's Environmental Statement outlines what measures would be used to mitigate the impact of flooding. These are explained in section 11.5.2 of the Environmental Statement and include the use of flood proofing materials and construction methods, the placement of all electrical services at least 1 metre above flood level or flood proofing of these services where placement 1 meter above flood level is not possible, the design of walls, doors and windows to withstand water pressures, the placement of boilers above water flood level, the provision of emergency access and escape routes, the preparation of an emergency flood plan and staff training and the installation of an early warning system. The applicant has explained that, in order to protect the electric drive motors for the pod against any water ingress, the basement plant room would be constructed from water retaining concrete and would be watertight.

During the planning application process the applicant revised the planning application drawings to include a stall riser around the perimeter of the heritage centre. This would help keep out water in the event of an extreme storm event where sea water is thrown up onto the lower promenade. A supplementary Flood Risk Assessment undertaken by the applicant states that whilst there remains a risk of storm overtopping to the lower promenade, the scale of such overtopping is significantly lower than was anticipated in the Environmental Statement. Nevertheless, the supplementary Flood Risk Assessment sets out additional flood protection measures including a weather monitoring strategy to enable potential storm events to be identified in

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advance allowing time for protection and evacuation strategies to be implemented, the development of evacuation plans, the identification of safe means of egress and access, staff training and the development of a clean up plan in the event that the heritage centre does flood.

The supplementary Flood Risk Assessment proposes additional protective measures for the building including the provision of recesses in the heritage centre door and window mullions to accommodate temporary shutters to protect the seaward glazing of the heritage centre and the installation of temporary stop logs at the heritage centre door openings. The basement level would incorporate an automatic dewatering system to enable any overtopping discharge to be pumped out. It is recommended that a condition is imposed requiring further information on all these measures so that they can be agreed with the emergency services and the Environment Agency, and their implementation secured. This will ensure that the proposed development complies with policies SU4 and SU7 of the Brighton & Hove Local Plan, policy S1 of the East Sussex and Brighton & Hove Structure Plan, policy INF1 of RPG9 and policies NRM3 and NRM6 of the draft South East Plan.

Ecology

Policy QD17 of the Brighton & Hove Local Plan, policies EN17 and EN20 of the East Sussex and Brighton & Hove Structure Plan, policy E2 of Regional Planning Guidance for the South East and policy NRM4 of the draft South East Plan all seek to protect nature conservation features. The consultation responses from the Environment Agency and the Council's Ecology highlighted that insufficient investigation of the ecological value of the sea wreck had been undertaken. To address this concern the applicant undertook an ecological survey of the sea wreck which concludes that the removal of the sea wreck would not result in any significant loss of important or rare species and would not result in any significant environmental effects. Based on the findings of the supplementary ecology report this conclusion is considered to be reasonable and it is considered that the report addresses the concerns of the Environment Agency and the Council's Ecologist.

Policies INF8 of Regional Planning Guidance for the South East and the draft South East Plan require renewable energy features to be designed and located to minimise adverse impacts on wildlife. There is concern that the proposed wind turbines would pose a risk to peregrine falcon nesting in the area who might fly into the turbines. Peregrine falcons are a protected bird species and are known to be roosting on Sussex Heights. The applicant has carried out surveys of the behaviour of the peregrine falcon which demonstrates that they generally do not fly over the West Pier site and do not fly higher than 150 metres which is beneath the height of the proposed turbines. The applicant also states

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that the vertical axis wind turbines spin so fast that they create a blurred appearance which will make them more visible to birds thereby preventing collision. The Council's Ecologist considers this to be sufficient mitigation and states that the small risk is not sufficient to justify a refusal of planning permission. English Nature consider that a small risk of collision remains but agree that the design of the turbines will make them more visible and that every effort has been made to mitigate the risk. Therefore it is not considered that there would be any significant contravention of policy INF8 as a result of the proposed development.

The Environmental Statement states that the Sussex Biodiversity Record Centre does not hold any record of bat species present in the vicinity of the West Pier or within a 0.5 km radius of this site and that when the site was surveyed in April 2006 no signs were found to suggest that bats are using the structures. Bat activity surveys were carried out again in June and July 2006 and no signs of bats were identified. As such it is considered that there would be no significant risk to bats (which are also protected species) as a result of the proposed works. However, the applicant has devised sufficient mitigation in the form replacement bat roosts within the vicinity if any bats are found during the dismantlement of the pier and it is recommended that a condition is imposed to this effect to secure this means of mitigation if bats are discovered on site. Given all of the above considerations, it is not considered that there would be any contravention of policies QD17 or EN17 as a result of the proposal.

Policy QD17 of the Brighton & Hove Local Plan, policy EN18 of the East Sussex and Brighton & Hove Structure Plan, policy E2 of Regional Planning Guidance for the South East and PPS9 on Biodiversity seek habitat creation and the integration of new nature conservation features into new development. No new habitats would be created as part of this development and no new nature conservation features would be secured. In this respect the proposed development is contrary to policy but given the other benefits of the scheme and the proposed development's accordance with policy in other respects it is not considered that a refusal of planning permission would be justified on this basis alone.

Impact on the sailing club

Policy SR18 of the Brighton & Hove Local Plan protects the seafront as an important recreation asset. It is considered that this extends to sailing. Brighton Sailing Club have objected to the application partly because they do not believe that adequate provision have been made for the temporary or permanent storage and security of their boats and dinghies which are currently stored on part of the area that would be used as the construction compound for the development. The applicant has identified a area for the temporary relocation of the

Sailing Clubs boats and it is understood that discussions will take place between the applicant and the Sailing Club to resolve outstanding issues. However, to ensure that the area for the temporary relocation is adequate and appropriate it is recommended that a condition is imposed requiring details of alternative provision to be submitted and agreed. It is considered that this will ensure that the Sailing Club's needs are catered for.

Contaminated land

The Council's land contamination officer has confirmed that the site does not appear on any records suggesting that the land could potentially be contaminated by virtue of previous uses on the site and confirms that the Environmental Statement demonstrates that the applicant has carried out the early stages of a desktop survey to examine previous uses and any issues that may influence or affect land contamination. Therefore the proposed development is considered to be in accordance with policies SU11 and QD27 of the Brighton & Hove Local Plan.

Construction and demolition waste

The applicant has submitted a Site Waste Management Plan. However, this is in outline and the applicant has stated that this is because some elements of site waste management cannot be determined at this stage and that these elements will be decided by the contractors responsible for the construction of the development. This is considered reasonable but it is recommended that a full Site Waste Management Plan and its implementation is secured via a condition to ensure compliance with policy SU13 of the Brighton & Hove Local Plan, policies EN27, W2, W10, W11 and W13 of the East Sussex and Brighton & Hove Structure Plan, policies WLP11 of the East Sussex and Brighton & Hove Waste Local Plan, policy INF3 of Regional Planning Guidance for the South East, policies M1 and W2 of the draft South East Plan and Supplementary Planning Document 03 on Construction and Demolition Waste.

Public toilets

HO20 states that planning permission will not be granted for development proposals that involve the loss of public toilets unless the facility is replaced within a new development, is relocated in a new facility which is more accessible, existing nearby facilities are improved to accommodate the loss or it can be demonstrated the facility is not needed. The proposed heritage centre would displace an existing public toilet facility which is located in a temporary building adjacent to the site. To overcome this problem the applicant has stated that the toilets within the proposed development will be publicly accessible to people not paying to visit the attraction and that the existing temporary toilet building will be moved to accommodate the heritage centre,

thereby preventing the loss of the facility. However, it is recommended that a condition is imposed to ensure public access to the new toilet facilities for people not paying to ride on the pod or visit the heritage centre.

Landscaping and surfacing of open space

No scheme has been submitted with the planning application to demonstrate how the area around the heritage centre might be landscaped and surfaced. Therefore it is recommended that a condition is imposed requiring the submission of a scheme to show how the area within the immediate vicinity of the heritage centre might be treated and to ensure compliance primarily with policy QD15 of the Brighton & Hove Local Plan but also policies QD1, HE3, HE5 and HE6.

The applicant is offering 1% of the net ticket revenue generated by the development for environmental renewal, maintenance and improvement works. This is a welcome measure and will ensure the proposed development's continuing compliance with policies QD28, QD15 and SU15 of the Brighton & Hove Local Plan, policies S3, TR33 and LT6 of the East Sussex and Brighton & Hove Structure Plan and policy T2 of Regional Planning Guidance for the South East.

Policies SR20 and QD20 of the Brighton & Hove Local Plan both seek to protect open space from development. As the foot print of the heritage centre would be slightly larger than the footprint of the root end of the West Pier a small amount of open space would be lost. However, in relation to the total amount of open space which the whole of the seafront represents, this loss is not considered to be significant. Furthermore, it is considered that the 1% of the net ticket revenue offered by the applicant for ongoing environmental improvement work would appropriately mitigate this loss.

Retail issues

The proposed development would lead to the loss of the 'Rock Shop' on the site. However, the heritage centre would contain an ancillary retail facility and it is envisaged that this would be for the sale of souvenir items which is similar to the function of the existing 'Rock Shop'. Therefore policy SR8 of the Brighton & Hove Local Plan which concerns the loss of an individual shop is not considered to be relevant. Also it is not considered that policy SR2 relating to new retail development is relevant either as the retail facility within the heritage centre would be ancillary to the heritage centre (i.e. it would not be an A1 use). The retail floor space within the heritage centre is not clearly delineated but it is not considered that this is of concern because it is recommended that a condition is imposed prohibiting the use of the development for any purpose other than as an observation spire and heritage centre associated with the history of the West Pier and for purposes which are

ancillary to these uses. This would prevent changes of use which could raise a policy objection.

Alternatives sites and designs considered

The Environmental Impact Assessment process requires the applicant to investigate alternatives to the proposed development. The Environmental Statement includes a consideration of the alternative sites and designs considered by the applicant. The first alternative site considered was the upper esplanade of Kings Road. But this was discounted as it was considered to be an area which is too busy, which would not encourage the westward movement of visitors in the city centre, would not provide a new use of the derelict West Pier site and because the land is not available for development. Madeira Drive east of Brighton Pier was the second alternative site considered but this was discounted for the same reasons as the first site but also because of the tourist congestion which already occurs at this site because of its proximity to Brighton Pier, the Sea Life Centre and the Volks Railway. Overall the West Pier has been chosen as the preferred location because it would allow for the re-use of the existing derelict West Pier, because it would complement the Council's strategy for the regeneration of the seafront and because it would extend the main seafront visitor area west of Brighton Pier. In addition the West Pier Trust are supportive of the use of this site and it is understood that the West Pier Trust would enter into a lease and agreement for the development so that it would provide an income to the trust to allow them to consider options for the sea island.

Several design alternatives were considered during the development of the scheme. Some of these were minor changes including the provision of the glass lift and the reorientation of the wind shield seating from east-west to north-south. Other more significant changes which it is considered may have reduced the significant environmental effects of the proposed development were: the omission of the coach pick-up/drop-off facility adjacent to the site, the provision of a dedicated queuing area off public land at the Kings Road upper esplanade level, linking the removal of the sea wreck with the proposed development through the Section 106 process, the omission of cast iron balusters (which were not considered original 1866 parts of the West Pier), a reduction in the height of the perimeter glazed wind shields to balustrade height for greater visual permeability and the inclusion of aviation lighting requirements.

Cumulative effect

The main cumulative effect predicted by the Environmental Statement is the impact in traffic on Kings Road during important events in the city centre. However, it is considered that as these events only occur a few days per year this is unlikely to result in a significant impact. The

Environmental Statement reports that construction works for the proposed development and the Brighton Centre could cause traffic problems if both are constructed within the same time frame but this could be alleviated by construction traffic planning and scheduling. However, it should be noted that if planning permission for this development is granted it is expected to be open by July 2008 whereas a planning application for the Brighton Centre redevelopment has yet to be submitted. Therefore the construction of these two developments simultaneously is considered to be unlikely.

9 CONCLUSIONS

Despite the requirements of policy HE5 of the Brighton & Hove Local Plan, the proposed development is considered to be acceptable. Whilst only adopted last year, this policy is now considered to be out of date because of the advanced stage of decay the pier is now in and because of the impossibility of “restoring” the pier now that so much of the original fabric has been lost or is beyond repair. Removal of the sea wreck is considered to be necessary in the interests of health and safety and the preservation and enhancement of the Regency Square conservation area as the sea wreck is considered to be detracting from its character and appearance.

The replacement development is considered to be of a high quality and this is considered to justify its exceptional height and its replacement of the root end of the pier. The principle of the proposed development, which would be a considerable tourist attraction, is considered to be entirely acceptable in terms of planning policies relating to tourism and transport. The Environmental Statement predicts that a large proportion of the visitors to the development would be people who already visit the city and this would significantly mitigate the impact of the development on transport infrastructure. The development's location in a very accessible location in the centre of the city would ensure that sustainable modes of transport are a possible and desirable alternative to travel by car.

The very slim nature of the proposed spire, as well as its proportions, position and layout in relation to Regency Square would ensure that its impact on the character of the area, the Regency Square conservation area and the setting of nearby listed buildings is mitigated. This application has the overwhelming support of the Commission for Architecture and the Built Environment and English Heritage who are the lead body for the historic environment.

