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| <u>No:</u> | BH2016/01877 | <u>Ward:</u> | REGENCY |
| <u>App Type:</u> | Full Planning | | |
| <u>Address:</u> | The Shelter Hall 150-154 Kings Road Arches Brighton | | |
| <u>Proposal:</u> | Demolition of existing building and external steps. Erection of two-storey building at lower promenade level incorporating mezzanine floor and a single storey rotunda building on the upper promenade level on raised plinth to provide mixed use development comprising retail/café/restaurant/public toilets (A1/A3/sui generis uses) and new external steps. | | |
| <u>Officer:</u> | Maria Seale Tel 292175 | <u>Valid Date:</u> | 14/06/2016 |
| <u>Con Area:</u> | Regency Square/Old Town | <u>E.O.T:</u> | 19/9/16 |
| <u>Listed Building Grade:</u> | Previous kiosk on upper promenade Grade II and railings Grade II | | |
| <u>Agent:</u> | Solar Architecture Ltd, 2 Hobs Acre, Upper Beeding, Steyning BN44 3TZ | | |
| <u>Applicant:</u> | Mr Mark Prior, Director of Transport, Brighton & Hove City Council, Transport Strategy & Projects Transport Group Room 400 Kings House Grand Avenue Hove BN3 3BQ | | |

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to be **MINDED TO GRANT** planning permission subject to a S106 agreement and the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is located at the bottom of West Street and involves the upper and lower seafront promenade. The Shelter Hall is an unlisted historic building with decorative features which straddles the boundaries of the Regency and Old Town Conservation Areas. The railings which edge the Kings Road esplanade are listed grade II.
- 2.2 The Shelter Hall is the focal point of this section of the Victorian arch development fronting the beach, which was built as a structural element of the Kings Road thoroughfare and also to provide a recreational facility for the seafront promenaders. It had close association with the listed kiosk formerly at road level, now removed for reconstruction in a new position.
- 2.3 The Shelter Hall has been unusable and supported by temporary props for a number of years. Its deteriorated condition is so poor as to be considered dangerous. The last occupier was a D2 use, the Riptide Gym.

3 RELEVANT HISTORY

- 3.1 **BH2015/04609** Listed Building Consent for removal of kiosk to facilitate its repair, restoration and relocation to East Street Bastion and removal of a section of seafront railings and lamppost (part-retrospective). Granted 31/3/16
- 3.2 **75/320** Change of use from storage to family pleasure centre. Granted 3/4/75.
- 3.3 Pre-Application Consultation: Extensive discussions have taken place with officers, the Heritage Team and Historic England. The scheme was presented at the pre-application stage to both CAG and Councillors at a briefing earlier this year.

4 THE APPLICATION

- 4.1 Planning permission is sought to demolish the existing Shelter Hall building and external public steps from the upper to the lower promenade. The current building partially holds up the A259 seafront road and is structurally unsound. Note: Listed Building Consent has previously been granted for removal of the listed railings in this section.
- 4.2 It is proposed to erect a new two-storey building at the lower promenade level incorporating partial mezzanine floor for an A3 restaurant use (approx. 695 sqm floor area), plus an individual A1 retail use (approx. 42sqm floor area) on the ground floor plus public toilets to serve the seafront. The retail unit would house an existing tenant who had to move out of an adjacent arch due to structural issues and is being temporarily located on the beach. This new replacement building would be significantly larger than the previous Shelter Hall buildings (approx 1530 sqm floor area in total compared with 718sqm original) and it would project further southwards towards the sea. It would have a similar geometric design incorporating some traditional elements, although it would be a contemporary design.
- 4.3 A single storey rotunda building for use as an A3 café/restaurant (of approx. 105m²) is proposed on the upper promenade level to replace the previous listed hot food take away kiosk that was recently removed for re-erection elsewhere on the seafront. The new building would be significantly larger than the previous kiosk (which was approx. 18sqm) and would be located on a raised podium of 670mm in height above the existing upper promenade level, reached by a set of open steps and ramps. The new podium would have traditional railings to match existing around it. The building would partly incorporate the extract ventilation plant for the kitchens of the building below.
- 4.4 New external public steps are proposed from the upper to lower promenade of a different orientation to the promenade than previously and they would have traditional railings to match the existing listed railings along the seafront.
- 4.5 The scheme has amended since first submitted, the main changes being:
 - Reduction in height (originally the plans showed a podium height of 900mm and this has been reduced to 670mm)
 - Slight relocation of podium southwards so in line with main seafront railings

- Removal of some railings and new open design of gradual steps and ramps
 - Introduction of vents at upper podium level projecting out of café building
 - Reduction in scale and height of balconies
 - Provision of further explanation and justification for the form and layout of scheme and why alternatives were discounted
 - Provision of further supporting information regarding viability and other constraints
 - Provision of further information relating to sustainability
- 4.6 As landowner, the council is the applicant for this scheme. As it involves a partial highways structure, this scheme is primarily funded by the Department for Transport from the government's Highways Maintenance Challenge Fund (£9 million). The council is also contributing via the Local Transport Plan (£1.7 million).
- 4.7 Note: Works to provide a new flood defence wall, seafront walkway and external lighting have recently been completed by the Highways Team separate to this application under Permitted Development rights.

5 PUBLICITY & CONSULTATIONS

External:

- 5.1 **Neighbours: One (1)** letter of representation has been received from **Two Kats and a Cow Gallery 167 Kings Road Arches** commenting that they would like to have reassurance that all rubbish and recycling produced by the property will be kept adequately within the building and not on the seafront as they already struggle with the amount of bins.
- 5.2 **Brighton & Hove Archaeological Society:** The development is unlikely to affect any archaeological deposits.
- 5.3 **The Brighton Society:** Comment that the various Victorian architectural embellishments that adorn the soon to be rebuilt Shelter Hall, in particular the masonry 'masks' that crown the window arches and corners of the frontage, as well potentially other features of aesthetic/historic interest inside the building, are worthy of saving. Preferably, they suggest those items which are still in good condition should be incorporated in the decorative scheme of the new building but, failing that should be transferred for preservation/display to Brighton Museum.
- 5.4 **Conservation Advisory Group (CAG):** Welcome the proposal in principle but recommend refusal on grounds the information provided is either inadequate or inconsistent.
- 5.5 Concerns expressed regarding the lack of information on external works, paving layouts and landscaping elements including the flood wall, promenade paving and external lighting proposals – which should not be left to condition. Concern expressed regarding lack of information on materials, colours and profiles proposed for upper café. Inconsistency/lack of information regarding the relationship and means of support to screens located between the paired

columns and external wall of podium café. Inadequate details of dividing balustrade to external stairs. The sculptural masks on Shelter Hall should be incorporated into the new replacement building.

- 5.6 **East Sussex County Council Archaeologist:** Comment. Historic mapping from the mid-19th century records the site comprising an underground coastguard station before its subsequent uses for shelter. The application has been submitted with a heritage statement describing the built heritage and an archaeological desk-based assessment, which focuses primarily on the below-ground archaeological potential.
- 5.7 Due to the beach location of the site and the post-medieval and modern development of the site there is unlikely to be any significant below-ground archaeological interest for earlier periods. The development of the site over the last two hundred years is of interest, however, and it is probable that the present re-development of the site will allow a greater understanding of this recent history. To capture this information during the re-development of the site it is recommended that works are subject to a 'buildings archaeology' watching brief. This should focus in particular on any evidence to inform our understanding of the use of the site as an underground coastguard station and its subsequent use as a shelter. This information would also aid in the restoration of the kiosk on the new site.
- 5.8 Therefore, in the light of the potential for impacts to heritage assets with archaeological, historical and architectural interest at this site the area affected by the proposals should be the subject of a programme of archaeological works – secured by condition. This will enable any archaeological features that would be disturbed by the proposed works to be identified and either preserved in situ or where this is demonstrably not possible, adequately recorded in advance of their loss or removal and restoration. These recommendations are in line with the requirements given in the National Planning Policy Framework (NPPF).
- 5.9 **Historic England:** (comments on original scheme pre-amendments) Comment that HE have provided pre-application comments on this and the previous scheme to remove the listed kiosk.
- 5.10 The Shelter Hall is an attractive and characterful building that was part of the Victorian civic and recreational improvements to the seafront. It is an undesignated heritage asset that makes a positive contribution to the conservation areas and to Brighton's seafront.
- 5.11 The demolition and replacement with a new larger structure is largely justified. This is based on its poor condition and that significant public benefits would be delivered by securing a new usable building together with the highway safety improvements, in line with the NPPF para 134.
- 5.12 There are however details of the scheme, in particular the raising of the level of the Upper Esplanade and associated clutter arising from associated railings to steps and ramps, and the introduction of solid panels for ventilation in the upper kiosk, that are considered cause harm to the conservation areas and seafront.

