

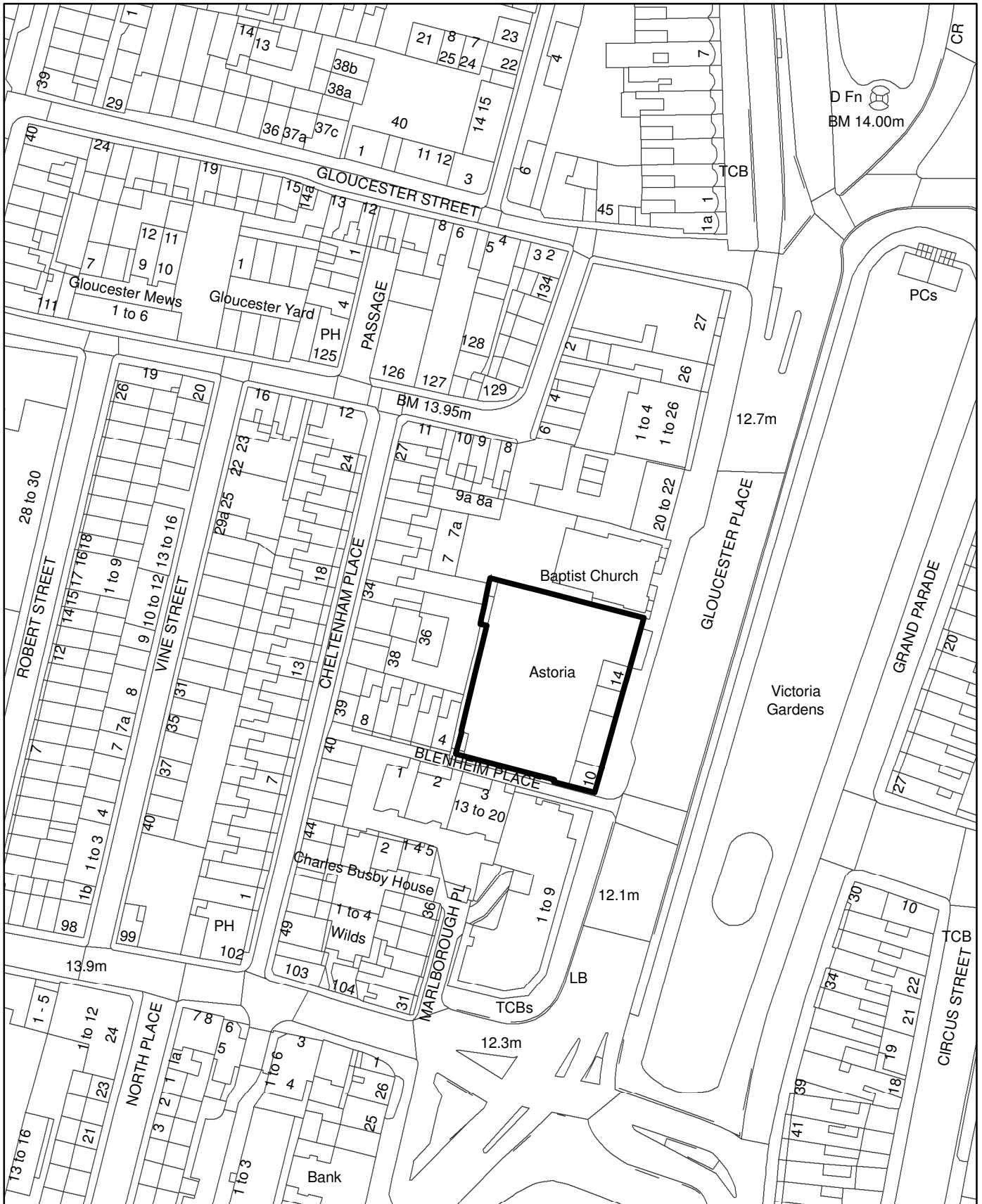
ITEM C

**The Astoria, 10-14 Gloucester Place,
Brighton**

**BH2013/03926
Full planning**

06 AUGUST 2014

BH2013/03926 The Astoria, 10-14 Gloucester Place, Brighton.