The Environmental Statement and its supplementary documents set out appropriate and sufficient mitigation measures relating to flooding, safety and land stability and it is not considered that any significant amenity issues would arise as a result of the development. Whilst the

proposed lighting might impact on the AONB, the impact is considered acceptable given the important role the lighting would have in making this exceptionally tall structure visible to aircraft and its impact as a work of art. Although the spire would be tall and contemporary, its very slender design and the significant heritage benefits it would bring (in the form of the heritage centre, reconstructed features from the West Pier and exceptional views over the city) more than outweigh any perceived negative impacts.

10 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The West Pier is in a dilapidated and damaged state. Restoration is not possible and a viable alternative use for a reconstructed pier is unlikely to be found. The sea wreck detracts from the character and appearance of the Regency Square Conservation Area and the pier has lost much of its special architectural and historic interest.

Regional planning policies identify Brighton as a focus for large scale leisure development and tourism uses which attract a large number of people. The development would contribute to economic regeneration and would not compete with existing tourist attractions.

The proposal would be an imaginative and appropriate use of an under-used brownfield site and would make a positive contribution to the Regency Square Conservation Area. Its design is of a high quality and it would have an acceptable impact upon the city's townscape.

The site is in a sustainable location and sustainable travel would be encouraged and supported through S106 measures. Sustainable features are incorporated in the building. An element of public art would be secured and issues of aviation and public safety have been satisfactorily addressed. Flood risks, crime prevention, lighting, waste minimisation and ecological impacts of the development have all been considered, as has the need for the provision of alternative public toilets. Full access is provided for disabled persons.

11 EQUALITIES IMPLICATIONS

The application is accompanied by an Access Statement which demonstrates a very clear understanding of the issues and sets out the correct approach to inclusive design. The new lift to the east of the heritage centre will contribute to making the development accessible and accessible toilets are proposed on both levels of the heritage centre. The glazed gates on the northern side of the upper deck of the heritage centre will be clearly identified as distinct from the adjacent fixed glazed walls by means of manifestation making them more visible for the visually impaired and dropped counters will be provided at the tollbooths for users of wheelchairs. All stairs will have risers and goings to

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part M standards will contrasting nosings and handrails with raised indicators on level approaches.

APPENDIX TO PLANNING APPLICATIONS SUB-COMMITTEE REPORTS FOR BH2006/02369 AND BH2006/02372

LETTERS OF OBJECTION FROM NEIGHBOURS	
Number of residence	Residence
Email, no address given	
Email, no address given	
Flat 3, 54-56	Brunswick Place
14G, Bedford Towers	Cavendish Place
9c, Bedford Towers	Cavendish Place
11c, Bedford Towers	Cavendish Place
7b, Bedford Towers	Cavendish Place
15a, Bedford Towers	Cavendish Place
11a, Bedford Towers	Cavendish Place
7b, Bedford Towers	Cavendish Place
9a	Compton Avenue
Flat 1, 32	Compton Road
51	Coventry Street
72	Dean Court Road
87	Eastbrook Road
78	Ewhurst Road
12 St Anns Well House, Basement Flat, 33	Farm Road Holland Road
117	Horton Road
Flat 1, Abbots, 129	Kings Road
Flat 2, Abbots, 129	Kings Road
Flat 11, Abbots, 129	Kings Road
Flat 23 Astra House,	Kings Road
Flat 23 Astra House,	Kings Road
Flat 46 Astra House,	Kings Road
Flat 16, 138, Cavendish House,	Kings Road
15, Cavendish House,	Kings Road
Flat 10, Kingsley Court, 142	Kings Road
2	Ladysmith Road
9	Newark Place
12 Sandringham Lodge, 23	Palmeira Avenue
43	Pelham Road, London
Flat 1, 8	Pembroke Crescent
89a	Queen Mary Road, London
Ground Floor Flat, 24	Regency Square
Flat 7, 31	Regency Square
Flat 8, 66	Regency Square
7 King George Mansions, 36	Regency Square
Flat 8, Regency Court, 59-62	Regency Square
Flat 6, 63	Regency Square

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Flat 2, 63	Regency Square
Flat 9, 31	Regency Square
45	Regency Square
LETTERS OF OBJECTION FROM NEIGHBOURS continued	
31	Regency Square
Flat 8, 53-54	Regency Square
Flat 7, 31	Regency Square
Flat 2, 59-62	Regency Square
64	Regency Square
Flat 3, 7	Regency Square
Flat 2, 59-62	Regency Square
Flat 9, 59-62	Regency Square
Flat 10, 59-62	Regency Square
22, Regents Court, 59-62	Regency Square
23, Regents Court, 59-62	Regency Square
19, Regents Court, 59-62	Regency Square
10, Regents Court, 59-62	Regency Square
9, Regents Court, 59-62	Regency Square
9, Regents Court, 59-62	Regency Square
23, Regents Court, 59-62	Regency Square
4, Regents Court, 59-62	Regency Square
Flat 2, 44	Regency Square (X2)
50	Richmond Street
21	Roundhill Crescent
18c	Sussex Heights
15D	Sussex Heights
14c	Sussex Heights
Flat 3, 9	Vere Road
Flat 67, 32	Victoria Road
101-91	Western Road
26	Whittingehame Gardens
19	Woodland Drive
45	Worcester Villas
TOTAL	73

LETTERS OF OBJECTION FROM ORGANISED GROUPS AND BUSINESSES	
Name of group/business	Group/business address
Save Hove	PO Box 521, Hove
TOTAL	1

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LETTERS OF SUPPORT FROM NEIGHBOURS	
Number of residence	Residence
Email, no address given	
Flat 6 Lewes Court	Aberdeen Road
6	Ardale Close, Worthing
96	Ardingly Drive, Goring-by-Sea
13	Ash Keys, Southgate, Crawley
The Mews House 5a	Atlingworth Street
Blanch House, 17	Atlingworth Street
82	Balfour Road
117	Banstead Road, Carshalton, Surrey
Flat 3, 33	Bedford Square
6	Bedford Street
The White House, 6	Bedford Street
8B	Bedford Towers, Kings Road
205	Beechwood Avenue, Earlsdon, Coventry
23	Benham Court
9	Bentley Avenue, Yaxley, Peterborough
12	Borough Street
6	Braemore Court, Kingsway
19	Broad Street
10	Brunswick Street East
6	Burdocks Drive, Burgess Hill
Flat 3, 1	Cavendish Street
6	Charlotte Road, Wallington
18b	Charlotte Street
29	Cheltenham Place (X2)
139	Chester Terrace
23	Chrisdory Road
158	Church Road, Teddington
Harley Lodge	Clifton Down, Bristol
25	Connaught Road
22	Devonshire Place
132 50931	Duerener Strasse, Koeln, Germany
Flat 9 Princes Court, 11	First Avenue
23	Fitzgeorge Avenue, London
Benfield	Golden Lane, Ashurst
34, Cliftonville Court,	Goldstone Villas
18	Grange Road, Camberley
16	Guildford Street
104	Hallyburton Road
37	Hampton Place (X2)
109	Hangleton Way
4	Holly Close (X2)

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43	Hove Park Villas
11	Howard Terrace
17	Howards Road, Westbury Park, Bristol
LETTERS OF SUPPORT FROM NEIGHBOURS continued	
Asakawa-copo 502	Hyakunin-cho 1-2-24 Tokyo JAPAN
Holiday Inn	Kings Road
The Queens Hotel	Kings Road
137	Kings Road
Hilton Brighton Metropole	Kings Road
313	Kingsway
Dart Vale	Laughton Road, Ringmer, Lewes
33	Littlefield Lane, Grimsby
1	Lucerne Road
29	Margery Road
84	Marine Parade
Flat 3, 4	Medina Terrace
42 7908 De Garve	NJ Hoogeveen, Netherlands
13, Princes House, 165-169	North Street
74	Northeast Drive
43 Orchard House,	Parkview Road
Flat 2, Rear Basement, 73	Preston Road
Flat 2, 73	Preston Road
17	Princes Terrace
151	Queensway
Adelaide Hotel, 51	Regency Square
Adelaide Hotel, 51	Regency Square
52	Regency Square
52	Regency Square
Flat 2, 21	Sackville Gardens
Flat 4, 59	Sackville Road
16 The Athenaeum, 32	Salisbury Road
22	Saxon Road
Le Bourg, 16410	Sers, France
34	Sillwood Road
Flat 5, 39	Sillwood Road
Flat 4, 67	Springfield Road
17	Upper Rock Gardens
35	Upper Rock Gardens
Flat 4, 23	Ventnor Villas
Flat 18, Verner House	Victoria Terrace
75	Westfield Crescent
31	White Street
54	Windmill Street
54	Windmill Street
41	Woodbourne Avenue

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2	Woodside Avenue
TOTAL	90

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LETTERS OF SUPPORT FROM ORGANISED GROUPS AND BUSINESSES	
Name of group/business	Group/business address
Avalon Guest Accommodation	7 Upper Rock Gardens
Brighton Sea Life Centre	Marine Parade
Harbour Communities Association	17 St Peters Road, Portslade-by-Sea
Kelvin Guesthouse	9 Madeira Place
Yellowwave	3 St. Leonard's Road
TOTAL	5

LETTERS OF COMMENT FROM NEIGHBOURS	
Number of residence	Residence
Flat C, 9	Blythwood Road, London
37	De Montfort Road
19	Down Terrace
Milkmaid Pavillion	Kings Road
12a	Metropole Court
47	Regency Square
8c Sussex Heights	St Margaret's Place
8c Sussex Heights	St Margaret's Place
19	Withdean Crescent
TOTAL	10

<u>No:</u>	BH2006/02372	<u>Ward:</u>	REGENCY
<u>App Type</u>	Listed Building Consent		
<u>Address:</u>	Land at and adjacent to West Pier and 62-73 Kings Road Arches Kings Road, Brighton		
<u>Proposal:</u>	Demolition of part of the 'root end' of the Brighton West Pier and removal and demolition of the 'sea wreckage' and all associated structures. Works of alteration to arches 62-73 Kings Road, removal and relocation of two listed lamp standards and alteration and partial removal of listed seafront railings adjacent to site. To accompany full planning application BH2006/02369. Additional information submitted including Revised Listed Building Consent Drawings. (Amended Description)		
<u>Officer:</u>	Luke Perkins, tel: 292178	<u>Received Date:</u>	17 July 2006
<u>Con Area:</u>	REGENCY SQUARE	<u>Expiry Date:</u>	11 September 2006
<u>Agent:</u>	DP9, Cassini House, 57-59 St James's Street, London		
<u>Applicant</u>	Marks Barfield Limited, c/o agent		
:			

1 RECOMMENDATION

That the Sub-Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 8 of this report and resolves that it is **minded to grant** listed building consent subject to:

- (i) **authorisation from the Secretary of State, and**
- (ii) **the following Conditions and Informatives:**

Conditions:

1. The works hereby permitted shall be commenced before the expiration of three years from the date of this consent.
2. **Reason:** To comply with Sections 18 (as amended) and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
3. Details of how the listed seafront railings will be terminated and finished shall be submitted to and agreed in writing by the local planning authority prior to the removal of any part of the listed seafront railings which would be removed as part of this application as shown on drawing 027.
4. **Reason:** To ensure an appropriate and satisfactory appearance to these listed structures which would be altered as part of this proposal and to comply with policy HE1 of the Brighton & Hove Local Plan.

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5. The two listed lamp standards indicated on drawing number 028 shall be repositioned as indicated on drawing number 028 prior to the occupation of the development which is the subject of planning application number BH2006/02369. Any damage which occurs to either lamp standard during the removal, relocation or re-erection of each lamp standard shall be repaired in full prior to the occupation of the development hereby approved.
6. **Reason:** To ensure that these two listed structures are not lost and that any damage to them during relocation is repaired, to preserve and enhance the character and appearance of these listed structures and to comply with policy HE1 of the Brighton & Hove Local Plan.
7. No works authorised by this consent shall take place within the area indicated on drawing 011 until a written scheme of investigation has been submitted to and approved in writing by the Local Planning Authority, outlining a programme of building analysis and recording to be undertaken as part of the wider clearance of the sea wreckage by a person or body approved by the Local Planning Authority.
8. **Reason:** To secure and safeguard the provision for inspection and recording of matters of architectural, engineering, archaeological and historical significance associated with the remains of the pier which will be lost during the works for removal of the sea wreckage and to comply with policies HE1, HE2 and HE5 of the Brighton & Hove Local Plan, policy EN22 of the East Sussex and Brighton & Hove Structure Plan.
9. No works shall be commenced until details of the WWII gun emplacement located beneath the root end of the West Pier have been fully recorded by scaled drawings and photographs and these records passed to the local planning authority, Brighton & Hove museums archive and the Brighton & Hove City Library local history reference section prior to the removal and/or demolition of the gun emplacement.
10. **Reason:** In order to provide a reasonable opportunity to record the history of this listed structure and to comply with policy HE2 of the Brighton & Hove Local Plan, policy EN22 of the East Sussex and Brighton & Hove Structure Plan and PPG15 Planning and the Historic Environment.
11. No works shall be commenced until a scheme for the methods to be used in dismantling the structure has been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the agreed details.
12. **Reason:** To safeguard the special architectural and historic interest of the listed building and in accordance with policies HE1, HE2 and HE5 of the Brighton and Hove Local Plan, policy EN22 of

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- the East Sussex and Brighton & Hove Structure Plan and PPG15 Planning and the Historic Environment.
13. No works shall start on site without prior written notification of that start to the Local Planning Authority.
 14. **Reason:** To safeguard the special architectural and historic interest of the listed building and in accordance with policies HE1, HE2 and HE5 of the Brighton and Hove Local Plan.
 15. The stabilisation works required to Arches 62-73 Kings Road shall be carried out in strict accordance with the details in the 'Stabilisation Works to Arches 62-73 Kings Road' report submitted 8 September 2006.
 16. **Reason:** To ensure the preservation of listed structures and to comply with policies HE1 of the Brighton & Hove Local Plan, policy EN22 of the East Sussex and Brighton & Hove Structure Plan and PPG15 Planning and the Historic Environment.
 17. No works shall commence until a statement is submitted to and approved in writing by the Local Planning Authority, clarifying the extent of replication of parts of the West Pier and demonstrating how vertical structural elements of the pier and modern decking and bracing would be arranged in the heritage centre hereby approved. The statement shall explain how the vertical structural elements shall be refurbished and shall explain their external appearance within the heritage centre. The works explained in this statement shall then be carried out in full unless otherwise agreed in writing by the Local Planning Authority.
 18. **Reason:** For the avoidance of doubt, to secure the re-use of the main vertical structural elements of the West Pier and to comply with policies HE1, HE2 and HE5 of the Brighton & Hove Local Plan and policy EN22 of the East Sussex and Brighton & Hove Structure Plan.