These harmful elements have not been clearly or convincingly justified, as required by para 128 of the NPPF. The need for a mezzanine and thus raising the height and the need for solid vent panels need to be rigorously tested and alternatives explored. The proposed re-orientation of the external stairs (as all others run parallel to seafront) needs to be justified. HE recommend that these aspects of the scheme are reconsidered.

- 5.13 The keystone silver heads and shields should be salvaged and re-used in the new building and the internal columns re-used, if possible.
- 5.14 **Southern Water:** Comment. There is a public combined trunk sewer and water distribution main crossing the site and no development should take place within certain distances of it. Conditions to secure submission of a drainage strategy and means for foul and surface water sewage disposal are recommended.
- 5.15 **Sussex Police:** Do not support the application. They state it is disappointing to note that no timings were given within the application for the opening hours of any of the proposed uses. Additionally the application gave no mention to any crime prevention measures to be incorporated into the design and layout. The National Planning Policy Framework demonstrates the government's commitment to creating safe and accessible environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Design and Access Statements for applications should therefore demonstrate how crime prevention measures have been considered in the design and layout of the development.
- 5.16 The development lies within the parameter of the late night economy of the City centre and as such it experiences large amounts of footfall, noise, litter and acts of anti-social behaviour, in fact the level of crime and anti-social behaviour here is high when compared to the rest of England and Wales. To introduce an additional large restaurant / café facility would be likely to exacerbate the existing problems already experienced by the neighbouring community and the Local Police resources. Sussex Police fully support Brighton & Hove policies SU10 & QD27. Whilst the Force has no concerns over this type of restaurant in isolation, they do have concerns over the cumulative impact that multiple cafes and restaurants will have on the amenity of the local area and Police resources. These being; persons, often who are intoxicated, remaining on the streets into the early hours of the morning. This would directly impact on the provision of policing resources, particularly on Friday and Saturday nights, when demand on policing is often at a peak.
- 5.17 It is asked that any consent for this (A3) application or any future application for the premises is conditional that alcohol is ancillary to food prepared on the premises and served at table by waiters / waitresses. The applicant is directed to the www.securedbydesign.com website where the Secured by Design (SBD) Commercial Development 2015 document can be found. This document will be able to provide the applicant with in-depth pertinent crime prevention advice specific to the design and layout. This document will assist the applicant in creating a safe and secure environment in which partake in leisure and retail activities.

Internal:

- 5.18 **City Regeneration:** Support the proposal as the redevelopment will enhance the immediate area of the seafront, which is included the council's Seafront Strategy. The location has an extremely high local and visitor footfall which contributes to both day and night-time economies.
- 5.19 If approved, City Regeneration requests a contribution through a S106 agreement for the payment of £8,120 towards the council's Local Employment Scheme in accordance with the Developer Contributions Technical Guidance. In addition, an Employment and Training Strategy is required, to be submitted at least one month in advance of site commencement, including demolition phase. The developer will be required to commit to using at least 20% local employment during the demolition phase (where possible) and construction phase (mandatory).
- 5.20 **Coast Protection Engineer:** Support the application as it would have no negative impacts on coast protection or coastal processes. The project's flood risk assessment takes some of its data from the recent Brighton Marina to River Adur coastal management strategy. This is a substantial assessment of the coast and how to manage coastal change over the next 100 years and was approved by the Environment Agency in 2014.
- 5.21 **Ecology:** Support. The site currently comprises building and hardstanding and is likely to be of minimal ecological value. There are no sites designated for their nature conservation interest that are likely to be impacted by the proposed development. It is considered unlikely that the site supports any protected species.
- 5.22 The proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF and the Natural Environment and Rural Communities (NERC) Act.
- 5.23 **Environmental Health:** Approve subject to conditions to deal with noise and odour. The foreseeable issues which will likely require input are that of noise and odour as the kitchens/café will likely require ventilation and exhausting and a scheme to ensure that odour does not disadvantage either patrons sat on top of the scheme or adjacent units. Information is not apparent within the application as to how this will be achieved. However, it can be dealt with through conditions to ensure that its uses do not disadvantage others.
- 5.24 **Heritage:** Comment (comments on original scheme pre-amendments):
- 5.25 Summary:
Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in exercising its powers under the planning Acts in respect of buildings or other land within a conservation area, the local authority shall pay special attention to the desirability of preserving or enhancing the character or

appearance of the conservation area. 'Preserving' means doing no harm. There is therefore a statutory presumption, and a strong one, against granting permission for any development which would cause harm to a conservation area. This presumption can be outweighed by material considerations powerful enough to do so. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation or enhancement of the conservation area.

5.26 There are sound reasons to justify the loss of the historic Shelter Hall and significant public benefits will mitigate some of the harmful impact the replacement development is considered to have on the conservation areas, however there are elements of the scheme that are lacking in detail and/or justification, without which the Heritage Team is concerned that the harm may not be outweighed by public benefit.

5.27 Statement of Significance:

The Shelter Hall is an unlisted historic building straddling the boundaries of the Regency and Old Town Conservation Areas, the railings which edge the Kings Road esplanade are listed grade II.

5.28 The Shelter Hall is the focal point of this section of the Victorian arch development fronting the beach, which was built as a structural element of the Kings Road thoroughfare and also to provide a recreational facility for the seafront promenaders. It had close association with the kiosk formerly at road level, now removed for reconstruction in a new position. The seamless area of upper promenade extends over the Shelter Hall, previously wrapping around the kiosk. The robust brick built arches, steps and protruding decagonal Shelter Hall are distinctive features of the lower esplanade and Brighton beach. The Shelter Hall is more decorative than the flanking arches and is embellished with masonry details around the edge of the promenade above, and arched openings, including masks and shields at the corners of the structure and heads of the windows. The overall composition makes a very positive impact on the character of the conservation areas.

5.29 The building has been unusable and supported by temporary props for a number of years. Its deteriorated condition is so poor as to be considered dangerous.

5.30 Principles of re-development:

The proposal to demolish the arches and Shelter Hall (and remove the Kiosk) is driven by both the poor condition of the structures that provide essential support to the busy A259 above, and the desire to improve road safety at the congested junction. The application includes evidence of the irreversible condition of the structure. The loss of the historic Shelter Hall is considered to cause harm to the character of the conservation areas, however its dangerous condition means that it cannot be repaired.

5.31 The NPPF states that where harm will be caused it should be measured against the public benefits that would result from the scheme. The identified public benefits of the proposed development are firstly that it will provide a usable

building bringing the site back in to public use, with more than double the floor space of the original Shelter Hall and Kiosk, providing a cafe/restaurant, new public toilet facilities, and retail space. Secondly the highway improvements will reduce congestion and conflict between pedestrians, cyclists and motorists thereby reducing the risk of accidents, and have attracted funding from the Department for Transport. It is however noted that comparative road/pavement/cycle lane/crossing layouts to demonstrate the improvements to the circulation space are not provided. The new constraint to pedestrian movement created by the raised plinth on which the kiosk will sit would appear to have potential to interfere with this aim and reassurance is required that this will not be the case.

5.32 Overall form of development:

Subject to satisfactory demonstration (from comparative plans) that the revised alignment of structures will improve circulation and thereby public safety, this is seen as a necessary public benefit that will mitigate against the harm caused by the loss of the historic structure. However, the new Shelter Hall will have a considerably greater projection into the lower prom/ beach area than the original building and consequently affect the linear nature of the seafront by blocking views beyond to a greater extent than previously. The larger footprint of the replacement kiosk will make it the largest individual single storey structure on the upper prom by a significant margin, and a dominant feature in contrast with the established collection of historic shelters, bandstand and pier toll booths dotted along the western seafront. This increased scale is regrettable.

5.33 Detailed design:

Setting the overall scale of the proposed building aside, the general lightweight approach now adopted for the kiosk is welcome, and the appearance acceptable, however clarification is required regarding the North West and North East facets affected by the air handling plant. There is concern that the plan form indicates a build-out of these bays which would distort the regular decahedron footprint of the kiosk which would be unwelcome.

5.34 Reference to the historic Shelter Hall structure is made in the new design at the lower level without the appearance of pastiche and this is considered appropriate. However the single height arches which characterised the original Shelter Hall and which run consistently along the western seafront are altered by the mezzanine. There is concern that the elevational treatment should not emphasise this, and it is therefore suggested that the mezzanine balconies and ground level window arches be restricted to the width between the columns to help give a better impression of single arch spaces. It is also considered that the balcony projection should be reduced to the outer edge of the columns to remove this further increase in bulk of the Shelter Hall.

5.35 The salvage and re-use of the decorative masks and shields from the existing Shelter Hall is likely to be difficult due to their condition and it is not considered important that this is achieved, rather that the new decorative features should be executed with care in good quality materials and appropriate conditions can be drafted to secure this.