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2013/03926	<u>Ward:</u>	ST. PETER'S & NORTH LAINE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	The Astoria 10-14 Gloucester Place Brighton		
<u>Proposal:</u>	Demolition of existing Grade II listed building and construction of new building consisting of 3no storeys in height at rear and 6no storeys in height at front (including basement) incorporating retail/café/restaurant (A1/A3) on the ground floor fronting Gloucester Place and community rooms (D1) on the ground floor fronting Blenheim Place with offices (B1) above and to the rear, together with 6no residential units (C3) on the fifth floor.		
<u>Officer:</u>	Adrian Smith Tel 290478	<u>Valid Date:</u>	09 December 2013
<u>Con Area:</u>	Within Valley Gardens and adjacent to North Laine.	<u>Expiry Date:</u>	10 March 2014
<u>Listed Building Grade:</u>	Grade II		
<u>Agent:</u>	Lewis and Co Planning SE Ltd, 2 Port Hall Road, Brighton BN1 5PD		
<u>Applicant:</u>	H30 Media Ltd, Mike Holland, The British Engineerium, The Droveaway, Hove BN3 7QA		

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 Astoria site lies within the Valley Gardens Conservation Area and abuts the North Laine Conservation Area. The Valley Gardens Conservation Area is characterised by mostly grand Regency and Victorian terraces fronting onto public gardens. Gloucester Place has been much more significantly redeveloped in the 20th century than other frontages in the area, with buildings of generally larger scale. The North Laine Conservation Area is characterised by contrastingly smaller scale, mixed-use buildings on a tight urban grain of mainly north-south streets.
- 2.2 The building is currently vacant and has been since circa 1996/97 when the previous use as a Bingo Hall (D2) vacated. Prior to operating as a Bingo Hall the building operated as a cinema between 1933 and 1977.
- 2.3 The property is set out over three storeys and the accommodation includes vacant commercial units on the ground floor, the previous tea room above at first floor level and the manager's flat at second storey level. The auditorium takes up some 55% of the internal space. The property is Grade II Listed and has been since 2000.

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- 2.4 The surrounding area is contained within a Controlled Parking Zone (CPZ). Gloucester Place is a three lane one way road heading north and to the front of the building is an existing layby containing pay and display, disabled and taxi spaces. Blenheim Place is a narrow no through road with double yellow lines to either side.

3 RELEVANT HISTORY

BH2013/03927- Listed Building Consent for demolition of existing Grade II listed building. Under Consideration

BH2010/03760- Listed Building Consent for demolition of existing Grade II listed building. Approved 15/05/2012.

BH2010/03759- Demolition of existing Grade II listed building and construction of new office block consisting of 2no storeys at rear and 6no storeys at front incorporating café and community rooms on ground floor at front of development. Approved 14/05/2012

BH1997/02007/FP- Change of use from bingo hall (class D2) to music/dance venue and public house (class A3) including internal alterations. Approved 13/03/1998.

BN75.2505- Change of use from Cinema to Cinema Class XVII and for indoor games including bingo and ancillary social club. Approved 16/12/1975.

4 THE APPLICATION

- 4.1 The application is a re-submission following the approval of planning permission for the demolition of the Grade II listed Brighton Astoria and the construction of a replacement part 6, part 2 storey office building incorporating café and community rooms under application BH2010/03759.

- 4.2 Planning permission is again sought for the demolition of the existing building and the redevelopment of the site with a 6 storey building fronting Gloucester Place. The application now proposes a taller part-three part-four storey wing to the rear and a revised mix of uses comprising additional office floorspace, a new restaurant/retail unit, community space, and six residential flats. The scheme also proposes a courtyard garden space for general use and roof terrace and balconies in connection with the office use. The mix of uses comprise the following, set in comparison to the extant permission BH2010/03759:

	BH2010/03759	Proposed
B1 Office floorspace	3055sqm	3300sqm
D1 Community space	86sqm	67sqm
A3 Café floorspace	280sqm	233sqm
A1/A3 Retail/restaurant floorspace	0	345sqm
Residential flats (1 x 1-bed; 4 x 2-bed; 1 x 3-bed)	0	6

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- 4.3 The pallet of suggested materials is as previous and includes render, metal panels, concrete panels to the solar chimneys, flint work and anodized metal screens/solar shading.
- 4.4 As previous, the application proposes to extend the existing layby to the front of the site on Gloucester Place to provide a loading bay. This is to be facilitated by the removal of two Elm trees and their replacement with six new Elm trees set along the length of the bay. One of the existing taxi bays is to be replaced by an additional disabled parking bay. Public realm improvements are proposed to Blenheim Place including re-surfacing and the provision of street lighting.