Informatives:

1. This decision is based on the listed building consent application form, covering letter and HOP Supporting Information document received on 17 July 2006 and on the covering letter, Stabilisation Works Report and drawing numbers 001, 002, 003, 004, 005, 011, 026, 027 and 028 received on 8 September 2006.
2. This decision to grant listed building consent has been taken:
 - (i) having regard to the policies and proposals in the East Sussex and Brighton & Hove Structure Plan and the Brighton & Hove Local Plan as set out below and to other considerations relevant to the architectural and historic interest of listed buildings, including Supplementary Planning Guidance.

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East Sussex and Brighton & Hove Structure Plan 1991-2011:

S1 Twenty one criteria for the 21st century

EN22 Identification, recording, safeguarding, investigation and preservation of archaeological sites, monuments and historic and listed buildings

Brighton & Hove Local Plan:

HE1 Listed Buildings

HE2 Demolition of a listed building

Supplementary Planning Guidance:

SPGBH11: Listed Building interiors

SPGBH13: Listed Building - general advice

Planning Policy Guidance:

PPG 15: Planning and the historic environment; and

(ii) for the following reasons:

An alternative use for the pier is unlikely to be found. Restoration of the pier is no longer practical. The pier structure is in a heavily damaged state. "Restoration" of the pier is not possible. The pier is unsightly and detracts from the appearance of the seafront and Regency Square and causes harm to the appearance of the historic seafront. Community benefits would accrue to the beach and the seafront from the removal of the pier wreckage. The pier's physical condition has deteriorated to a point where the cost of reconstructing the pier outweighs the value that would be derived from the retention of the existing root end. The pier has lost much of its special architectural or historic interest. There remains very little of the pier structure amongst the wreckage that is of interest. The physical condition of the pier has deteriorated to a point where the cost of reconstructing the pier outweighs its importance. Details of the gun emplacement will be recorded prior to destruction. The removal of the two sections of listed railings would not significantly undermine the overall architectural or historic importance of these listed structures. The relocation of the lamp posts would not compromise their architectural or historic interest. The stabilisation works are minor.

2 THE SITE

The site consists of the West Pier 'root end', the derelict pier structure stretching out over the beach into the sea, the former paddling pool area to the east of the root end and part of the footway of Kings Road to the north.

The West Pier originally opened on 6 October 1866 but was amended and added to until it was completed in 1916. It was built to the design of the famous pier engineer, Eugenius Birch. Although originally designed as a promenade pier, with small kiosks and no entertainment pavilions, the early part of its life saw a number of significant physical

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changes. The pier was widened and the central windscreen added. Competition from the Palace Pier (now Brighton Pier) led to a large seaward end platform with landing stages being added in the 1890s to accommodate a large pavilion decorated with oriental towers. The Pavilion was converted into a theatre in 1903. The Concert Hall was completed in 1916.

Following the First World War, the Pier's fortunes gradually waned. During the Second World War, a section of the pier south of the Concert Hall was removed to avoid the threat of it being used to disembark German troops in the event of an invasion. Following the war the level of maintenance of the Pier was reduced. The pier gradually fell into disrepair, with gradual closure of some areas, until eventually it closed completely on 30 September 1975. The pier was purchased by the West Pier Trust from the Crown Commissioners in 1978. In 1982 it became a grade I listed building. It was the only grade 1 listed pier structure in the country because it was considered by English Heritage to be an exceptionally rare surviving example of Victorian and Edwardian pier architecture. The pier was badly damaged and split in two by the hurricane of October 1987. Part of the root end of the pier was demolished in 1991 on safety grounds, to prevent access to the structure. In December 2002 there was a partial collapse and this was followed by a major collapse in 2003 following two serious fires in March and May 2003. A further storm on 23 June 2004 resulted in the more or less total loss of the central section of the pier, now referred to as 'the sea wreck'. After this Heritage Lottery Fund withdrew its grant offer for the restoration of the pier.

The former paddling pool area has been cleared of the paddling pool structure and is currently vacant and covered by tarmac. The western, southern and eastern sides of the root end are bounded by high palisade fencing which provides a storage area underneath where parts of the West Pier have been stored and where a WWII gun emplacement is understood to be located. Excluded from the site is the 'sea island' part of the West Pier. This is the part of the pier structure furthest out to sea which is still standing.

Underneath the root end of the pier is a cycle hire facility but it is unclear whether this still operates. To the east of the root end is a café set into the arches underneath the upper esplanade. To the west of the root end are temporary public toilets in front of the Kings Road arches where it appears that permanent toilet facilities may once have operated. On the root end itself is the 'Rock Shop' within the one remaining original West Pier tollbooth building, a porta-cabin which houses the West Pier Trust's offices, a disused booth and a Seafood Bar kiosk.

Also within the site boundary is a large section of the upper esplanade footway including the arches underneath which support it. Railings run along the southern side of the upper esplanade all of which are grade II listed, as are all of the lamp posts. There is a grade II listed lamp post located immediately to the east and west of the root end. The upper esplanade footway area includes steps within the pavement down to the subway underneath the footway. This pedestrian subway joins the lower esplanade to the Regency Square car park. Running along the upper esplanade is route 2 of the National Cycle Network which runs west to east along the whole of Brighton & Hove seafront. Kings Road, which forms part of the A259 main coast road which runs along Brighton & Hove seafront, is allocated in the Brighton & Hove Local Plan as a Greenway and a Sustainable Transport Corridor. A bus lay-by is located adjacent to this cycle lane. There are at-grade pedestrian crossings over the Kings Road a few hundred meters either side of the root end of the pier.

Regency Square is sited immediately to the north of the site on the northern side of Kings Road. It contains a set-piece of grade II* listed buildings around a central garden enclosure. Beneath the garden enclosure is the Regency Square NCP car park which has approximately 510 car parking spaces of which 5 are allocated for use by disabled people. To the north east of Regency Square is Sussex Heights, a block of flats which is the tallest building in the city. The whole of the site area is within the Regency Square conservation area.

3 RELEVANT HISTORY

Given the historic nature of much of the pier's structure and its long period of closure to the public, there is limited relevant planning history. However, the following applications, largely connected with restoration plans, have been determined in recent years:

91/0336/LB: Demolition of section of West Pier. Approved 14/5/1991.

92/0460/FP: Provision of temporary screening below root end of pier and temporary rides for adults/children. Approved 1/7/1992.

92/0461/LB: Provision of temporary screening below root end of pier and temporary rides for adults/children. Approved 1/7/1992.

92/0859/FP: Erection of 17 temporary kiosks, tent, 5 flag poles and two signboards on foreshore decks and provision of temporary stalls on lower esplanade on beach area. Approved 10/12/1992.

92/0860/LB: Erection of 17 temporary kiosks, tent, 5 flag poles and two signboards on foreshore decks and provision of temporary stalls on lower esplanade on beach area. Approved 10/12/1992.

93/0999/AD: Erection of four timber advertisement board. Approved 4/10/1994.

93/01134/LB: Erection of four timber advertisement board. Approved 4/10/1994.

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96/0781/FP: Retention of Go-Kart track including barriers and kiosk (Retrospective). Approved 21/11/1996.

96/0782/LB: Retention of Go-Kart track including barriers and kiosk (Retrospective). Approved 21/11/1996.

96/1023/FP: Emergency phase one works to provide temporary structural works to West Pier below deck level and temporary access link from root to pier. Approved 3/1/1997.

96/1024/LB: Emergency phase one works to provide temporary structural works to West Pier below deck level and temporary access link from root to pier. Approved 3/1/1997.

BH1998/02324/LB: (The Rock Shop) Installation of three panel antenna to external elevations at high level and equipment cabinets internally. Refused 11/2/1999.

BH1999/00120/FP: (Kiosk at root end) Removal of container on west side of pier decking and replacement with kiosk. Approved 26/2/1999.

BH1999/00121/LB: (Kiosk at root end) Removal of container on west side of pier decking and replacement with kiosk. Approved 26/2/1999.

BH1999/00360/FP: phase 1 restoration works to deck and substructure below. Approved 4/1/2000.

BH1999/00373/LB: phase 1 restoration works to deck and substructure below. Approved 4/1/2000.

BH2000/02026/FP: Use of beach as a street market on Saturdays and Sunday between 1 April and 30 September in any year. Approved 3/4/2001.

BH2001/01905/FP: Variation of Condition 1 of planning permission BH2000/02026/FP to allow operation to continue until 31st December 2001 and to allow markets on Bank Holidays except for Christmas Day. Approved 5/11/2001.

BH2001/02531/FPL: Renewal of planning permission BH2000/02026/FP for two years (2001 to 2003 inclusive) and to allow markets on Saturdays, Sundays and Bank Holidays (except Christmas Day) between 31st March and 31st December and on weekdays (Monday to Friday inclusive) between 1st July and 31st August.

BH2002/00793/FP: Temporary permission for four years for the retention of existing office portacabin and for a new linked extension portacabin to form restoration enabling development exhibition, site works accommodation and West Pier Trust office accommodation (Retrospective). Approved 14/8/2002.

BH2002/00881/FP: Restoration and refurbishment of building on the West Pier and provision of two new buildings for retail (A1), food and drink (A3) and leisure (D2) uses, adjacent to the landside end of pier, together with provision for access and servicing. Withdrawn 27/4/2005.

BH2002/00886/LB: Creation of opening in existing listed railings for pedestrian access. Restoration and refurbishment of building on the West Pier and provision of two new buildings for retail (A1), food and drink (A3) and leisure (D2) uses, adjacent to landside end of pier, together with provision for access and servicing. Withdrawn 27/4/2005.

BH2002/00887/CA: Demolition of walls around paddling pool and petanque area. Withdrawn 27/4/2005.

BH2003/00615 Renovation and internal alterations to the Concert Hall, including creation of an additional floor. Widening pier deck between Concert Hall and Pavilion by two metres and creation of covered walkway between Concert Hall and Pavilion. Withdrawn.

BH2003/03040/LB: Removal of the remains of the derelict landing stages from pier head. Approved 26/1/2004.

BH2004/01552/FP: Renewal of planning permission BH2000/0231/FP for a street market at West Pier, to allow operation to continue until 31st December 2005. Approved 7/7/2004.

BH2004/03363/FP: Renewal of planning permission BH1999/00360/FP for phase 1 restoration works to deck and substructure below. Withdrawn 19/4/2006.

BH2004/03674: Phase 1 restoration works to deck and substructure below. Withdrawn 20/1/2005.

BH2005/0527: Confirmed use of area around pier on lower esplanade for street market. Amendments to previous conditions relating to days and hours of trading and number of stalls. Approved 2/12/2005.

BH2006/02531: Two non-illuminated boards. Under consideration at the time the report was published.

BH2006/02369: Application for the erection of an observation spire and heritage centre and associated works, is also included in this Plans List.

4 THE APPLICATION

Listed building consent is sought for the partial demolition of the West Pier. The sections of the West Pier the applicant proposes to dismantle and remove are 'the root end' which is the part closest to Kings Road and 'the sea wreck' which is all those parts which have fallen into the sea and all of those parts which protrude from the beach. The 'sea island' which is the end part of the pier out to sea which is still standing would not be demolished as part of this application. Also included in this application is works of alteration to arches 62-73 Kings Road and the removal and relation of two grade II listed lamp posts and the removal of two sections of grade II listed seafront railings.

5 CONSULTATIONS

External:

Neighbours: A total of 179 representations had been received at the time this report was finalised, comprising of the following:

- 73 representations from residents objecting to the scheme;
- 1 representation from an organised groups objecting to the scheme;
- 90 representations from residents supporting the scheme;
- 5 representations from organised groups and businesses supporting the scheme; and
- 10 representation from residents commenting on the scheme.