- 5.36 The raised promenade height and associated steps, ramps and barriers running both parallel with the road and beach, and (uncharacteristically) at right-angles to this linear form will dramatically change the simple open nature of the upper prom to a far more cluttered and confused space. The change in levels and physical barriers will give the feel of a very separate space rather than part of a cohesive promenade. The length and visual effect of additional barriers necessary is disproportionate in relation to the gain in height (6 steps) achieved. This is not considered to be an enhancement to the public realm and would conflict with CP13 and HE6 and the Heritage Team objects to this element of the scheme. The added podium also increases the height of the railings as viewed from the beach and affects the continuous line of listed railings running the length of the promenade.
- 5.37 It is considered that the reorientation of the stairs from the upper prom to the beach will contrast with the historic alignment consistent along the seafront and this is regrettable.
- 5.38 Images indicate the introduction of a new wall with light columns on the beach, however no details are provided and it is not clear whether this is part of a more extensive board walk protection/lighting scheme. The appearance is quite formal and in contrast to the more natural materials and forms of the beach its self. There also appears to be the introduction of new paving. Further information is required for consideration.
- 5.39 (summary of comments made on amended scheme)
- 5.40 It remains that the loss of the historic Shelter Hall and removal of the listed kiosk is considered to cause harm to the character of the conservation areas. The scale of the replacement structures is effectively unaltered since the original submission and concerns to this on Heritage grounds therefore remain, as do concerns over some elements of form and detailing of the upper promenade and Kiosk.
- 5.41 Alterations to the plinth at Kings Road level are considered a significant improvement however there are still concerns regarding the change in levels and inevitable addition of new materials that will interrupt the seamless area of upper promenade. There is still concern regarding the design and location of the vents on the most visible elevation of the new kiosk. The slightly reduced balconies are welcome.
- 5.42 The public benefits from this proposal are acknowledged, as set out previously, and the limitations resulting from site constraints and commercial requirements for the development have been clearly explained and the scope for further change is understood to be limited. The harm identified needs to be carefully balanced against the public benefits of the scheme as per the NPPF.
- 5.43 **Seafront Team:** Support The rebuilt Shelter Hall will accommodate new and much needed public toilets which will serve what is currently the busiest section of Brighton & Hove seafront.

- 5.44 Due to its position at the bottom of West Street and the significant footfall the Shelter Hall will be a prime location for new and relocated businesses. We understand that the new building will have an increased footprint compared with the original premises as a result of structural and highways requirements linked to the road junction and pavement layout about. This larger premises and location therefore provides an ideal opportunity for a restaurant/café within the Shelter Hall itself and the Rotunda above. These premises will have valuable indoor as well as outdoor space which offers businesses the opportunity to operate all year round. This enables a sustainable business model and provides an offer which encourages visitors to this area of the seafront beyond the peak summer months.
- 5.45 In addition to the catering uses, the Shelter Hall will also provide a new fit for purpose premises for a business which, due to structural issues, has had to vacate the arch adjacent to the original building. The new unit, which will be located on the south west corner of the Shelter Hall, will enable the relocation of this tenant. As well as the commercial elements to the building, the retention of the public staircases within the design will ensure that access routes down to the seafront from the upper promenade are maintained once the build is complete.
- 5.46 **Planning Policy: Comment**
City Plan policy DA1 Brighton Centre and Churchill Square Area - The Shelter Hall is located within the DA1 development area positioned on the seafront promenade at the bottom of West Street. It is considered that the proposal does not conflict with the aims of this strategic policy.
- 5.47 City Plan policy SA1 The Seafront sets out a number of priorities for the seafront. The application is considered to help deliver priority one of the policy... “enhance the public realm and create a seafront for all; to ensure the seafront has adequate facilities for resident and visitors (including public toilets, waste disposal facilities, seating, signage, lighting and opportunities for shelter and shade) ...”
- 5.48 City Plan policy CP4 Proposed Town Centre Uses in an Edge of Centre Location - states that applications for all new edge and out of centre retail development will be required to address the tests set out in national policy. The NPPF (para 24) requires local planning authorities to apply a sequential test to planning applications for main town centre uses such that are not in an existing centre and are not in accordance with an up to date local plan. The application proposes the construction of two Class A3 restaurant/café units - one with a seating area of 695m² and a second with a floor area of 105m², plus a small retail unit of 42m. Whilst the site is an edge of centre location, it is accessible and well connected to the town centre. This seafront area is a well-established area with a number of existing retail and restaurant uses operating to support the seafront as a tourist destination. In terms of this site, a small A1 use has historically operated from this location. As a consequence the proposed A3 seated restaurant and A1 shop are considered to be of a scale which would complement the existing uses on this part of the seafront. It is therefore not considered necessary in this instance to require a sequential site assessment.

- 5.49 Local Plan policy SR12 Large A3 and A4 uses - As one of the proposed A3 units is above 150sqm a condition should be put in place to ensure that the unit is restricted to serving alcohol to seated customers only to safeguard the amenity of the area.
- 5.50 City Plan policy CP5 Tourism - The proposal is considered to comply with the aims of CP5 section one.
- 5.51 **Sustainability Team:** Comment (made prior to submission of revised BREEM Pre-Assessment)
The floor area of the scheme is over 100sqm therefore this takes the development into the threshold of a major development. As such the expected standard through City Plan Policy CP8 is for a BREEAM New Construction standard of 'excellent'.
- 5.52 It is welcomed that a BREEAM pre-assessment and an Energy & Sustainability Report has been undertaken and submitted. This will help to ensure that sustainability considerations are considered early enough that they can inform design and help to make delivering sustainable development most cost effective. The standard proposed for the scheme is however BREEAM 'very good' and this is below the expected standard. In instances when the standards recommended in CP8 cannot be met, applicants are expected to provide robust sufficient justification for a reduced level on the basis of site restrictions, financial viability, technical limitations and added benefits arising from the development.
- 5.53 Whilst the site can be described as constrained and has specific technical restrictions, the submitted information does not specify how these impact on the potential BREEAM standard that can be achieved. Consequently it is difficult to come to an informed conclusion on reasons given for a lower standard. At pre application stage, comments were provided to the applicant on areas of the scheme that could be further investigated in order to achieve a potentially higher standard. In particular, the energy modelling had been undertaken after the BREEAM pre-assessment was produced which could be updated to become more accurate.
- 5.54 Because the need for a lower standard has not been adequately demonstrated, it is suggested that the applicant undertake some further work on their BREEAM assessment with the aim of raising the overall standard. If this cannot be undertaken due to time constraints, it is recommended that the BREEAM standard is secured as 'excellent' by condition and that the applicant continue to investigate an improved standard if permission is granted. It is recommended also that there be conditions applied to secure submission of a Design Stage certificate pre commencement (or soon after), in addition to a Final Certificate pre occupation, in order to ensure that BREEAM assessments and sustainability measures are considered at a time where they can have highest benefit at least cost.

- 5.55 The scheme is delivered on the boundary of Policy SA2 Central Brighton of City Plan Part One. This area has been identified as an area with significant potential for heat networks and sets a priority for development in this area. The scheme proposes use of a gas boiler for space and water heating. As specified in the SA2 policy on decentralised energy/heat networks, this should have provision for future connection to a heat network that may be developed in the area and can be secured by condition.
- 5.56 **Sustainable Transport:** No objection subject to the inclusion of necessary conditions relating to cycle parking, deliveries/loading and CEMP.
- 5.57 **Pedestrian Access:**
Pedestrian access to the development is possible from both the Upper and Lower Promenade. Access is directly from the Upper Promenade via steps or ramps. Access to the restaurant and retail units is directly from the Lower Promenade. There are internal lifts and stairs which provide access from ground floor to mezzanine level. It would have been beneficial if lift access could have been provided from ground floor level to the Upper Promenade. However, there are existing level access means of getting from the Lower Promenade to Upper Promenade; so the Highway Authority would not insist on this. The existing staircases either side of the Shelter Hall providing stepped access from between the Lower and Upper Promenade are retained but slightly re-aligned.
- 5.58 **Cycle Parking:**
The applicant does not appear to be providing any on-site cycle parking for the proposed development. SPG04 requires a minimum of 1 cycle parking space plus additional parking at a ratio of 1 space per 300m² for all A3 uses. In order to be in line with Policy TR14 of the Brighton & Hove Local Plan 2005 cycle parking must be secure, convenient, well lit, well signed, near entrances and wherever practical, sheltered. The Highway Authority preference is for the use of covered, illuminated, secure Sheffield type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22. There appears to be little scope to provide cycle parking internal to the building and therefore this could be provided on-street. Further details of policy compliant cycle parking should be secured via condition.
- 5.59 **Disabled Parking:**
SPG04 states that the minimum standard for disabled parking for an A3 land use is 1 disabled space per 60m² of public area. Unfortunately due to site constraints and the nature and location of the development it is not possible to provide any level of disabled car parking on-site. There are opportunities in the form of free on-street disabled parking bays and charged off-street car parks in the vicinity of the site for disabled visitors to park when visiting the site by car. Blue Badge holders are also able to park, where it is safe to do so, on double yellow lines for up to 3 hours in the vicinity of the site. Therefore in this instance the Highway Authority would not consider the lack of onsite disabled car parking to be a reason for refusal.
- 5.60 **Servicing & Deliveries:**

As per the existing adjacent buildings all deliveries and servicing to the proposed retail/café and restaurants shall be off highway; from the Lower Promenade. Access to the Lower Promenade is controlled by existing access restrictions which apply for all the commercial premises at this location. Due to the nature of the development and the likely increase in deliveries and servicing associated with the new development the Highway Authority would look for the applicant to produce a Delivery & Servicing Management Plan. The securing of such a plan is to ensure that the delivery and servicing movements from the development do not have a negative impact upon the highway network. The Delivery & Servicing Management Plan must include details of:

- the nature of vehicles being used:
- where deliveries will take place from:
- measures to ensure deliveries do not take place at times of the day when it is not permitted:
- provide delivery companies with appropriate access routes and details of legal
- loading/un-loading locations:
- create a vehicle booking system to co-ordinate deliveries and assess where
- deliveries could be minimised or consolidated:
- measures to consolidate or reduce the number of delivery vehicle trips.

5.61 Vehicular Access:

The site does not have a dedicated vehicular access point and given its location it would not be appropriate to have one. As per the existing development it is proposed that vehicular access is from the lower promenade as with all the adjacent buildings.

5.62 Car Parking:

The applicant is not proposing any on-site car parking to be associated with this development. Given the sites location and constrained nature it would not be possible to provide on-site car parking.

5.63 Given the central and sustainable location the site benefits from the Highway Authority deems the proposed level of car parking acceptable. Should people wish to choose to travel to the site by car there are a number of city centre car parks within a short walking distance of the site.

5.64 Trip Generation/Highway Impact:

The proposed development has a total gross internal floor area of 1530m² and proposes a mixed use development including restaurant/cafes, retail units and public toilets. The existing building had a total gross floor area of 718m². In light of the increase in floor space the development is considered to be an intensification upon the existing land use and could therefore increase the total number of daily person trips to and from the site. However, given the sites nature and city centre location a large proportion of trips are considered to be linked trips which are already on the network and will be linked with other attractions/destinations within the city centre. People are not likely to make a specific journey to this site but are going to be travelling to the city centre anyway and would visit this site as part of their trip to the city centre. Also given

the central and sustainable location a large proportion of these trips could be via sustainable modes of transport.

5.65 S106 Developer Contribution:

Given that a £9 million investment award has been successfully won from the Department for Transport through the Highways Maintenance Challenge Fund for this development and that significant highway improvements will be provided at the Kings Road/West Street junction it is not felt that in this instance that a specific S106 contribution to transport is required to make the development acceptable in transport terms or justifiable.

5.66 Construction:

Due to the nature and scale of the development a Construction and Environmental Management Plan (CEMP) is required. The Highway Authority would look for the need to produce a plan prior to commencement of development. The CEMP must include measures to mitigate the highway impact the construction will have. The plan shall include a clear construction plan with a construction timeline, likely delivery numbers and measures should include but not be limited to reducing deliveries and vehicle movements such as consolidating deliveries and advising deliveries of suitable routes to and from the site.

5.67 Highway Works – The highway works associated with the Shelter Hall redevelopment are not subject to this planning application and are being delivered by the Highway Authority through permitted development rights. The works were subject to a successful application through the Department for Transport Local Maintenance Challenge Fund. These works are separate to those that require planning permission and are programmed for completion in 2018.

6 MATERIAL CONSIDERATIONS

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 The National Planning Policy Framework (NPPF) is a material consideration.

6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP2 Sustainable economic development
- CP4 Retail provision
- CP5 Culture and tourism
- CP7 Infrastructure and developer contributions
- CP8 Sustainable buildings
- CP9 Sustainable transport
- CP10 Biodiversity
- CP11 Flood risk
- CP12 Urban design
- CP13 Public streets and spaces
- CP15 Heritage
- CP16 Open space
- DA1 Brighton Centre and Churchill Square Area
- SA1 Seafront
- SA2 Central Brighton

Brighton and Hove Local Plan (retained policies March 2016):

- TR4 Travel plans
- TR7 Safe Development
- TR14 Cycle access and parking
- TR15 Cycle network
- TR18 Parking for people with a mobility related disability
- SU3 Water resources and their quality
- SU5 Surface water and foul sewage disposal infrastructure
- SU6 Coastal defences
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- SU11 Polluted land and buildings
- QD5 Design - street frontages
- QD15 Landscape design
- QD16 Trees and hedgerows
- QD18 Species protection
- QD25 External lighting
- QD27 Protection of amenity
- HO5 Provision of private amenity space in residential development
- HO9 Residential conversions and the retention of smaller dwellings
- HO13 Accessible housing and lifetime homes
- HO20 Retention of community facilities
- SR4 Regional shopping centre
- SR12 Large Use Class A3 (food & Drink) venues and Use Class A4 (pubs)
- HE1 Listed buildings

- HE2 Demolition of listed buildings
- HE3 Development affecting the setting of a listed building
- HE6 Development within or affecting the setting of conservation areas
- HE8 Demolition in conservation areas
- HE10 Buildings of local interest
- HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Guidance:

- SPGBH4 Parking Standards
- Guidance on Developer Contributions

Supplementary Planning Documents:

- SPD01 Brighton Centre: Area Planning and Urban Design Framework
- SPD03 Construction & Demolition Waste
- SPD09 Architectural Features
- SPD11 Nature Conservation & Development

8 CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to:

- Principle of demolishing an unlisted building which contributes positively to the Conservation Areas
- Principle of providing a substantially larger replacement building and impact to the visual amenities of the locality including the Regency and Old Town Conservation Areas and setting of the wider seafront
- Impact in terms of archaeology
- Principle of introducing A3 restaurant/cafe, A1 retail and sui generis public toilet uses in this location
- Impact on tourism and the economy
- Impact on the main city centre shopping area
- Impact on amenity of existing occupiers of nearby properties and general users of the seafront
- Crime prevention
- Transport demand and sustainable transport accessibility
- Sustainability and biodiversity
- Accessibility

8.2 **Planning Policy Context:**

8.3 Policy SA1 'The Seafront' of City Plan Part One states that the council will encourage regeneration of the seafront and that proposals should support the year round sport, leisure and cultural role of the seafront for residents and visitors whilst complementing its outstanding historic setting and natural landscape value. Proposals should ensure a good marine environment, enhance biodiversity and consider options for small scale renewable energy provision.

8.4 The policy sets out priorities for the whole seafront which include enhancement of public realm, provision of adequate facilities for residents and visitors (including public toilets) and improvements to beach access. The priority is also to secure high quality architecture which complements the natural heritage of

the seafront and historic built environment. Securing improvements to sustainable transport infrastructure along the A259 including pedestrian and cycle routes and crossing opportunities is a priority.

- 8.5 The specific priorities for the central area of the seafront (Medina Terrace to Palace Pier) include securing on going improvements to and maintenance of the upper and lower promenade and securing improvements to traffic flow, air quality and pedestrian and cycle routes and crossing opportunities related to the Brighton Centre development.
- 8.6 The site is located on the edge of the Central Brighton area as defined in policy SA2. The main aim of this policy is to reinforce central Brighton's role as the city's vibrant thriving regional centre for shopping leisure tourism cultural office and commercial uses. The policy goes on state that the focus for new retail development is the regional shopping centre and it seeks to promote a balanced range of complementary evening and night time economy uses, avoid a spreads of large bars/pubs and seeks to address public safety concerns. The policy seeks to secure urban realm improvements to reduce congestion and it encourages improved pedestrian and cycling movements within the city centre.
- 8.7 The site is also located within the Brighton Centre and Churchill Square development area as defined in City Plan policy DA1. The main aim of this policy is to secure a new state of the art conference centre in a landmark building to benefit the city and the region and to sustain the tourism and service economy. The redevelopment of the Brighton Centre will form part of a comprehensive scheme including an extension to Churchill Square and new leisure facilities. Part 6 of the policy seeks improved pedestrian and cycle access through the area and reduction in the severance between the northern side of the A259 and the seafront. It states that mixed use developments will be promoted which retain active ground floor uses and accord with a range of appropriate city centre uses.
- 8.8 City Plan policy CP4 is relevant as town centre 'A' uses (retail and restaurant) are proposed and the site is located close to the defined Regional Shopping Centre. It states that Brighton & Hove's hierarchy of shopping centres will be maintained and enhanced by encouraging a range of facilities and uses, consistent with the scale and function of the centre, to meet people's day-to-day needs, whilst preserving the predominance of A1 use classes. It states that applications for all new edge and out of centre retail development will be required to address the tests set out in the NPPF. Applications will be required to complete an impact assessment at a locally set threshold of 1,000 sqm (net) floorspace or more.
- 8.9 Policy SR12 of the Brighton and Hove Local Plan is relevant as the proposal involves a 'large' A3 use of more than 150 sqm floor area (480 sqm) and it is located within 400 metres of other A3/A4 establishments over 150sqm (in West Street and along the seafront). This policy seeks to reduce noise, disturbance and crime that may be associated by congregation of such uses.