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The addresses of those who had made representations on the scheme by the time this report was finalised are contained within an appendix to the report on application BH2006/02369. Any representations received after this report was finalised will be reported in the Late List.

In summary, representations received which object to the application are on the grounds that the proposed works would:

- result in the almost total loss of the grade I listed West Pier which is an important and beautiful structure which represents a huge part of Brighton's history and appeal, which attracts tourists and photographers and which should be left to sink into the seabed;
- not secure the removal of the pier until a year after the attraction which is the subject of the full planning application opens; and
- result in the loss of the Rock Shop, and

In summary, representations received in support the application, are on the grounds that the proposed works would:

- result in the tidying-up of the beach via the funding of the removal of the sea wreckage which currently compromises the regeneration of the city whilst also leaving options open for the future of the West Pier;
- through the provision of the development which is the subject of the full planning application, entertain residents and visitors by providing them with a new perspective of the city whilst also informing and educating visitors about the West Pier through the heritage centre; and
- through the provision of the development which is the subject of the full planning application, provide visitors and residents with an understanding of the beauty of both the surrounding area and the unique architectural heritage of the city.

The comments received all relate to the full planning application and not to this listed building consent application.

Ancient Monument Society: State that they defer at this stage on this 'very sad' case to the Victorian Society.

Conservation Advisory Group (Original Comments): The group were supportive of the scheme.

Conservation Advisory Group (Further Comments): The group were concerned that in removing the lamp columns for relocation these should not be subsequently lost.

Council for British Archaeology: No comments received. Any comments received after the publication of this report will be reported in the Late List.

English Heritage: With “considerable sadness” it recommends that consent be granted. The application relates largely to the removal of the wreckage of the West Pier. English Heritage, with assistance from the Council and others, is investigating methods for the gathering of archaeological data from the structure of pier, as an important precursor to demolition. Given the uncertainties in this case, we would suggest that any listed building consent is made subject to an appropriate archaeological condition. The West Pier, even in its heavily dilapidated state, is still a Grade I listed building. Any works to the pier, therefore, require listed building consent. Given the heavily damaged state of the pier, and the changes consequent on repair of the root end during the late 1980's works, we would suggest that it would be reasonable to cover the changes by condition on any consent granted, subject to the provision of a method statement prior to decision.

Has been concerned that the remaining pier structure, particularly but not exclusively the section standing at the seaward end, may hold information about the history of the pier which, if gathered, would benefit consideration of the significance of the pier, but if feasible this could be worked up into a project design which would enable an archaeological condition to be adequately discharged. Therefore suggests an archaeological condition.

Georgian Group: The Committee expressed their continuing regret at the unfortunate circumstances that have resulted in the near total loss of the West Pier. The outstanding architectural and historic interest of the West Pier, a grade I listed building, 1865-6 by Birch, and the only Grade I listed pier in the country, should have ensured that such a structure was successfully restored. The loss of the West Pier makes it vital that surviving historic structures in Brighton are preserved and enhanced through appropriate works.

Society for the Protection of Ancient Buildings: Any proposal to demolish a Grade I listed building is clearly a major issue. However, the pier's date places it firmly outside the society's period of interest.

Twentieth Century Society: The Twentieth Century Society does not wish to comment.

Victorian Society: The Society has had a long involvement with the West Pier and it is with regret that the current proposal to demolish and remove the wreckage is accepted. It is a great shame that the West Pier fell into such disrepair and that a solution for its restoration could not have been found sooner. Unfortunately, the historic value of the Victorian pier, which merited grade I listed status, is all but lost and any

proposals for restoration would now entail a complete rebuilding. On this basis we would not oppose the application.

Internal:

Conservation and Design: The pier has suffered considerable fire and storm damage and loss, so much so that the Heritage Lottery Fund withdrew its financial support for the restoration scheme. English Heritage subsequently reached the view that the pier's full restoration is no longer a credible option and certainly not an option deserving of public funds. The restoration of the Pier is no longer considered a practical proposition. The skeletal iron structure of the pier head and theatre (the 'sea island') is to remain. Uncertainty over its future including the possibility of a new link to the shore therefore remains. The case for the pier's demolition has been justified, as required by policy HE2 and government guidance (PPG15). An alternative use is unlikely to be found for the pier. There are community benefits from its redevelopment and the pier's physical condition has deteriorated to a point where the cost of reconstructing the pier outweighs its importance and the value that might be derived from the retention of the existing root end. There remains very little of the pier structure amongst the wreckage that is likely to be of interest, but nevertheless this needs to be monitored as works progress, and recorded for archaeological purposes. The root end including the World War II gun emplacement also requires the recording of details of the structure by measured drawings, text and photographs. The applicant has made a sound case for the demolition. The Pier has lost much of its special architectural or historic interest.

6 PLANNING POLICIES

East Sussex and Brighton & Hove Structure Plan 1991-2011:

S1 Twenty one criteria for the 21st century

EN22 Identification, recording, safeguarding, investigation and preservation of archaeological sites, monuments and historic and listed buildings

Brighton & Hove Local Plan:

HE1 Listed Buildings

HE2 Demolition of a listed building

Supplementary Planning Guidance:

SPGBH11: Listed Building interiors

SPGBH13: Listed Building - general advice

Regency Square Conservation Area Character Statement

Planning Policy Guidance:

PPG 15: Planning and the historic environment

7 CONSIDERATIONS

All that can be considered in the determination of this application is the effect of the proposed works on the architectural and historic interest.

The principle of the loss of the 'root end' and 'sea wreck' of the West Pier

The West Pier is protected from demolition by its status as a grade 1 listed building. Any application to demolish (or partially demolish as in this case) a grade 1 listed building must be assessed against the requirements of national planning policy in the form of PPG15 and in Brighton & Hove, local plan policy in the form of HE2.

Jointly, PPG15 and policy HE2 specify criteria which must be satisfied before the demolition of a listed building can be justified. These criteria can be summarised in the following three points and each is discussed in detail below:

1. New or alternative uses cannot be found for the building and preservation is not possible,
2. Redevelopment of the building would produce substantial benefits for the community which would outweigh the loss resulting from its demolition, and
3. The condition of the building has deteriorated to a point where cost of retaining building outweighs its importance. Pertinent to this point is the possibility of grants being made available from public sources.

Each of these criteria, relative to the numbered points above, are explained below.

1. The Council's Conservation and Design Manager has stated that an alternative use for the pier is unlikely to be found and that restoration of the pier is no longer considered a practical proposition. English Heritage consider the pier structure to be in a heavily damaged state. English Heritage have produced a report dated 27 July 2004 entitled 'A Supplementary Report into the case for Repairing Brighton's West Pier'. Given the contents of the report, "restoration" of the pier is not possible, due to the extent of damage to the pier by storms and fires. The extent of the damage is such that the amount of new material that would need to be introduced to the structure would be so significant that the architectural and historic integrity and credibility of the listed structure would be significantly undermined. On this basis it is considered that new uses cannot be found for the existing structure and that preservation is not possible. Therefore the proposal complies with the requirements of PPG15 and HE2 in this respect.
2. The Council's Conservation and Design Manager considers the structures on the pier to be unsightly and considers that the pier detracts from the appearance of the seafront and Regency Square

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to the extent that it causes harm to the appearance of the historic seafront. He considers that residents' and visitors' enjoyment of the beach and views along the seafront suffer as a consequence. Therefore, it is considered that community benefits would accrue to the beach and the seafront generally, from the removal of the pier wreckage. The Conservation and Design Manager considers that the pier's physical condition has deteriorated to a point where the cost of reconstructing the pier outweighs the value that might be derived from the retention of the existing root end. He also considers that the replacement development (see the Planning Applications Sub-Committee report for application BH2006/02369) would provide an entirely appropriate replacement for the West Pier and would serve a not dissimilar function. On this basis it is considered that there are community benefits to be derived from the partial demolition and the provision of the replacement development. As such, the proposed works comply with the requirements of PPG15 and HE2 in this respect.

3. English Heritage state that the significance of the pier relates to the original 1866 Eugenius Birch promenade pier, because of its pioneering structure, its use of kiosks, the very high quality of its craftsmanship, its setting as part of a greater architectural ensemble and its meaning in terms of the development of Brighton as a resort. English Heritage consider the pier's later history to be secondary. When the West Pier closed in 1975, the structure was significantly different from that which was built in 1866 because of the various additions and alterations which had been made to the structure over the years. The Council's Conservation and Design Manager considers that the pier has lost much of its special architectural or historic interest and states that there remains very little of the pier structure amongst the wreckage that is likely to be of interest. Therefore, despite its grade I listing, it is considered that the importance of the pier in its current condition, is in question and has been significantly undermined. Furthermore, the Conservation and Design Manager considers that the physical condition of the pier has deteriorated to a point where the cost of reconstructing the pier outweighs its importance. This point is particularly important given that English Heritage consider the damage which the pier has suffered has been sufficient to cast considerable doubt on the intellectual case for the reconstruction. English Heritage consider that a restoration project now would have a dubious connection with the original pier and would lack architectural and historic credibility and integrity because of the extent of new material that would be needed for construction. As such it would not be "restoration" but "reconstruction", the cost of which could only be covered with the use of public grant funding. English Heritage question whether the use of public grant funding for reconstruction

would be responsible in the context of scarce resources and a lack of justification for the need for reconstruction. Therefore, not only is it considered that “restoration” is not possible, but the cost would outweigh the structure's importance. Therefore, it is considered that the proposed works of demolition are justified and comply with the requirements of PPG15 and HE2 in this respect.

The loss of the WWII gun emplacement

The demolition of the root end would also result in the loss of the WWII gun emplacement which is located on the lower esplanade underneath the root end of the pier. By virtue of its location within the curtilage of the pier, the gun emplacement is grade I listed. However, the West Pier's listing entry makes no reference to this feature and English Heritage and the Council's Conservation and Design Manager have raised no objection to the loss of this feature. But the Council's Conservation and Design Manager recommend that details of the gun emplacement should be fully recorded prior to destruction. This is considered to be reasonable and necessary in terms of the gun emplacement's architectural and historic interest and as such it is recommended that a condition to this effect is imposed, in accordance with policy HE2 of the Brighton & Hove Local Plan and policy EN22 of the East Sussex and Brighton & Hove Structure Plan.

Impact of the ancillary works

To enable the development which is the subject of application BH2006/02369 to proceed, various ancillary works need to be undertaken including the removal of two small sections of the listed seafront railings, the relocation of two listed seafront lamp posts and stabilisation works to arches 62-73 underneath the Kings Road footway. The removal of two small sections of listed railings is exceptional but this would not significantly undermine the overall architectural or historic importance of these listed structures. It is considered that the relocation of the lamp posts would not compromise their architectural or historic interest. The stabilisation works to the arches are important as their strength is limited but given their lack of prominence and the fairly minor but important nature of these works, they are considered acceptable. It is not considered that any of these works would contravene any planning policy.

Conclusion

Whilst the demolition of any part of a grade I listed building should be exceptional it is considered that the proposed works satisfy the tests of policy HE2 of the Brighton & Hove Local Plan and PPG15 and have the support of English Heritage and the Council's Conservation and Design Manager. Therefore the proposed demolition works are considered to be justified and acceptable. Whilst the loss of the WWII gun emplacement would be unfortunate, a condition is recommended to

ensure that full details of it are recorded. The ancillary works are considered to be reasonably minor and overall would not have a significant impact on the architectural or historic interest of the structures in question.

8 REASONS FOR RECOMMENDATION TO GRANT CONSENT

An alternative use for the pier is unlikely to be found. Restoration of the pier is no longer practical. The pier structure is in a heavily damaged state. "Restoration" of the pier is not possible. The pier is unsightly and detracts from the appearance of the seafront and Regency Square and causes harm to the appearance of the historic seafront. Community benefits would accrue to the beach and the seafront from the removal of the pier wreckage. The pier's physical condition has deteriorated to a point where the cost of reconstructing the pier outweighs the value that would be derived from the retention of the existing root end. The pier has lost much of its special architectural or historic interest. There remains very little of the pier structure amongst the wreckage that is of interest. The physical condition of the pier has deteriorated to a point where the cost of reconstructing the pier outweighs its importance. Details of the gun emplacement will be recorded prior to destruction. The removal of the two sections of listed railings would not significantly undermine the overall architectural or historic importance of these listed structures. The relocation of the lamp posts would not compromise their architectural or historic interest. The stabilisation works are minor.

9 EQUALITIES IMPLICATIONS

None identified.

<u>No:</u>	BH2006/02384	<u>Ward:</u>	WITHDEAN
<u>App Type</u>	Full Planning		
<u>Address:</u>	Withdean Stadium, Tongdean Lane, Withdean		
<u>Proposal:</u>	Variation of Condition 6 of BH2005/00464/FP to allow Friday & Saturday matches during the month of December with an earliest kickoff time of 7.45pm & to allow play on either Boxing Day or on the Boxing Day Bank Holiday afternoon.		
<u>Officer:</u>	Nicola Slater, tel: 292114	<u>Received Date:</u>	14 July 2006
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	19 October 2006
<u>Agent:</u>	N/A		
<u>Applicant</u>	Brighton & Hove Albion FC, c/o Martin John Perry, Tower Point,		
:	44 North Road, Brighton		

1 SUMMARY

This application seeks planning permission for the variation of condition 6 of planning permission BH2005/00464/FP to allow Friday and Saturday matches during the month of December with an earliest kickoff time of 7.45pm and to allow play on either Boxing Day or on the Boxing Day Bank Holiday afternoon.