- 8.10 With regard to design, heritage and amenity, policies CP12, CP13 and CP15 of the City Plan Part One and policies HE3, HE6, HE8, HE12, QD5 and QD27 of the Brighton & Hove Local Plan are relevant.
- 8.11 City Plan policy CP12 expects all new development to be built to a high quality standard and seek to ensure places that are created are safe, and incorporate design features which deter crime and the fear of crime. CP15 states that the city's historic environment will be conserved and enhanced in accordance with its identified significance, giving the greatest weight to designated assets. Local Plan policies HE3 and HE6, seek to conserve or enhance the setting of Conservation Areas and Listed Buildings. Policy HE12 seeks to preserve and enhance sites of known and potential archaeological interest and their settings. Local Plan policy QD5 states that all new development should present an interesting and attractive frontage at street level for pedestrians.
- 8.12 Local Plan policy HE8 seeks to retain buildings, structures and features that make a positive contribution to the character or appearance of a conservation area. The demolition of a building and its surroundings, which make such a contribution, will only be permitted where all of the following apply:
- supporting evidence is submitted with the application which demonstrates that the building is beyond economic repair (through no fault of the owner / applicant);
 - viable alternative uses cannot be found; and
 - the redevelopment both preserves the area's character and would produce substantial benefits that would outweigh the building's loss.
- Demolition will not be considered without acceptable detailed plans for the site's development. Conditions will be imposed in order to ensure a contract exists for the construction of the replacement building(s) and / or the landscaping of the site prior to the commencement of demolition.
- 8.13 The Council has statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to development affecting listed buildings and conservation areas:
- S66 (1) "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses";
- S72(1) "In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2) [N.B. these include the Town and Country Planning Act 1990], special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".
- 8.14 The National Planning Policy Framework (NPPF) states that in determining planning applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation assets can make to sustainable communities

including their economic vitality and the desirability of new development making a positive contribution to local character and distinctiveness (para 131).

- 8.15 Para 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
- 8.16 Paras 133 & 134 of the NPPF state that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 8.17 Para 136 of the NPPF states that local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.
- 8.18 Para 137 of the NPPF states that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.
- 8.19 Local Plan Policies QD27, SU9 and SU10 are relevant to this development and they seek to protect the general amenity of the locality and that of neighbouring occupiers/users from undue noise, odour and general disturbance. Policy QD27 states that planning permission for any development will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 8.20 With regard to transport, City Plan Policy CP9 (Sustainable Transport) and retained Local Plan Policies TR4 (Travel Plans), TR7 (Safe Development), TR14 (Cycle access and parking), TR15 (Cycle network), TR18 (Parking for people with a mobility related disability) are relevant. These seek to ensure development is safe, meets the demand for travel it creates and maximises use of sustainable modes. TR15 states that development that affects proposed or existing cycle routes should protect and enhance their alignment, and identifies the A259 National Cycle Route 2 as a key route. SPG4 sets out maximum parking standards for development and minimum standards for disabled parking.

- 8.21 With regard to sustainability, City Plan Policy CP8 is relevant. It requires all development to incorporate sustainable design features and major commercial developments are required to achieve a minimum standard of BREEAM 'Excellent'. City Plan Policy CP10 relating to biodiversity is relevant and this states all schemes should conserve existing biodiversity and provide net gains wherever possible. City Plan policy CP11 seeks to manage and reduce flood risk.
- 8.22 **Principle of development and uses proposed:**
- 8.23 As can be seen from the Planning Policy context set out above, there is a general presumption against the demolition of a building in a Conservation Area where it is identified as making a positive contribution to the special character or appearance of the area. This, together with the principle of introducing a larger replacement building, is discussed further in the section on Design below.
- 8.24 The introduction of new commercial uses is supported in principle. The previous Shelter Hall and kiosk were in commercial D2 and A5 use respectively and the proposed A1/A3/public toilet uses are considered appropriate at the seafront. This part of the seafront is a well-established area with a number of existing retail and restaurant uses operating. The proposed uses would generate footfall, add vibrancy to the area and would support the seafront as a tourist destination, and are therefore welcomed in accordance with policy SA1. Both buildings were in a poor state of repair, and the Shelter Hall has been vacant for some years, therefore re-introduction of new operative uses is particularly welcomed. The proposal would complement the aims of policies DA1 and SA2 relating to the DA1 Brighton Centre and Central Brighton. The proposed introduction of modern permanent toilets is considered a significant improvement upon the exiting temporary provision.
- 8.25 Whilst the site is described as an edge of centre location in terms of policy CP4, it is accessible and well connected to the city centre and main shopping area. The Planning Policy team confirm that the A1 and A3 uses proposed would complement the existing uses on this part of the seafront and therefore do not consider it necessary to require a 'sequential site assessment'. Given there are permitted rights to go from A3 to A1 (and vice versa) the development could potentially be all in A1 retail use, therefore a condition is recommended to control/assess any future changes of use in the interests of preserving the vitality and viability of the main city centre shopping area.
- 8.26 The larger main A3 restaurant at the lower promenade level is welcomed in principle, however, given the proximity to other large (150+sqm) existing restaurants and drinking establishments in West Street and on the seafront, the police have raised concerns about the potential for anti-social behaviour. The concerns regarding the cumulative impact zone for drinking establishments is noted and shared, as are the aims of Local Plan policy SR12, however, it is considered that there are insufficient planning grounds to restrict a large A3 restaurant use in principle. Provided opening hours are restricted and the floor area of any ancillary bar is restricted to less than 150sqm, it is considered that any potential adverse impact would be limited. In any event, the consumption of alcohol is a matter controlled by the Licencing Authority outside of the planning

regime. To ensure all appropriate crime prevention measures are taken at this busy central site, a condition requiring Secure By Design certification is recommended.

- 8.27 The site is located directly on the seafront and there are no immediate residential neighbours. The site is located close to other commercial establishments and a hotel is located to the northeast of the site. The site is located in a busy central area used by residents and tourists and at a busy road junction, and therefore experiences relatively high levels of background noise. The proposal is not considered to cause any adverse impacts in terms of amenity on nearby occupiers or users of the seafront generally, provided opening hours and noise and odour levels are satisfactorily controlled by condition. The proposal would therefore accord with policies SU9, SU10 and QD27.
- 8.28 The enhancement of pedestrian and cycle routes as part of the scheme meets the requirements of relevant planning policies and is welcomed in principle, and is discussed under the sections below.
- 8.29 **Design and the impact to the character and appearance of the locality and heritage assets:**
- 8.30 Demolition of a building which contributes positively to a conservation area is not normally considered acceptable given the planning policy context outlined above. In this particular case, however, an independent structural survey and an inspection report carried out by the council have been submitted with the application, and these clearly demonstrate the very poor condition of the Shelter Hall and A259 road structure including Upper Promenade, which is close to the limits of its capacity. It is recognised that the building is dangerous and repair is not possible, therefore total demolition is required. This is not disputed by the Council's Heritage Team or Historic England. Whilst identifying that the loss of the building will cause harm, they consider its poor condition and vacant state, together with the significant public benefits of delivering a new usable building and highways improvements, largely mitigate this harmful impact, in line with para 134 of the NPPF.
- 8.31 The Heritage Team and HE raise no objection to a contemporary design approach in principle which incorporates references from the original building, however, they do raise some concerns regarding the scale and detail of the replacement building and the harm these would cause to the historic seafront setting as set out below. They request that amendments be sought to minimise the harm.
- 8.32 They raise concerns that the new Shelter Hall will have a considerably greater projection into the lower prom/beach area than the original building and will thus impact the linear nature of the seafront and views beyond to a greater extent than previously. The larger footprint of the replacement kiosk will make it the largest individual single storey structure on the upper prom, which means it will be quite a dominant feature in contrast with the established collection of smaller historic structures dotted along the western seafront. There is concern that the orientation of the steps is not parallel to the promenade, as is characteristic

elsewhere. The raised level of the upper promenade as a result of accommodating a mezzanine floor below and the consequent introduction of steps, ramps and several lines of railings which introduce clutter to the open promenade and create a semi-private space is a concern. As is the introduction of solid panels in the podium building to house vents/extracts to serve the restaurants as these contrast with lightweight structures that are characteristic of the seafront, and a build-out of these bays would distort the regular decahedron footprint. The vents are on most visible elevation of the new kiosk and this building will be the focal point of the vista down West Street, the main approach of many visitors arriving at Brighton's seafront. The prominence of the balconies has also been raised as an issue. HE and the Heritage Team have stated that clear and convincing justification for these harmful aspects of the scheme is needed, as required by the NPPF.

- 8.33 The applicant has sought to respond to these concerns, and alternative designs have been explored. The scheme has consequently been amended and further supporting information has been provided.
- 8.34 The applicant states the building is the scale it is to provide necessary highways improvements and as it provides an ideal opportunity to maximise floorspace for commercial use and make effective use of the site. A condition of the Department for Transport funding is that schemes should have a robust business case and deliver public benefits. The Seafront Team state that the premises will have valuable indoor as well as outdoor space which offers businesses the opportunity to operate all year round. This enables a sustainable business model and provides an offer which encourages visitors to this area of the seafront beyond the peak summer months.
- 8.35 The amendments therefore put forward by the applicant are within the context of no reduction in floorspace. The main changes proposed are: reduction in height of raised plinth on upper promenade from 900mm to 670mm, removal of railings and provision of open steps and ramps over a more gradual area on upper promenade, reduction of scale of balconies, and matching of architectural detailing of podium building in external vent panels.
- 8.36 The applicant has provided justification as to why the height of the scheme cannot be reduced any further. Namely, the internal floor height needs to meet modern building regulation/flood risk standards and for reasons of viability. An independent report by Cluttons states that internal head room is already compromised and is lower than is generally sought in the market and that the loss of the mezzanine would severely restrict marketability. They state that the mezzanine floor would help attract more users all year round and help secure a good calibre of tenant and maximise return for the council. It is also pointed out that the internal floor area of the previous kiosk was 300mm higher than the level of the promenade. They state the reduction in height in the scheme as amended means the plinth is now quite minimal and would have limited impact, particularly now the railings have been removed and the site is more open.
- 8.37 With regard to the issue of the orientation of the stairs, the applicant states that if they were to run east-west then the western end steps will cross over the

front of the access to the pedestrian tunnel under the Kings Road and the Eastern end steps will cross over the front of Arch 155 which isn't allowed as permanent access will be required to the sub-station located inside that arch. They state the existing staircases on each side of the building connecting the upper promenade with the lower promenade are currently arranged in an east/west alignment and run parallel to the sea, which means that pedestrians currently using the eastern staircase come into direct conflict with other pedestrians entering and exiting the subway. On busy days this can cause considerable congestion. The western staircase is located within a close proximity to the commercial business in the arches close to Shelter Hall. With limited space for pedestrians this area also suffers from congestion. It is stated the staircase no longer complies with current standards, as it is too steep making it potentially difficult for vulnerable users to access. This area is the main entrance point to the beach for people coming from West Street, the main pedestrian link from Brighton Station making it the busiest part of the seafront. These access staircases need to be improved to reduce congestion, make them viable for all pedestrians by bringing them to current standards yet the design will be empathetic and consistent to their heritage roots. The proposed north/south alignment and be consistent with the symmetry of the building. The new alignment will also provide a better opportunity for future designs to improve the pedestrian crossing points across the seafront road linking to West Street which will be implemented. This proposal replicates what is currently at the i360 site. The applicant concludes that there is no other available orientation for the external steps.

- 8.38 With regard to the air handling vents, the applicant states that both the architect and their M&E consultant, Arup, are experienced in designing commercial buildings and have put forward the best solution as is realistically possible. They state they cannot design every possible alternative as the cost to the client would be prohibitive. They state it may be possible to re-locate the units within the volume of the rotunda but this will lead to a significant loss of lettable floor area within that element which will significantly harm the commercial viability of that space. They state the louvred areas have already been designed down to the minimum anticipated requirement and that they have to maintain an operational safety margin above that as an incoming tenant's requirement is not known.
- 8.39 The amended drawings submitted show the balconies within the scheme of a reduced scale – both height and width.
- 8.40 The changes and justification outlined above do not completely overcome the harm to heritage setting identified and therefore the merits of the scheme need to be carefully balanced. This is a challenging site, being in a very prominent and sensitive location involving different levels. It is challenging to achieve a viable large scale A3 restaurant and other uses on a site that effectively has no rear elevation and other constraints. These constraints and any harm caused need to be balanced against the significant public benefits of the scheme. Key benefits include the provision of a usable building bringing the site back in to public use, with more than double the floor space of the original Shelter Hall and Kiosk, providing a cafe/restaurant, new much needed permanent public toilet

facilities, and retail space. This makes effective use of the site and helps ensure viable uses, and has the added benefit of producing income for the council. In addition, the highway improvements (replacement of dangerous structure, removal of pinch point and creation of more public space, realigned routes) are significant, and will reduce congestion and conflict between pedestrians, cyclists and motorists and reduce the risk of accidents. It is considered that the changes to the application are an improvement, and together with the further justification, largely represent an acceptable compromise.

- 8.41 It is considered the reduction in height of the upper promenade plinth together with removal of railings and more gradual increase in height mean the site is much more open and inviting and lessens the impact of the change in levels. These features certainly introduce new elements that are not characteristic of the historic seafront but they represent a considerable improvement on the original proposal and will clearly be viewed in context of a contemporary scheme. The change in level is relatively limited. There are examples of sites south of the main upper promenade level which have a different character and/or height, such as Alfrescos, the i360 and the bandstand. The benefits of having a mezzanine floor and the need to maximise floorspace in terms of the business case are recognised. The materials for this new part of the seafront will be very carefully considered to ensure they are sympathetic. On balance, therefore, this aspect of the scheme is considered acceptable.
- 8.42 The single height arches which characterised the original Shelter Hall and which run consistently along the western seafront are altered by the mezzanine however now the balconies have been reduced in scale they would not emphasise this. Also their impact in terms of contributing to the overall bulk of the building is reduced.
- 8.43 The retention of the staircases within the design to ensure access routes down to the seafront from the upper promenade are maintained is welcomed and considered essential in this location. Sufficient justification is considered to have been provided to demonstrate the new alignment would help ease congestion and improve pedestrian safety. Whilst they do not run parallel as other do, they would be clearly viewed in the context of a new part of the seafront. The traditional design and matching railings would help tie them in the wider seafront. There are other examples of this alignment such as the i360. On balance, given the justification and wider benefits of the overall scheme, the proposed re-orientation of the staircases is considered acceptable.
- 8.44 The extract vent design has evolved positively over the course of pre-application discussions from two unsympathetic tall freestanding structures to incorporation of plant within the main building itself at both the lower and upper levels of the building. The latest revised design for the vents at upper promenade level, whilst an improvement, are however considered a minimal change. Concerns have been raised regarding both their location and solid appearance and this has not altered. These vents are located in very a prominent position and will be the first part of seafront people see from West Street, therefore it is essential the building is of the highest quality. Historic England and the Heritage Team have requested that alternatives be rigorously

explored however, at the time of writing, it is considered that insufficient evidence has been provided to demonstrate this. It is not clear that a comprehensive appraisal of alternative options has been undertaken, for example it appears that even a small reduction of commercial floorspace has been discounted. It is appreciated the site is very challenging, however the constraints have not been set out clearly and there may still be alternatives to locate the vents elsewhere in the wider scheme. It is therefore considered that further work is still needed to explore alternatives and clear and convincing information is needed. This can be secured by condition. Given the importance of this issue, a compromise may be needed and it may be that the lettable space needs to be reduced as a result and/or that operators have to use a more costly extract system as a condition of their tenancy.

8.45 Conditions will ensure the architectural detail and materials of the building are of the highest quality and will ensure the original decorative masks and columns are re-used/displayed within the new scheme, and the applicant's commitment to this is a welcomed heritage benefit. Conditions will also adequately address any potential archaeological impact. A condition is recommended to ensure any new landscaping created by this scheme ties in sympathetically with the existing. The scheme will be delivered by the same team who have rebuilt the seafront arches either side of the i360, which have won a heritage award and this same level of quality and detailing is expected in this scheme.

8.46 Sustainable Transport:

8.47 The proposal will deliver significant highway improvements, which is welcomed. The development itself is a highways funded scheme and partially involves a structure to hold up the seafront road and promenade, which is essential. The scheme allows for greater space to be provided at the upper promenade level by pushing the site seawards thus removing the previous pinch point where safety of pedestrians and cyclists was compromised. The wider highway improvement scheme will deliver additional safety improvements to the West Street junctions for road users and pedestrians.

8.48 Given the comments received from the Highway Authority it is considered that the demand for travel created by the development can be adequately met. The new uses would not have a significantly different impact than the previous uses and the site is centrally located to take advantage of sustainable transport and public car parks. Cycle provision can be satisfactorily conditioned as can deliveries/loading management and a Construction Environmental Management Plan.

8.49 The proposal is therefore considered to accord with sustainable transport policy and meets key priorities of the seafront and central Brighton policies SA1, SA2 and DA1.

8.50 Sustainability, biodiversity & flood risk:

8.51 As a 'major' scheme, the development should meet a BREEAM 'excellent' sustainability standard in order to comply with policy CP8. The applicant originally stated this standard was not possible, only 'very good', given the practical constraints of the site, however, the information provided was very

limited, and did not constitute a robust case as required by policy CP8. This policy states that the council will consider site constraints, technical restrictions, financial viability and the delivery of additional benefits as reasons to accept a reduced sustainability standard, provided a robust case is made.