The report notes that the variation sought in condition 6 of BH2005/00464/FP would not allow additional matches but increased flexibility upon whether matches should be played on a Friday or Saturday in December with an earliest kick-off at 7.45pm or on Boxing Day or the Boxing Day Bank Holiday afternoon.

Due to the time differences between the close of the park and ride and the proposed earliest kick-off time of 7.45pm, playing on a Saturday is not considered to prejudice the operation of the Park and Ride. In terms of neighbouring amenity, there is not considered to be a material difference in terms of amenity between a game on a Friday evening or a Saturday evening and similarly whether a game is played on Boxing Day afternoon or the Boxing Day. The application is therefore recommended for approval.

2 RECOMMENDATION

That the Sub-Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 10 of this report and resolves that it is **minded to grant** planning permission subject to any variations required to the existing S106 Obligation and the following Conditions and Informatives:

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Conditions

1. No matches shall be played by the applicant at the Stadium on Saturday afternoons except the first Saturday of the month. All other matches in December shall be played with an earliest kick-off time of 7.45pm on Friday or Saturday evenings or shall be played on either Boxing Day or on the Boxing Day Bank Holiday afternoon.

Reason: In the interests of highway safety, the effective operation of the Council's Park an Ride and to protect residential amenity in accordance with policies TR1, TR2, TR6, TR14, TR19 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawings and supporting documentation submitted on 14 July 2006.
2. The applicant is reminded of the need to comply with the other conditions attached to permission BH2005/00464/FP.
3. This decision to grant Planning Permission has been taken:
 - i) having regard to the policies and proposals in the East Sussex and Brighton & Hove Structure Plan/Brighton & Hove Local Plan set out below:

East Sussex and Brighton and Hove Structure Plan 1991-2011:

TR1	Integrated Transport and Environment Strategy
TR2	Travel Awareness
TR3	Accessibility
TR15	Park and Ride

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR3	Development in areas of low public transport accessibility
TR5	Sustainable transport corridors and bus priority routes
TR6	Park and ride
TR7	Safe development
TR14	Cycle access and parking
TR18	Parking for people with a mobility related difficulty
TR19	Parking standards
QD27	Protection of Amenity; and

- ii) for the following reasons:

The variation sought in condition 6 of BH2005/00464/FP would not allow additional matches but increased flexibility upon whether matches should be played on a Friday or Saturday in December with an earliest kick-off at 7.45pm or on Boxing Day or the Boxing

Day Bank Holiday afternoon.

Due to the time differences between the close of the park and ride facility and the proposed earliest kick-off time of 7.45pm, playing on a Saturday is not considered to prejudice the operation of the Park and Ride. In terms of neighbouring amenity, there is not considered to be a material difference in terms of potential impact on amenity between a game on a Friday evening or a Saturday evening and similarly whether a game is played on Boxing Day afternoon or the Boxing Day Bank Holiday afternoon. Subject to compliance with condition 1 the proposed variation of condition 6 of BH2005/00464/FP is not considered to prejudice the park and ride facility or the amenity of local residents.

3 THE SITE

The application relates to Withdean Stadium, which is on the west and south sides of and has access from Tongdean Lane. The site has an area of 5.9ha. The Stadium complex incorporates a running track/football pitch equipped with floodlights mounted on 30m high columns; a permanent stand to the north; temporary stands to the south and east of the pitch/track; turnstiles and temporary ancillary buildings including facilities for home and away football supporters at the east end; covered sports hall (tennis, health and fitness and squash clubs); open air tennis courts towards the Stadium's western boundary; tarmac car park at the north-western corner; the Withdean Sportsman Public House and miscellaneous ancillary buildings in the centre and towards the northern end; and a tarmac parking area on the north-eastern side in use for the Council's Shoppers' Park & Ride facility and by Stadium and public house customers.

The site is set in a natural bowl with the land generally sloping upwards to the north, west and south. Immediately to the south of the Stadium is the Withdean Woods Local Nature Reserve. The Stadium is screened from the woodland by fencing and baffling extending along the southern boundary of the Stadium. There are also Greenways (designated in the Brighton and Hove Local Plan) running along the north and south sides of the stadium. The area surrounding the Stadium and woodland is characterised by residential development on spacious plots. To the east, Tongdean Lane joins Withdean Road and then leads eastwards under a railway bridge, where it is reduced in width to one lane, to London Road (A23). The woods adjoining the railway line are also included within the Local Nature Reserve.

Brighton and Hove Albion Football Club has played its home first team League and Cup games at the stadium since the 1998/99 season. The stadium is also host to other sporting organisations including three local

Athletics Clubs (Brighton & Hove, Phoenix and Arena 80) and Brighton & Hove Squash Club. Other users include schools and the Sports Development Unit (for sports development initiatives). The club has temporary planning permission until 30 June 2008 to continue playing at the stadium, the Stadium has a current capacity of 9002 spectators.

4 RELEVANT HISTORY

The Stadium has an extensive planning history, dating from when the athletics arena was opened in 1955. For the purposes of this application, however, the most relevant applications are those relating to use of the stadium by Brighton and Hove Albion Football Club.

BH2005/00464/FP: Provision of new stands and extension of existing stands to provide an additional 1966 seats. Replacement and relocation of two storey hospitality unit and addition of purpose built changing rooms. Addition of two storey stewards room and club office and new turnstiles. Continuation of use of Withdean Stadium until 30 June 2008 and the retention of existing temporary facilities. Replacement and relocation of existing athletics clubhouse and alterations to athletics facilities. Permission to allow Brighton and Hove Albion to play the first match in December on a Saturday and permission to play the first match in December on a Saturday and permission to play up to three matches per season on a Sunday during each season. Approved 20 July 2005 after the completion of a S106 Agreement.

Condition 6 of planning approval **BH2005/00464/FP** states:

'No matches shall be played by the applicant at the Stadium on Saturday afternoons in December except on the first Saturday of the month. All other matches shall be played on Friday evenings with a kick-off time of 7.45pm or shall be played on either Boxing Day or on the Boxing Day Bank Holiday afternoon.

Reason: In the interests of highway safety, the effective operation of the Council's Park & Ride and to protect residential amenity and in accordance with policies ENV1, TR9 and TR26 of the Brighton Borough Local Plan and TR1, TR5, TR (new policy – Safe development) and QD27 of the Brighton and Hove Local Plan Second Deposit Draft.'

BH2004/03117/FP: Variation of conditions 5 and 6 of planning permission BH2002/01948/FP to allow Brighton and Hove Albion to play matches at Withdean Stadium on 4 December 2004 and on a maximum of three Sundays during the 2004-2005 football season. Granted following completion of Section 106 agreement 26/11/04. Planning permission subsequently quashed by Order of the High Court.

BH2002/01948/FP: Provision of new stands and extension of existing stands to provide an additional 1966 seats. Replacement and relocation of two storey hospitality unit and addition of purpose built

changing rooms and new turnstiles. Continuation of use of Withdean Stadium by Brighton and Hove Albion Football Club until 30 June 2005 and the retention of existing temporary facilities. Relocation of existing athletics clubhouse and alterations to athletics facilities. Granted following completion of Section 106 agreement 15/10/04. Planning permission subsequently quashed by Order of the High Court.

BH2000/00664/FP: Construction of additional 960 seats in a temporary stand and temporary buildings in NE corner with additional turnstile unit. Modification of conditions No.2 (removal of temporary structures: to read 2003 rather than 2001); No.5 (restoration of new car park to grassed area: to read 2003 rather than 2001); No.6 (matches on Saturday p.m. only, to read in addition Sunday or Bank Holiday p.m.: evening kick off at 8pm: to read 7.45 pm); No 7. (no matches to be played on Saturday afternoons in December); No.12 (no amplified music except "Sussex by the Sea"). Granted following completion of Section 106 agreement 20/11/02.

BH1999/01020/FP: Monopitch steel roof over north stand spectator seating (extension to existing provision to cover remaining seats). Granted 16/06/99.

BH1998/00523/FP: Alterations to Withdean Stadium including installation of new permanent seating terrace with new temporary roof to north stand and temporary seating terrace to south stand. Erection of four 30m high floodlighting columns, turnstiles and ancillary buildings, bicycle stand provision, construction of a new car park at the north-western corner of the site and other paving/surfacing works. Erection of new steel security fencing to supplement existing to the southern boundary of the site. Erection of temporary lighting columns in Mill Road in connection with the applicant's Park and Ride scheme. Granted 29 March 1999.

5 THE APPLICATION

Planning permission is sought to vary Condition 6 of BH2005/00464/FP to allow Friday & Saturday matches during the month of December with an earliest kickoff time of 7.45pm & to allow play on either Boxing Day or on the Boxing Day Bank Holiday afternoon.

The supporting documentation accompanying the application states that every season the football club have played at Withdean, a game has been allocated at home on a Saturday in December. For the past seven seasons, the club have managed to accommodate this by bringing the match forward to the Friday evening. This year, however, the club have not been able to reschedule the game to the Friday. Other options which were considered, included reversing the fixtures with the team the Club are due to play on the 9 December 2006, and

using an alternative date, which is allocated as a FA Cup game. Both of these options were not considered acceptable by the Football League. The club therefore propose to vary condition 6 to allow Saturday matches in December with a kick off time of 7.45pm. The supporting statement suggests that “it is our understanding that the reason for the condition was to ensure there was no impact by football matches on the City Park & Ride site at Withdean during the heavy Christmas shopping period. By delaying the kick-off there will be no impact on shoppers using the City Park & Ride.” The supporting documentation also suggests that the Club will place additional stewards in the City Park and Ride area two hours prior to kick-off to ensure that the operation of the Park and Ride continues to operate smoothly throughout the afternoon and evening.

In considering this new application, the Council gave a scoping opinion and concluded that an EIA was not required for the reason that it did not consider that significant effects on the environment would occur.

6 CONSULTATIONS

External:

Neighbours: Letters of representation have been received from **Leahurst Court Limited, Withdean Residents Association** and the occupiers of **1 Eldred Avenue; 3, 9, 15 Shepherds Croft; 24 Tongdean Lane; 8 Valley Drive; 60 Wayland Avenue; Withdean Lodge** objecting to the proposal on the following grounds:

- there will be an increase in noise and disturbance because of the additional matches;
- local residents have had to suffer disruption to their lives whenever a home match is held. This temporary use of Withdean Stadium by Brighton & Hove Albion continues without any end in sight, the council failed to heed the original objections which forecast that this would not be a short term problem;
- during December the shoppers' Park and Ride Service operates for extended hours, generating extra parking and traffic flow in the vicinity of the Stadium. To add to this congestion by holding football matches on Fridays and Saturdays, is wholly unacceptable;
- over the Christmas Bank Holiday period local residents are likely to have family and friends visiting and need to park cars on the roadside (not everyone has a driveway). Road closures and restricted access have actually prevented such gatherings in previous years and to hold a football match on Boxing Day or the Boxing Day Bank Holiday afternoon is a further imposition on the long suffering local residents;
- the reasons for condition 6 still pertain, weekends in December are very busy in terms of road traffic and Saturday use of the Park and

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- Ride in the run up to Christmas;
- road closures, parking difficulties and the impact of noise will be a further impediment;
- the police have confirmed that the level of policing will be drastically decreased to take account of the football club's relegation to a lower division. Saturday evenings will inevitably find police stretched in Brighton.

Letters and emails of no objection and support have been received from the occupiers of **9 Ash Walk; 46 Bedford Gardens, Crewe; 61 Broomfield Drive; 26 Clarence Road; 26 Charles Road; 8 Coppice Gardens, Crowthorne; 28 Crest Way, Portslade; Flat 4, 144/146, Flat 2, 285 Dyke Road; 196 Elm Drive; 22 Elrington Road; Allington, Englands Lane, Queen Camel, Yeovil; 12 Mayvern Court, Eridge Road, Crowborough; 2 Fairlight Place; 4 Frobisher Court, Cleveland Road, London; 64 Glendale Avenue; 10 Gleneagles Court, Iona Way, Haywards Heath; 13 Goran Avenue; 22 Goring Road; 103 Greenacres (x3); 9 Hardy Close; 95 Holmes Avenue; 7 Hellingly Close; 26 Hempstead Road, Saltdean; 53 Herford Road; 37b Hova Villas; 27 Hudson Close, Worthing; 7 Hunters Way, Norton, Malton, North Yorkshire; 51 Ladies Mile Road; 17 Laxton Walk, Kings Hill; 84 Leahurst Court, Leahurst Court Road; 132a Lustrells Vale (x2); 42b Lyndhurst Road; 7 Lynton Road; 7 Maes Dewi, Pritchard; 21 Marmion Road; 12 Marine Gardens; 4 Meadway Court; 9 Mill Drive, Henfield; 24 Nevill Road; 29 New Barn Close; 45 Newtown Road; Little Cobwebs, North Lane, West Hoathly; 55 Old Shoreham Road; 8 Patcham Grange; 131 Peabody Road, Farnborough; 12 Ridgeway Close, Southwick; 61 Rodmell Avenue; 6 Stafford Way; 91 Station Road; 72 Stoneham Road; 15 The Firs, Lakenheath, Suffolk; 34 Toronto Terrace; 12a The Martins Drive; 15 The Rowans; 35 Thornbush Crescent; 98 Upper Brents, Faversham, Kent; 3 Valley Close; 10 Village Close (x2); 1 Waldron Avenue; 8 Whichelo Place; 1 Wood Lane, Small Dole, Henfield;** Many of these are in similar email format. **Brighton and Hove Albion Supporters' Club** and the occupiers of **141 Cassiobury Drive; 44 Cheltenham Place; 6 Golden Lane; 5 Monument View; 17 Nightingale Close, Fakenham, Norfolk; 4 Railway Cottages, Ravens Mead, Heathfield Copse, Firl; 24 Rigden Road; 64 St Andrews Road; Flat 8, 6 Second Avenue; 78 Shadwells Road, Lancing; 17 Shepherds Croft; 41 Trinity Point, Hurstpierpoint; 57 Upper Abbey Road; 52 Waldegrave Road; 74 Westbourne Street; 43 Windsor Close; 44 Wolseley Road; 2 anonymous** raising the following points:

- large numbers of fans walk to the stadium, the fans are always well behaved;
- it is unfortunate that consideration to the numerous conditions appertaining to the use of Withdean were not taken into account by the Football League;
- most shoppers return to their cars well before the last possible bus,

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whilst people attending a match at Withdean Stadium in contrast usually arrive within the 30 minutes prior to kick off due to the lack of facilities;

- the variance in condition will not have a detrimental effect upon the efficiency of the park and ride;
- the proposal would increase shopping in the town in the run up to Christmas;
- the existing condition, which prohibits Saturday afternoon matches during December (except for the first Saturday) was designed to prevent a conflict with the city centre park and ride operation from Withdean in the important period leading up to Christmas and during the December sales. The Albion have observed both the letter and the spirit of this condition and the majority of shoppers will have returned to their cars before the supporters arrive;
- the proposed condition, allowing matches to take place on Saturday evenings at 7.45pm is a simple change which will ease the problems the football club faces arranging fixtures at its temporary home. Importantly, this change will not interfere with the principle behind the condition;
- there will be no detrimental effect to the amenity enjoyed by nearby residents as no extra matches are proposed, merely a change from Friday to Saturday.

Internal:

City Clean: No objections.

Environmental Health: No objections.

Traffic Manager: The applicants' supporting letter describes how they have tried to rearrange the game allocated in breach of planning condition 6 in the same ways as on the previous 7 occasions on which such an allocation has been made since they have been playing at Withdean. In this case it has proved impossible to rearrange the game to the satisfaction of the Football League.

Condition 6 is intended to prevent problems arising from conflict between Christmas shoppers and football fans. The last park and ride bus on Saturdays is timed to arrive at Withdean at 6.21. The service is not extended into the evenings in the Christmas shopping period and there are no proposals to do this. The proposed modified condition would allow games to be played in the evenings with kick offs no earlier than 7.45. Given these timings the potential for conflict is minimal. This could only arise from fans arriving very early and seeking to use the park and ride car park and/ or shoppers leaving their cars in the park and ride car park and catching another bus back to the area after the park and ride service has stopped. The applicants have offered to provide extra stewarding and this will be sufficient to address

the very small potential problem.

The applicants have confirmed that the usual measures to encourage the use of sustainable modes of transport will be provided at games permitted by the variation sought, and this is appropriate.

In view of these points there is no transport objection to this application.

7 PLANNING POLICIES

East Sussex and Brighton and Hove Structure Plan 1991-2011:

- TR1 Integrated Transport and Environment Strategy
- TR2 Travel Awareness
- TR3 Accessibility
- TR15 Park and Ride

Brighton & Hove Local Plan:

- TR1 Development and the demand for travel
- TR2 Public transport accessibility and parking
- TR3 Development in areas of low public transport accessibility
- TR5 Sustainable transport corridors and bus priority routes
- TR6 Park and ride
- TR7 Safe development
- TR14 Cycle access and parking
- TR18 Parking for people with a mobility related difficulty
- TR19 Parking standards
- QD27 Protection of amenity

8 CONSIDERATIONS

The main considerations in the determination of this application relate to the impact the variation would have through altering the match days in December, any resulting increases in traffic movements and any potential cumulative impact.

Previous permissions have allowed the temporary occupation of Withdean Stadium by Brighton & Hove Albion Football Club. These permissions were subject to conditions including restrictions on playing times and dates and the playing of amplified music and for removal of the temporary structures and a car park area. Related section 106 agreements have addressed traffic mitigation provisions including identification of a cordon around the site within which car-borne traffic is discouraged, stewarding arrangements and measures to encourage football supporters to travel to the Stadium by public transport, together with financial penalties where the targets are not met. The legal agreements contained targets relating to travel by sustainable means, parking within the cordon and spectators using the Nature

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Reserve, with financial penalties incurred where the targets are not met.

The most recent application was granted planning permission on the 20 July 2005 (ref: **BH2005/00464/FP**), for the provision of new stands and extension of existing stands to provide an additional 1966 seats; replacement and relocation of two storey hospitality unit and addition of purpose built changing rooms; addition of two storey stewards room and club office and new turnstiles; continuation of use of Withdean Stadium until 30 June 2008 and the retention of existing temporary facilities; replacement and relocation of existing athletics clubhouse and alterations to athletics facilities. Permission to allow Brighton and Hove Albion to play the first match in December on a Saturday and permission to play the first match in December on a Saturday and permission to play up to three matches per season on a Sunday during each season.

Condition 6 of this approval stated:

'No matches shall be played by the applicant at the Stadium on Saturday afternoons in December except on the first Saturday of the month. All other matches shall be played on Friday evenings with a kick-off time of 7.45pm or shall be played on either Boxing Day or on the Boxing Day Bank Holiday afternoon.

Reason: In the interests of highway safety, the effective operation of the Council's Park & Ride and to protect residential amenity and in accordance with policies ENV1, TR9 and TR26 of the Brighton Borough Local Plan and TR1, TR5, TR (new policy – Safe development) and QD27 of the Brighton and Hove Local Plan Second Deposit Draft.'

Among the matters relevant to the consideration of the potential impacts of the proposed development are the timing and frequency of matchdays. Also relevant is whether there are other uses or developments within the area which, when considered together with the present proposal, might give rise to a cumulative impact. The reasoning for the imposition of condition 6 of **BH2005/00464** was in the interests of highway safety, the effective operation of the Council's Park & Ride and to protect residential amenity. The proposal seeks to hold matches either on a Friday or Saturday with an earliest kick-off at 7.45pm and does not result in any additional matches. Condition 6 is intended to prevent problems arising from conflict between Christmas shoppers and football fans. The last park and ride bus on Saturdays is timed to arrive at Withdean at 6.21pm. Furthermore, the service is not extended into the evenings in the Christmas shopping period and according to the Traffic Manager there are no plans to extend this service. The proposed modified condition would allow games to be played in the evenings with kick-offs no earlier than 7.45. Given the differences in times between the use of the park and ride and the start

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of the football match, it is not considered likely that a Saturday evening game would impact on the use of the park and ride. The traffic manager has commented on the application and considers that conflict between the use of the park and ride for shopping and the football ground could only arise from fans arriving very early and seeking to use the park and ride car park and/ or shoppers leaving their cars in the park and ride car park and catching another bus back to the area after the park and ride service has stopped. To mitigate this, the applicants have offered to provide extra stewarding and this is considered to sufficiently address the very small potential problem. It is therefore considered that the variation of condition to allow football matches on a Saturday, providing the earliest kick-off was 7.45pm would not impact on other uses or developments within the surrounding area and therefore an increased cumulative impact is not considered to result.

Concerns have been raised regarding the increased noise and disturbance resulting from games been played on a Saturday. Spectators and the public address system do generate increase noise levels on matchdays. Complaints have been received in the past from local residents on this basis. However, Environmental Health officers have monitored the situation and have concluded that there is no statutory noise nuisance. Monitoring was carried out on the 12 and 16 September, whereby measurements were taken at the western boundary with Shepherds Croft before and during the game and at half time. The results were compared to readings that were taken from the same position during previous seasons. The Environmental Health officer has confirmed that the duration and frequency of the disturbance from the PA is not considered a statutory noise nuisance on the basis of the monitoring carried out. It is important to note, that the proposal does not result in an increase in the number of matches and whether a game is played on a Friday evening or a Saturday evening would be no different in terms of potential impact. Environmental Health officers have commented on the application and consider that the proposal is not considered to impact on local residents with regard to environmental issues.

Condition 6 of planning permission BH2005/00464/FP permitted games to be played on either Boxing Day or on the Boxing Day Bank Holiday afternoon. The increased flexibility allowing a game on either Boxing Day or on the Boxing Day Bank Holiday afternoon would not result in an increase in the number of matches to be played. For this reason, whether the game is played on Boxing Day or on the Boxing Day Bank Holiday would not result in additional impact.

The proposed development falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and

Wales) Regulations 1999. The Council adopted a screening opinion on the 3 August 2006 that the proposed development did not require Environmental Impact Assessment. The Council's screening opinion is attached as Appendix A.

9 CONCLUSIONS

The proposal to vary condition 6 of planning permission BH2005/00464/FP would enable matches to be held on Saturday in December, with an earliest kick-off of 7.45pm and to allow play on either Boxing Day or on the Boxing Day Bank Holiday afternoon. The variation sought in condition 6 of BH2005/00464/FP would not allow additional matches but increased flexibility upon whether matches should be played on a Friday or Saturday in December with an earliest kick-off at 7.45pm or on Boxing Day or the Boxing Day Bank Holiday afternoon. Due to the lack of facilities most supporters do not usually arrive until half an hour before the match commences, which is sufficient time after most shoppers have left the Park and Ride site, since this stops at 6.30pm. It is not considered therefore that the introduction of Saturday matches in December, subject to compliance with condition 1, would impinge on the park and ride scheme. With regard to the potential impact on amenity, there are not considered to be material differences between the use of the stadium on a Friday evening compared to a Saturday evening or between the Boxing Day or Boxing Day Bank Holiday afternoon. For these reasons the application is recommended for approval.

10 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The variation sought in condition 6 of BH2005/00464/FP would not allow additional matches but increased flexibility upon whether matches should be played on a Friday or Saturday in December with an earliest kick-off at 7.45pm or on Boxing Day or the Boxing Day Bank Holiday afternoon.

Due to the time differences between the close of the park and ride facility and the proposed earliest kick-off time of 7.45pm, playing on a Saturday is not considered to prejudice the operation of the Park and Ride. In terms of neighbouring amenity, there is not considered to be a material difference in terms of potential impact on amenity between a game on a Friday evening or a Saturday evening and similarly whether a game is played on Boxing Day afternoon or the Boxing Day Bank Holiday afternoon. Subject to compliance with condition 1 the proposed variation of condition 6 of BH2005/00464/FP is not considered to prejudice the park and ride or the amenity of local residents.

11 EQUALITIES IMPLICATIONS

None identified in relation to the variation of this condition.

LIST OF MINOR APPLICATIONS

<u>No:</u>	BH2006/02337	<u>Ward:</u>	ROTTINGDEAN COASTAL
<u>App Type</u>	Full Planning		
<u>Address:</u>	60 Longhill Road		
<u>Proposal:</u>	Removal of condition no. 5 of planning approval BH2005/00881/FP		
<u>Officer:</u>	Karen Tipper, 293335	tel:	<u>Received Date:</u> 13 July 2006
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	20 September 2006
<u>Agent:</u>	B A Hughes, 162 Ladysmith Road, Brighton		
<u>Applicant</u>	Mr Bradley, 60 Longhill Road		
:			

1 RECOMMENDATION

That the Sub-Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves to **grant** planning permission subject to the following Conditions and Informatives:

Conditions

1. The lower non-opening part of the north-west facing window to the first floor sitting room shall be glazed with obscured glass and the fanlight shall be top hung and thereafter permanently retained as such. The works shall be completed within 3 months of the date of this permission.
Reason: To safeguard the amenities of the occupiers of nearby properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.
2. The north-west facing window to the first floor bedroom shall be removed and replaced with the style of window as indicated on drawing no. 02 Rev. D and the lower non-opening part of the window shall be glazed with obscured glass and the fanlight shall be top hung and thereafter permanently retained as such. The works shall be completed within 3 months of the date of this permission. **Reason:** To safeguard the amenities of the occupiers of nearby properties and to comply with policies QD14 and QD27 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. 02 Rev. D and 03 submitted on 13th July 2006.

2. This decision to grant Planning Permission has been taken:
 - i. having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:
Brighton & Hove Local Plan:
QD14 Extensions and alterations
QD27 Protection of amenity; and
 - ii. for the following reasons:
The proposed development, subject to compliance with the above conditions, would not cause any significant loss of light or privacy to adjacent occupiers.

2 THE SITE

This property was a detached 3-bedroom bungalow, which has now implemented planning permission to add an additional storey to the property. The site is located on the east side of the road and is sited between a chalet-bungalow and a bungalow which has had a roof extension and rooflights added to provide accommodation in the enlarged roofspace.