- 8.52 Further supporting information was therefore sought and the applicant was encouraged to strive for the excellent target if possible. A revised BREEAM Pre-Assessment report has since been received, although it was received at the time of writing this report and is yet to be assessed by the council's Sustainability Officer. It does, however, estimate that the scheme would reach the upper levels of a 'very good' target and that a route to achieve 'excellent' is possible, which would appear to be very positive. A condition requiring a target of BREEAM 'excellent' is therefore recommended to ensure compliance with CP8, and the council is committed to on-going discussions with the applicant to make this achievable. Should any further information on this issue be received prior to the committee meeting, this will be duly reported.
- 8.53 Adequate space is shown within the scheme for refuse and recycling and its provision will be conditioned.
- 8.54 The site has no current biodiversity interest however enhancements are required in line with policy CP10. The scheme does not address this, therefore a condition requiring details of enhancement, for example through the provision of bird or bat boxes, is recommended to satisfactorily address this policy.
- 8.55 The development is not considered to be at undue risk from flooding. A new flood defence wall has recently been constructed to the south of the site. The council's Coastal Engineer has assessed the project's flood risk assessment and considers it robust and confirms that the scheme would have no negative impacts on coast protection or coastal processes.

9 CONCLUSION

- 9.1 The site is within a very prominent seafront location, and is sensitively located within a conservation area. The loss of the (non-listed) historic Shelter Hall building is considered to cause harm to the conservation area as it contributes positively to it, however it is dangerous and beyond repair. The replacement building is needed to partially hold up the seafront road and the scheme would deliver significant highways improvements and benefits, and new usable commercial spaces that would contribute to the tourism offer of the seafront. The scheme would deliver much needed permanent public toilets.
- 9.2 The proposed uses are considered to be appropriate for the seafront and would enhance year round tourism and would not harm the vitality and viability of any established shopping centres or result in undue anti-social behaviour or loss of amenity. The transport impacts would be acceptable.
- 9.3 The scheme is considered to provide an attractive contemporary building which takes sympathetic references from the previous building.

- 9.4 Heritage consultees have raised some concerns regarding the overall scale and detailed design of the scheme, however it is considered that this has been largely justified and the revisions to the scheme have mostly mitigated this harm (and further revisions may be sought by condition). In addition, any remaining harm is largely outweighed by the significant public benefits of the scheme and the delivery of an optimum viable use of the site. This is a challenging site where it is difficult to achieve an appropriate ventilation/extraction scheme. The proposed vent system is considered to cause some visual harm both in terms of location and appearance, therefore further exploration of alternatives, or more robust justification, is sought by condition.
- 9.5 The development would be sustainable and is on course to meet a BREEAM target of 'excellent', which is welcomed.
- 9.6 This scheme would deliver welcome regeneration of this site and would reinforce the role of the seafront as a vibrant, thriving tourist and recreational destination. The scheme would meet key priorities for the area as set out on City Plan policies SA1 and DA1, and approval is therefore recommended.

10 EQUALITIES

- 10.1 There would be ramp access to the upper podium café. There would be level access and a lift within the lower promenade building. Disabled toilets and baby changing facilities would be provided, the latter secured by condition.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 S106 Heads of Terms

- A financial contribution of £8,120 towards the council's Local Employment Scheme
- Submission of an Employment and Training Strategy, with a commitment to using at least 20% local labour.

11.2 Conditions:

- 1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 2) The development hereby permitted shall be carried out in accordance with the approved drawings listed below.
Reason: For the avoidance of doubt and in the interests of proper planning.

| Plan Type | Reference | Version | Date Received |
|--|------------|---------|---------------|
| Site and locations plans (existing) | 21501/P/30 | | 31/08/16 |
| Site and Location Plans 1:1250 & 1:500 | 21501/P/01 | C | 24/08/16 |
| Existing elevations | 21501/P/02 | | 24/08/16 |
| Existing floor plans | 21501/P/03 | | 24/08/16 |
| Proposed floor plans | 21501/P/05 | E | 24/08/16 |

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| | | | |
|---|------------|---|----------|
| Ground floor level GA | 21501/P/06 | B | 24/08/16 |
| Mezzanine Floor Level GA | 21501/P/07 | B | 24/08/16 |
| Podium Floor Level GA | 21501/P/08 | E | 24/08/16 |
| North-south section | 21501/P/09 | A | 24/08/16 |
| Podium floor level GA showing original kiosk position | 21501/P/10 | | 24/08/16 |
| Proposed elevations north & south 1:100 | 21501/P/11 | | 24/08/16 |
| Proposed elevations east & west 1:100 | 21501/P/12 | | 24/08/16 |
| Proposed elevations north & south 1:100 | 21501/P/13 | | 24/08/16 |
| Proposed elevations east & west 1:100 | 21501/P/14 | | 24/08/16 |
| Comparative floor plans | 21501/P/15 | | 24/08/16 |
| Comparative floor plans on survey | 21501/P/16 | | 24/08/16 |
| Comparative elevations | 21501/P/17 | | 24/08/16 |
| Proposed elevations south & east 1:50 | 21501/P/25 | | 24/08/16 |
| Proposed elevations north & west 1:50 | 21501/P/26 | | 24/08/16 |

3. No development including demolition shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
- (i) The phases of the Proposed Development including the forecasted completion date(s)
 - (ii) A commitment to apply to the Council for prior consent under the Control of Pollution Act 1974 and not to Commence Development until such consent has been obtained
 - (iii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
 - (iv) A scheme of how the contractors will minimise complaints from neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
 - (v) Details of hours of construction including all associated vehicular movements
 - (vi) Details of the construction compound
 - (vii) A plan showing construction traffic routes

The construction shall be carried out in accordance with the approved CEMP.

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies QD27, SU9, SU10 and TR7 of the Brighton & Hove Local Plan, policy CP8 of the City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

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4. No development including demolition shall take place until the developer has secured the implementation of a programme of archaeological work, in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton and Hove Local Plan.
5. The development hereby permitted shall not be first brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under the above condition and that provision for analysis, publication and dissemination of results and archive deposition has been secured, unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded to comply with policy HE12 of the Brighton and Hove Local Plan.
6. No development (excluding demolition) shall commence until a scheme for the provision of a Drainage Strategy for foul and surface water sewage disposal 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 the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.
7. Notwithstanding the submitted details of the location and appearance of the proposed extract/vent/air handling structures on the north elevation of the rotunda building at upper promenade level, no development above ground floor slab level of the lower promenade hereby permitted shall take place until a revised scheme for the provision of ventilation/extraction to serve the development has been submitted to and approved in writing by the Local Planning Authority, or further detailed information is provided to justify the current scheme as shown. The scheme should seek to reduce the visual impact of such plant and should explore an alternative appearance and location within scheme as a whole, and shall explore reduction of lettable commercial floorspace if necessary. The approved scheme shall be implemented before the development is first brought into use.

Reason: The solid appearance of the vents, their protrusion beyond the main walls of the rotunda building and their siting in a prominent location mean they detract from the appearance of the building and the wider character and appearance of the locality, a conservation area, therefore either a revised scheme should be explored to reduce their visual impact or robust detailed information provided to justify their current design, in order to comply with policies HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.

8. The two-storey replacement Shelter Hall building hereby approved on the lower promenade shall be used as a café/restaurant use (Use Classes A3) only (save for those areas indicated on the drawings for A1 retail use and sui generis public toilets use) and for no other purpose. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use from the A3 use shall occur without planning permission obtained from the Local Planning Authority. Furthermore, any bar/seating area for the consumption of alcohol associated with the A3 use hereby approved shall be ancillary only and shall not exceed 150sqm in area.
Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and in the interests of safeguarding the vitality and viability of the main city centre shopping area and for reasons of crime and noise prevention, to comply with policies SU9, SU10, SR12 and QD27 of the Brighton & Hove Local Plan and SA1, SA2, CP4, CP12 and CP13 of the Brighton & Hove City Plan Part One.
9. The A1 and A3 uses hereby permitted shall not be open to customers except between the hours of 08.00 hours and 00.00 hours on Mondays to Saturdays and between 08.30 hours and 23.30 hours on Sundays, Bank or Public Holidays. No other activity within the site including setting up/down shall take place between the hours of 00.30 and 07.30 daily.
Reason: To safeguard the amenities of the locality and in the interests of crime prevention to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan and CP12 and CP13 of the Brighton and Hove City Plan Part One.
10. No development (excluding demolition) shall commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.
Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the character and appearance of the area, to comply with policy HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the City Plan Part One.
11. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying, assessing the risk and proposing remediation measures, together with a programme, shall be submitted to and approved in writing by the Local Planning Authority. The remediation measures shall be carried out as approved and in accordance with the approved programme.