3 RELEVANT HISTORY

80/811: Erection of bungalow - granted with conditions (including removal of permitted development rights) 30/05/1980.

94/0374/FP: Front porch – granted 28/06/1994.

BH2001/01566/FP: Erection of larger replacement garage – granted 26/09/2001.

BH2004/02013/FP: Addition of a new first floor with a rear roof terrace – refused 14/09/2004.

BH2005/00881/FP: Additional storey and front balcony – granted by the Sub-Committee 21/07/2005 following a site visit.

4 THE APPLICATION

The applicant seeks consent for the removal of condition 5 of Planning Permission **BH2005/00881/FP** which was imposed by the Sub-Committee and which required the insertion of high level windows to the first floor sitting room and bedroom, details of which were required to be submitted to and approved by the Local Planning Authority prior to commencement of works.

5 CONSULTATIONS

External:

Neighbours: 1 letter of objection received from **62 Longhill Road** on the grounds that both windows have views into the bathroom window resulting in a direct loss of privacy.

1 letter of no objection received from **58 Longhill Road**.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

QD14 Extensions and alterations

QD27 Protection of amenity

7 CONSIDERATIONS

The applicants have not complied with condition 5 of Planning Permission **BH2005/00881/FP** and wish to retain the conventional size windows which have already been installed, rather than provide high level glazing to the first floor sitting room and bedroom.

The planning condition was worded:

“Notwithstanding the details shown on the drawings hereby approved, no development shall take place until details of high level windows to the first floor sitting room and bedroom to the north elevation have been submitted to and approved in writing by the Local Planning Authority. The windows shall be installed in accordance with the details approved.

Reason: To safeguard the amenities of the occupiers of the adjoining property and to comply with policies ENV. 1 of the Brighton Borough Local Plan and QD27 of the Brighton and Hove Local Plan Second Deposit Draft.”

Amenity, appearance and current local plan policy

The applicant has installed conventional sized windows to the first floor sitting room and bedroom, which has resulted in a degree of overlooking and loss of privacy to the ground and first floor side windows at no.62, which would not have otherwise occurred had the high level windows been installed.

It is considered that the conventional sized windows which have been installed have not resulted in a detrimental appearance to the dwelling, and will provide more natural light and ventilation to both of the rooms.

However, having regard to the objection received from 62 Longhill Road and views noted on site, it is considered that further alteration to the windows should be undertaken. In particular, the lower part of the sitting room window should be obscurely glazed. In addition, the bedroom window which incorporates an opening casement should be removed and replaced with the window opening detail (top hung opening) as indicated on the approved drawing (dwg no. 02 Rev. A) and be obscurely glazed to the lower half of the window. These alterations would protect the privacy of the occupiers of neighbouring property number 62 Longhill Road. The sitting room will still receive natural light and ventilation from the front bay window, however the

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bedroom window is the sole means of natural light and ventilation, and for this reason it is considered inappropriate to wholly obscure the window.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed development, subject to compliance with the above conditions, would not cause any significant loss of light or privacy to adjacent occupiers.

9 EQUALITIES IMPLICATIONS

None identified.

No:	BH2006/01888	Ward:	ST. PETER'S & NORTH LAINE
App Type	Full Planning		
Address:	56-58 Round Hill Crescent		
Proposal:	Conversion of garage building into an environmentally-designed dwelling.		
Officer:	Gemma Barnes,	tel:	Received Date: 07 June 2006
	292265		
Con Area:	Round Hill	Expiry Date:	21 September 2006
Agent:	Arci-Build, 9 Clifton Hill, Brighton		
Applicant	Vic Marchant, 269 Kingsway, Hove		
:			

1 RECOMMENDATION

That the Sub-Committee has taken into consideration and agrees with the reasons for the recommendation set out in paragraph 8 of this report and resolves that it is **minded to grant** planning permission subject to the following Conditions and Informatives:

Conditions:

1. 01.01AA Full planning.
2. The extent of demolition hereby approved is limited to the demolition of the single storey workshop roof and 2 external walls of the single storey workshop as shown on drawing no. RCP49 and does not indicate approval for any further demolition that may be necessary to carry out the scheme. Details of any further demolition works must be submitted to and approved in writing by the Local Planning Authority prior to work commencing.
Reason: To enable the Local Planning Authority to control the demolition of this building, which is sited in a conservation area and to comply with policy HE8 of the Brighton & Hove Local Plan.
3. 02.02A No permitted development (windows).
4. 02.03A Obscured glass - Amend to read ...the bathroom window in the east elevation shall not be glazed otherwise than with obscured glass and thereafter.....
5. 02.06A Satisfactory refuse storage.
6. 04.02 Lifetime homes.
7. Notwithstanding the approved plans, the pedestrian access from the car parking space down to the dwelling shall be via a ramped access constructed to a standard satisfactory to the Local Planning Authority. Details of the ramped access shall be submitted and approved in writing by the Local Planning Authority

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prior to the commencement of development.

Reason: To ensure a satisfactory provision of homes for people with disabilities, to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.

8. 05.04 Sustainability measures.
9. 05.03 Waste minimisation statement.
10. 06.01A Retention of parking area.
11. 06.02A Cycle parking details to be submitted.
12. 13.01A Samples of materials – Cons Area.
13. The roof of the dwelling hereby approved shall be a 'green roof'. Prior to commencement of development a detailed methodology for the construction and aftercare of the green roof shall be submitted for approval in writing by the local planning authority.
Reason: In order to ensure the satisfactory construction of the green roof which will enhance the appearance of the development and wider conservation area, and to comply with policies QD1 and HE6 of the Brighton and Hove Local Plan.
14. 04.01 Landscaping/planting condition.
Reason: Add policy QD16 of the Brighton & Hove Local Plan.
15. 04.02 Landscaping/planting implementation.
Reason: Add policy QD16 of the Brighton & Hove Local Plan.
16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no additional area of hard standing for the purposes of vehicle parking, beyond that shown on the plans hereby approved shall be laid out within the curtilage of the dwelling hereby approved without Planning Permission obtained from the Local Planning Authority.
Reason: The Local Planning Authority considers that further development could lead to an excess of parking provision on this site which would be contrary to PPG13, policies TR1 and TR19 of the Brighton and Hove Local Plan and Supplementary Planning Guidance on Parking Standards (SPGBH4).
17. 13.06A No permitted development (extensions) – Cons Area.
18. No development shall take place until sufficient information concerning the levels of the site and proposed development related to the levels of adjoining land and highways has been submitted to and approved in writing by the local planning authority. All levels shall be in metric units and related to Ordnance Survey Datum.
Reason: In order to enable the Local Planning Authority to control the height of the proposed dwelling in relation to the neighbouring properties and to comply with policy QD27 of the Brighton & Hove Local Plan.
19. (i) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local

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Planning Authority:

- (a) a desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001 - Investigation of Potentially Contaminated Sites - Code of Practice; and unless otherwise agreed in writing by the Local Planning Authority;
 - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS10175; and, unless otherwise agreed in writing by the Local Planning Authority;
 - (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.
- (ii) The development hereby permitted shall not be occupied or brought into use until there has been submitted to the Local Planning Authority verification by a competent person approved under the provisions of condition (i)c that any remediation scheme required and approved under the provisions of condition (i)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority such verification shall comprise:
- a) as built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress;
 - c) certificates demonstrating that imported and/or material left in situ is free from contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition (i) c.

Reason: Previous activities associated with this site may have potentially caused, or have the potential to cause, land contamination and to ensure that the proposed site investigations and remediation will not cause pollution and in accordance with policy SU11 of the Brighton & Hove Local Plan.

Informatives:

1. This decision is based on drawing nos. RCP2, RCP24 and the Design Statement submitted on 7th June 2006. Drawing nos. RCP16 and RCP40 submitted on 27th July 2006 and drawing nos. RCP10, RCP11, RCP12, RCP25, RCP26, RCP30 and RCP49 submitted on 21st

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September 2006.

2. The applicant is advised that the waste minimisation statement submitted with this application is insufficient. The purpose of the waste minimisation statement is for the applicant to explain how waste sent to landfill from the particular development will actually be minimised. The starting point is the reuse and conversion of buildings to minimise construction waste. Then follows the applicant setting out how specific wastes will be reduced, reused and minimised and managed on site. As set out, the site waste minimisation statement submitted does not meet the requirements of policies WLP11 nor SU13 and therefore a condition has been attached requiring further submission of details to address this issue.
3. The applicant is advised that this permission does not purport or be deemed to authorise any tree surgery or felling on this site. Any tree surgery or felling needs to be subject to a separate written consent from the City Council.
4. This decision to grant Planning Permission has been taken:
 - i. having regard to the policies and proposals in the Brighton & Hove Local Plan set out below:
Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU11	Polluted land and buildings
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD14	Extensions and alterations
QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE6	Development within or affecting the setting of conservation areas
HE8	Demolition in conservation areas

Supplementary planning guidance and documents (SPD & SPG's)
SPGBH4 Parking Standards
SPD03 Construction and demolition waste
East Sussex and Brighton & Hove Structure Plan 1991 – 2011
W10 Construction industry waste
East Sussex and Brighton & Hove Waste Local Plan
WLP11 Construction industry waste; and

ii. for the following reasons:

The proposed development will make a more efficient use of the site and would provide the city with an additional dwelling. The proposed new dwelling can be adequately accommodated without detriment to the character and appearance of this site or the surrounding conservation area. Furthermore, subject to conditions to control the development in detail, the proposal would not result in any significant harm to neighbouring amenity.

2 THE SITE

This site comprises an area of open space between properties on Round Hill Crescent and Upper Lewes Road within the Round Hill Conservation Area. This is an area which would otherwise form the full extent of rear gardens from 38 to 62 Round Hill Crescent inclusive. Access is gained through a vehicular undercroft beneath the first floor of 56 Round Hill Crescent. There is a small cottage immediately to the rear of no. 58, a pebble dashed two-storey flat roofed double garage with small brick-built single storey extension to the rear and the remainder of the site is used as an informal area for parking and storage.

In a wider context the site lies within a residential area comprising predominantly terraced dwellings. Due to the topography of the area the properties to the north are set at a higher ground level than the application site and the properties to the south are set at a lower level. It is noted that the rear elevation of properties in Round Hill Crescent have been substantially altered and therefore there is no uniform appearance to this part of the conservation area.

3 RELEVANT HISTORY

68/1769: Outline application for 14 garages for private use. Refused 29/10/1968.

69/518: Alterations and reconstruction and extension at rear to form 3 self-contained flats; development of land at rear as 12 garages and/or parking spaces. Refused 22/04/1969.

69/1648: Alterations to form self-contained flat and maisonette; development of land at rear as 2 garages and garden to flats. Approved 14/10/1969.

80/20/90: Change of use from garaging to storage of light goods

(scaffolding). Refused 20/01/1981. Dismissed on Appeal.

81/286: Proposed use of existing garage for storage of nuts, bolts and shelving. Refused 14/04/1981.

BN86/728F: Change of use from garage/workshop to single dwelling house. Refused 05/08/1986.

BN87/157F: Change of use of garage/workshop to single dwelling house. Refused 14/04/1987. Dismissed on appeal.

91/0293/FP: Erection of garage. Refused 13/06/1991.

BH2003/00266/CA: Demolition of existing free standing garage. Refused 21/03/2003.

BH2003/00267/FP – Demolition of existing garage and the provision of 10 no off street car parking spaces. Refused 13/03/2003.

BH2003/01577/FP – Provision of 3 no. off street car parking spaces (Re-submission of refused application BH2003/00267/FP). Approved 14/08/2003.

BH2004/03775/FP – Demolition of double garage and construction of 4 no. 1-bedroom houses. Refused 07/02/2005.

BH2005/06680/FP – Demolition of garage building and construction of 3 two-level flat roof environmentally designed houses (Resubmission and amended scheme of refused application BH2004/03755/FP). Withdrawn 22/03/2006.

4 THE APPLICATION

This application seeks permission for the conversion of the existing two storey garage into a three bedroom dwelling. In order to facilitate the conversion it is proposed to erect a single storey extension onto the western end of the garage. The dwelling will have a relatively large rear garden to the west, a car parking space to the east and will be accessed via the existing vehicular underpass to the north.

5 CONSULTATIONS

External:

Neighbours: 36, 50, 54, 56 , The Cottage (rear of 58), Round Hill Crescent and 43 (x2) Princes Road object to the application on the following grounds:-

- It is not suitable to build on this land;
- This dwelling would be overlooked;
- This proposal would increase on street parking problems;
- Additional cars using this access would be dangerous;
- This proposal would adversely affect how occupiers of Round Hill Crescent use their gardens;
- The proposed 2.0m fence will block out morning sun to neighbouring gardens;
- The proposal will compromise privacy for neighbouring properties;
- This site has been allowed to decline since the last tenant was evicted from the garage and workshop in 2004;
- Up until 2004 this garage was used as workshop and the site was well

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maintained;

- The proposal will overcrowd and overshadowing existing houses;
- The proposal will change the nature of this part of Round Hill Conservation Area;
- The characterless house is architecturally out of keeping with existing houses;
- This would set an unwelcome precedent which would change the nature of the area long term;
- This proposal would result on the loss of employment space;
- The distinction between public front and private rear of the terraces would be lost;
- The garden that runs from the back of nos. 38-62 Round Hill Crescent would be destroyed with the loss of wildlife habitats and trees;
- This site would be inaccessible for wheelchair users and difficult/dangerous for people with mobility difficulties due to the gradient of the existing ramped access;
- This is a crime area which will be made worse by the proposal;
- The access into this site is insufficient for a emergency services;
- There is concern regarding storage of builders materials and construction access into the site if this application is approved;
- The access tunnel into this site is used for storage by occupiers of the property above and therefore needs to be accessible at all times;
- The access tunnel is not wide enough to allow safe access for vehicles and pedestrians;
- The proposed building by way of design and materials would be a fire hazard;
- This area of land has previously been used for community events.

40A Round Hill Crescent has submitted a letter raising the following points (summarised):-

- The site is underused and in a poor state although this is insufficient reason to develop it;
- The existing building does not generate much noise of traffic and therefore seems suited to a residential area;
- The proposed development should not result in over-development of the site. The development of a family dwelling on the small site may be regarded as appropriate;
- The provision of 3 car parking spaces seems excessive for the site which is close to local services, facilities and public transport. The provision of one space may be more appropriate;
- Development on the scale and nature proposed should not destroy the peace and quiet for neighbouring properties or affect amenity.

CAG: No comment.

Internal:

Traffic Manager: The proposal will remove some off street parking in an

area where there is little or no on-street parking available. The site is not within a CPZ, however, it is intended that these will be implemented throughout the City in the foreseeable future and the redevelopment of the garage is regretted. What measures are included to make alternative provision for the owner of the garage?

Planning Policy (summary): This application will need to address criteria set out in policies HE6, HE8, HO4, QD1, QD2, QD3, QD7, QD27, TR7, SU2, SU10, SU13 and TR1.

Environmental Health (summary): A land contamination report will be required as this site is occupied by a garage.

Design and Conservation (summary): Overall, the proposal is considered to preserve the character of the conservation area, in that minimal extension is required and the design and materials seek to maintain the current appearance of the conservation area. The main issue with this development is that the garage already exists in this location and therefore, reluctantly, in weighing up the circumstances, there appears to be little reason to refuse this application on its impact on the conservation area.

A condition removing permitted development rights should be attached, as so not to allow for possible detrimental extensions, which would seek to develop more of the precious green space in the conservation area. The approval of this application should not be seen to set precedent for development in the green spaces in Round Hill Conservation Area, as these are individual circumstances, relating to this particular site, existing buildings and proposed design in which this application is to be granted, and therefore the Conservation and Design team wishes not to encourage further applications for the development of the green spaces in Round Hill Conservation Area.

6 PLANNING POLICIES

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU11	Polluted land and buildings
SU13	Minimisation and re-use of construction industry waste
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD14	Extensions and alterations

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QD15	Landscape design
QD16	Trees and hedgerows
QD27	Protection of amenity
HO3	Dwelling type and size
HO4	Dwelling densities
HO5	Provision of private amenity space in residential development
HO13	Accessible housing and lifetime homes
HE6	Development within or affecting the setting of conservation areas
HE8	Demolition in conservation areas

Supplementary planning guidance and documents (SPD & SPG's)

SPGBH4 Parking Standards

SPD03 Construction and demolition waste

East Sussex and Brighton & Hove Structure Plan 1991 – 2011

W10 Construction industry waste

East Sussex and Brighton & Hove Waste Local Plan

WLP11 Construction industry waste

7 CONSIDERATIONS

The considerations for this application relate to the loss of the garage and the suitability of the site to accommodate the proposed dwelling having regard to the amenity requirements, the affect upon the character of the conservation area, neighbouring residential amenity and transport issues.

Loss of garage

This site in its present condition comprises a vacant garage and 3 off street car parking spaces. The provision of 3 car parking spaces was approved in 2003 under reference BH2003/01577/FP; the spaces were approved for non-domestic purposes. However, the use of this site for non domestic parking does not make a positive contribution to the character or amenity of the area and there is no objection to its loss or the cessation of use of this site for storage of vehicles.

In respect of the existing domestic garage, it is recognised that this proposal would result in the loss of an off-street parking space in an area where on street parking is in high demand, albeit not part of a Controlled Parking Zone. However, the application proposes to provide on site parking in connection with the proposed dwelling and therefore there would be no net loss of parking provision for domestic purposes.

The application as originally submitted proposed the provision of 3 on site car parking spaces. This level of on site car parking exceeds the maximum standards for one residential unit of accommodation set out in SPG4 and therefore following Officer advice the applicant has

reduced the number of on site spaces to one (amended plans submitted on 21/09/06). The remainder of this area will be landscaped, which will improve the appearance of this site and views of the conservation area. A landscaping condition is recommended to enable the Local Planning Authority to control the landscaping in detail and a further condition to remove permitted development rights for hard standings to prevent the insertion of additional car parking spaces in the future.

Some neighbour representations received for this application suggest that this site has previously been in use as a workshop and that this proposal would therefore result in a loss of employment space, whilst other representations suggest that this site has been used as a domestic garage with sporadic unauthorised commercial uses. Planning history for this site does not indicate that any planning permission has been granted for the use of this site for commercial purposes or that the use of the garage as a workshop has been regularised through the planning system. Indeed, planning permission was refused in 1981 for the use of this garage for commercial storage. With this in mind it is not considered that this site is an authorised commercial site and it is not therefore appropriate to judge this application against policies which seek to protect employment sites.

The principle of a new dwelling on the site

PPG3 on Housing states that urban land can often be significantly underused and advocates the better use of previously-developed land for housing. Previously-developed land is defined in PPG3 as land which is occupied by a permanent structure and land which is within the curtilage of a building. This site is occupied by a vacant two storey garage and as such constitutes previously-developed land. As this report will demonstrate it is considered that the provision of a family dwelling on this site will make a more efficient use of the land in accordance with policy QD3 of the Brighton & Hove Local Plan without compromising the character or amenity of the conservation area.

It is recognised that the green strips of land that nestle in between Upper Lewes Road, Round Hill Crescent and Richmond Road are important features of the conservation area. Previous applications for development on these strips of land, including this site have been refused on the grounds of over development. However, whilst the Local Planning Authority would not wish to encourage development on existing undeveloped areas of green space, this particular site already constitutes previously developed land by way of the existing garage and car parking spaces. The existing garage makes little positive contribution to the character of the conservation area and is it is considered that in principle this site is suitable for a residential development. Whilst previous applications for residential development

on this site have been refused on grounds of overdevelopment, the current proposal for one dwelling is not considered to over-develop the site.

Design

It is proposed to convert and alter the existing building rather than undergo demolition and rebuild. The existing garage is of little architectural merit and does not make a positive contribution to the character or appearance of the conservation area. As part of this proposal it is intended to demolish two small sections of wall from the existing single storey workshop as identified on drawing no. RCP49 and erect a single storey timber framed and clad extension to the building on the western end. There will be a substantial increase in footprint of the existing structure but no increase in height. The building will be smooth rendered, reflecting the building materials of properties in Round Hill Crescent and both the existing garage and proposed extension will be constructed with a 'green' roof with powder coated aluminium used for all fenestration. Finally, it is proposed to erect a 2.0m 'green' wall around the perimeter of the site.

As this development is set down into the hill the perceived bulk of the dwelling will be minimal. The proposed design and materials will improve the appearance of the site and the green roof will enhance long views into this part of the conservation area. The proposal is considered to preserve the character and appearance of the conservation area.

Residential amenity for occupiers of dwellings

This application proposes a family sized dwelling. The proposed internal layout of the dwelling is considered to be acceptable and each of the rooms has natural light and ventilation.

Policy HO5 requires all new residential units to have private useable amenity space appropriate to the scale and character of the development. There is a fairly large rear garden proposed to the west of the dwelling as well as a landscaped area of open space to the east. There is sufficient space within this site for the refuse and recycling storage facilities and this is considered to be adequate provision in accordance with policy HO5.

Policy TR14 requires all new residential developments to have secure, covered cycle storage. The applicant has stated that such provision will be included within this development and there is adequate space within the development site to provide the necessary facilities. A condition is recommended to ensure that the facilities are provided and retained.

Policy HO13 requires residential units to be lifetime homes compliant. When dealing with 'new build' development it is expected that all residential units should be fully lifetime homes compliant, when dealing with conversions it is recognised that the existing built form of the property may restrict full compliance with this policy but compliance should be sought wherever possible. The existing vehicular access into this site from the underpass in Round Hill Crescent is via a steep slope and in this respect the access into the site would not be lifetime home compliant. However, the applicant has stated that it is proposed to renovate the existing ramp and to provide level sloping access from the bottom of the existing ramp (and proposed car parking area) down to the house and that the dwelling will be fully lifetime homes compliant by way of internal layout. Therefore conditions are recommended to this effect.

Sustainability

Policy SU2 seeks to ensure that new development is energy efficient through the use of natural light and ventilation. All rooms within this property will benefit from natural light and ventilation and in this respect the application is considered to be acceptable. This application also proposes the use of a green roof and rainwater collection tank (for garden water only), which will also contribute to the sustainability of the building. As the proposed conversion will need to work within the constraints of the existing building it is not considered appropriate to require the development to meet an EcoHomes rating. However, the applicant should demonstrate that the proposal will be efficient in the use of energy, water and materials in accordance with policy SU2. It is clear that certain elements of sustainability have been considered in the design of the building; however, limited information has been submitted to demonstrate how the building will fully maximise the use of energy, water and materials to contribute to sustainability objectives and therefore it is considered appropriate to attach a condition requiring the submission of further details to demonstrate proposed sustainability measures.

This development requires a Waste Minimisation Statement to address the reuse and minimisation of construction waste that will be generated as a result of the proposed physical alterations. A statement was submitted with this application, however this was considered to be insufficient to meet the requirements of policy SU13 and therefore it is considered appropriate to attach a condition requiring the submission of a more detailed waste minimisation statement prior to the commencement of development.

Transport issues

The impact of the loss of the garage and resultant parking provision has already been addressed in this report. This application includes the

provision of 1no. on site car parking space in accordance with policy TR1 and SPG4. Concerns have been raised regarding the safety of the existing vehicular access into the site and its suitability to serve the proposed dwelling. The access into this site is via an underpass from Round Hill Crescent. Whilst it is recognised that this access is family narrow it is already in use and planning permission has previously been approved for the use of this site for 3no. car parking spaces in addition to the existing garage, no objection to the use of the access was raised at that time. Furthermore the Council's Traffic Manager has not raised an objection to the use of this access in respect of safety.

Neighbouring amenity

This property has been designed to have as little impact as possible on neighbouring amenity. There are no windows proposed in the north elevation of the building and only 1 obscure glazed window in the east elevation; consequently there will be no significant direct overlooking or loss of privacy for existing occupiers of properties 52 – 58 Round Hill Crescent or to the property known as 'The Cottage'. There are first floor windows proposed in the south and west elevations. The windows in the south elevation will provide views onto to the application site and whilst it is recognised that there will be some views onto properties in Upper Lewes Road this is considered to be acceptable, bearing in mind the significant drop in ground levels, distance between this site and those properties and existing and proposed boundary screening. There will be views from the first floor window in the west elevation into the rear gardens of some properties in Round Hill Crescent; however, this is not considered to be any worse than the level of overlooking already experienced as a result of the existing built form. This is not therefore considered to be a sufficient reason for refusal of this application.

As there is no intention to increase the existing height of the building and the dwelling will be set down within the hill and will be located 25m from the nearest property in Upper Lewes Road, there will be no overbearing impact or overshadowing to the properties in Round Hill Crescent or Upper Lewes Road. Furthermore the level of noise and activity likely to be generated from an additional household in this location is unlikely to result in unacceptable harm to the existing occupiers.

Other issues

Concerns have been raised regarding the loss of trees and wildlife as a result of this proposal. None of the trees on this site are protected by Tree Preservation Orders, however; as this site is within a conservation area, consent would be required for any tree surgery (lopping/topping/pruning) or felling of trees on this site (this does not cover fruit trees or trees less than 7.5cm in diameter measured 1.5m

above ground level). Although the applicant has stated that it is not intended to remove any trees as part of this proposal, an Informative is recommended to advise the applicant of the necessary consent required. This site is not a designated nature conservation site and a large part of this site will remain undeveloped, with the majority of the building works being undertaken on the existing building footprint, it is not considered that this proposal will have any significant long term adverse impact upon nature conservation.

Conclusion

For the reasons discussed above, the proposed conversion is considered to be an efficient and effective use of this site and subject to conditions to control the development in detail the proposal will not harm the character or amenity of the area. Approval is therefore recommended.

8 REASONS FOR RECOMMENDATION TO GRANT PERMISSION

The proposed development will make a more efficient use of the site and would provide the city with an additional dwelling. The proposed new dwelling can be adequately accommodated without detriment to the character and appearance of this site or the surrounding conservation area. Furthermore, subject to conditions to control the development in detail, the proposal would not result in any significant harm to neighbouring amenity.

9 EQUALITIES IMPLICATIONS

The development would have to comply with Part M of the Building Regulations and the Council's Lifetime Homes policy.