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy SU11 of the Brighton & Hove Local Plan.

12. No development above ground floor slab level of the lower promenade hereby permitted shall take place until a scheme for hard landscaping and enhancement of the appearance of site and immediate vicinity has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- a) details of all hard surfacing including steps and ramps;
 - b) details of all boundary treatments including replacement railings including their design and materials and how they adjoin and attach to existing seafront railings. The existing listed railings shall be re-used unless evidence is submitted to prove that they are beyond all reasonable repair or pose a safety risk and details of any replication shall be submitted to and approved in writing by the Local Planning Authority before any restoration/replication works commence;
 - c) details of the external materials and appearance of Arch 155 adjacent to the site which is to contain the substation;
 - d) details of how the existing internal columns and external decorative masks/shields shall be re-used and displayed within the development;
- All hard landscaping, means of enclosure and other enhancement measures shall be completed in accordance with the approved scheme prior to first occupation of the development.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies HE6 and QD15 of the Brighton & Hove Local Plan and CP12, CP13 and CP15 of the Brighton and Hove City Plan Part One.

13. No development above ground floor slab level of the lower promenade hereby permitted shall take place until details of architectural features, including large scale drawings of 1:20 scale, or 1:1 where appropriate, shall be submitted to and agreed in writing by the Local Planning Authority. These details shall include any signage, external lighting, guttering/rainwater goods, windows (and their reveals), doors and shutters. The agreed features shall be implemented before first occupation of the development.

Reason: To ensure the development is of sufficient quality given its sensitive location in heritage terms to comply with policies HE6 of the Brighton and Hove Local Plan and CP15 of the Brighton and Hove City Plan Part One.

14. No cables, wires, aerials, pipework (except rainwater downpipes shown on the approved plans) meter boxes, ventilation grilles or flues shall be fixed to or penetrate any external elevation, other than those shown on the approved drawings, without the prior consent in writing of the Local Planning Authority.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policy HE6 of the Brighton & Hove Local Plan and CP15 of the City Plan Part One.

15. No development above ground floor slab level of the lower promenade hereby permitted shall take place until samples of all materials to be used

in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) samples of all brick, stone, concrete, and roofing material (including details of the colour of render/paintwork to be used)
- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples of all hard surfacing materials
- d) samples of the proposed window, door and balcony treatments
- e) samples of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

16. (i) Unless otherwise agreed in writing by the Local Planning Authority, no development above ground floor slab level of the lower promenade hereby permitted shall take place until a BREEAM Building Research Establishment issued Design Stage Certificate confirming that the development is on target to achieve a minimum BREEAM New Construction rating of 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.

(ii) The development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the development built has achieved a minimum BREEAM New Construction rating of 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy CP8 of the City Plan Part One.

17. Within 6 months of commencement of development evidence should be submitted to demonstrate that the energy plant/room serving the development has capacity to connect to a future district heat network in the area. Evidence should demonstrate the following:

- a) Energy centre size and location with facility for expansion for connection to a future district heat network: for example physical space to be allotted for installation of heat exchangers and any other equipment required to allow connection;
- b) A route onto and through site: space on site for the pipework connecting the point at which primary piping comes onsite with the on-site heat exchanger/ plant room/ energy centre. Proposals must demonstrate a plausible route for heat piping and demonstrate how suitable access could be gained to the piping and that the route is protected throughout all planned phases of development.
- c) Metering: installed to record flow volumes and energy delivered on the primary circuit.

Reason: In the interests of sustainability, to comply with Policies CP8, SA1, SA2 and DA1 of the Brighton & Hove City Plan Part One.

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18. Prior to first occupation of the A3 uses hereby permitted a scheme for the fitting of odour control equipment to the building shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.
Reason: To safeguard the amenities of the occupiers of adjoining properties and the general locality and to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.
19. Prior to first occupation of the A3 uses hereby permitted a scheme for the sound insulation of the odour control equipment referred to in the condition set out above shall have been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of the development and shall thereafter be retained as such.
Reason: To safeguard the amenities of the occupiers of adjoining properties and the general locality to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
20. Noise associated with 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 4142:2014. In addition, there should be no significant low frequency tones present.
Reason: To safeguard the amenities of the occupiers of adjoining properties and the general locality and to comply with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.
21. Prior to first occupation of the development hereby permitted, details of external lighting shall have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.
Reason: To safeguard the amenities of the occupiers of adjoining properties and the character and appearance of the general locality and to comply with policies QD25, QD27 and HE6 of the Brighton & Hove Local Plan.
22. The development hereby approved shall not be occupied until the refuse and 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 policy QD27 of the Brighton & Hove Local Plan.

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23. Baby changing facilities within both the male and female public toilets and male and female toilets serving the A3 businesses hereby approved shall be provided before the public toilets and A3 uses respectively are first brought into use. Reason: To ensure the toilets are accessible to all members of the public, to comply with policy HO20 of the Brighton and Hove Local Plan.
24. Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and 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 private motor vehicles and to comply with policy TR14 of the Brighton and Hove Local Plan.
25. Prior to the first occupation of the development hereby approved a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries will take place and the frequency and likely timing of deliveries shall be submitted to and approved in writing by the Local Planning Authority. All deliveries shall thereafter be carried out in accordance with the approved plan.
Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents and users of the seafront, in accordance with policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.
26. No development above ground floor slab level of the lower promenade hereby permitted shall take place until details of crime prevention measures have been submitted to and approved in writing by the Local Planning Authority to demonstrate that the scheme would meet Secure By Design standard. Within 3 months of first occupation a Secure By Design certificate shall be submitted for written approval.
Reason: In the interests of crime prevention in this busy central location, to comply with policies CP12 and CP13 of the Brighton & Hove City Plan Part One.
27. No development above ground floor slab level of the lower promenade hereby permitted shall take place until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall incorporate provision of bird and bat nesting boxes where appropriate and shall be implemented in full prior to the first occupation of the development hereby approved.
Reason: To increase the biodiversity of the site and ensure appropriate integration of new nature conservation and enhancement features in accordance with Policy CP10 of the City Plan Part One and

Supplementary Planning Document SPD11 Nature Conservation and Development.

28. No development, including demolition and excavation, shall commence until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

Reason: To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan.

11.3 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. This decision to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:-

The loss of the historic Shelter Hall building is acceptable given its dangerous state. The replacement building is needed to partially hold up the seafront road and the scheme would deliver significant highways improvements and new usable commercial spaces that would contribute to the tourism offer of the seafront. The scheme would deliver much needed permanent public toilets. The proposed uses are considered to be appropriate for the seafront and would enhance year round tourism and would not harm the vitality and viability of any established shopping centres or result in undue anti-social behaviour or loss of amenity. The transport impacts would be acceptable. The scheme is considered to provide an attractive contemporary building which takes sympathetic references from the previous building. Harm identified to heritage has been largely justified and the revisions to the scheme have mostly mitigated this harm (and further revisions can be satisfactorily secured by condition). Any remaining harm is largely outweighed by the significant public benefits of the scheme and the delivery of an optimum viable use of the site. The development would be sustainable and is on course to meet a BREEAM target of 'excellent'. The scheme would deliver regeneration of the site and would reinforce the role of the seafront as a vibrant, thriving tourist and recreational destination. The scheme would meet key priorities for the area as set out on City Plan policies SA1 and DA1.

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3. The applicant/developer is advised that an agreement with Southern Water need to be reached prior to commencement of the development for the measures to be undertaken to divert/protect the public water supply main and to provide the necessary sewage infrastructure required to service this development. A formal application for connection to the public sewer is required in order to service this development. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk
4. The applicant is advised to contact the East Sussex County Archaeologist to establish the scope for the Written Scheme of Archaeological Investigation as required by conditions 4 and 5 above.
5. The applicant is advised that having a planning application in place is no defence against a statutory noise nuisance being caused or allowed to occur. Should the Council's Environmental Health department receive a complaint, they are required to investigate under the provisions of the Environmental Protection Act 1990 to determine whether or not a statutory nuisance is occurring.
6. The applicant is advised that the site is located in a cumulative impact area and an applicant would have to have extra regard to presumption of a refusal for additional licences within the area.
7. The applicant is advised that any grant of planning permission does not confer automatic grant of any licenses under the Licensing Act 2003 or the Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2).
8. The applicant is advised that the details of external lighting required by the condition above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' for Zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).
9. The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: ehl.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing).
10. The applicant is advised that this planning permission does not override the need to obtain a licence for the tables and chairs/a-boards/shop displays/scaffolding with banners/shrouds on the highway under the

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Highways Act 1980. The applicant must contact the Council's Highway Enforcement team for further information. Tel: 01273 292 071, Email: street.licensing@brighton-hove.gov.uk.

11. The applicant is advised that any apparatus located within the adopted highway must be sited in accordance with and under licence from the Council's Streetworks team. The applicant must contact the Streetworks team (01273 293 366) prior to any works commencing on the public highway.