5 PUBLICITY & CONSULTATIONS

External:

5.1 Neighbours:

One (1) letter has been received from **1 Village Barn, Church Hill**, objecting to the proposed development on the following grounds:

- The building is a 1930's Grade II listed Art Deco building with significant historical importance to the city
- The plans are not sympathetic to the conservation area
- The council should consider purchasing the building for use as a public building such as an art gallery which would benefit the city culturally

5.2 **Ancient Monuments Society:** Comment.

The Society wishes to defer to the Twentieth Century Society.

5.3 **Twentieth Century Society:** Object.

The Society does not believe that clear and convincing justification has been made for the loss of this designated heritage asset. The marketing report has not been updated to reflect the current economic climate, whilst the PH Warr costings report does not provide financial details for alternative uses for the site. There are many examples of the successful reclamation and reuse of redundant cinema and theatre buildings that have fallen into disrepair, as pointed out by the Theatres Trust.

5.4 **The Theatres Trust:** Object.

The Trust remain opposed to the total demolition of the Grade II listed Astoria Theatre, and has never accepted the case for demolition as previously granted. The Trust consider it important to find a long term use that retains the Astoria. It is clear that the building does not need to be used for theatrical or cinematic uses or that these uses are even viable. There are many examples of the successful reclamation and reuse of redundant cinema and theatre buildings that have fallen into disrepair and there is no reason why the Astoria cannot be retained and contribute to the rejuvenation of this part of Brighton. The Trust would expect that at the very least key features of the existing building be incorporated into any redevelopment of the site.

5.5 It is disappointing that the application has not made any attempt to reconfirm that there are no current alternative community uses available or to provide updated marketing reports that reflect the improved economic climate.

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- 5.6 The application's justification for demolition remains questionable. It appears contradictory to argue that the Astoria is 'at odds with its conservation area setting' and is 'very bulky' and out of scale when the proposed replacement building is much taller across the entire width of the site, dominating Gloucester Place, the adjacent Baptist Church and other low rise buildings in the area. The dilapidation report and costings are focussed on restoring the building as a cinema rather than considering alternative uses.
- 5.7 **The Cinema Theatre Association (CTA): Object.**
The Cinema Theatre Association is not satisfied that the criteria for demolition have been met and the historic report is not convincing in its authority regarding the development and context of the building type of the cinema or its (lack) of historic merit. We therefore strongly object to this application.
- 5.8 The building has not been altered since it was listed. The historic features described are all still in situ, albeit some concealed by the accretion of later surfaces. The building possibly would have been afforded a higher listing had more original fabric survived.
- 5.9 Any deterioration has been the cause of prolonged neglect. The deterioration of a building is the direct effect of a lack of maintenance by the owner. Failure to maintain a building is therefore effectively neglect by the owner.
- 5.10 It appears that the owner has ambitious expectations regarding the value of the site and its location in terms of its redevelopment potential rather than considering the historic building that occupies it.
- 5.11 There is no reason why the shop units could not have been in business, contributing to the income of the site for the past ten years. Their closure for the past ten years attests to the lack of interest of the owner to actually use the building. It was never intended for any use and had been purchased as a redevelopment site.
- 5.12 It is clear from several other cinemas that have stood empty and have now been successfully returned to entertainment use that the Astoria is not beyond repair and could under the right ownership be brought back to life.
- 5.13 It has not been proven that the building is surplus to cultural, community and tourism requirements.
- 5.14 Several documents that have been submitted as part of this application are dated 2010 and must therefore be considered outdated. This is particularly relevant regarding the Marketing Report. Many factual inaccuracies of the Heritage Report were pointed out in our last correspondence for the previous application. This new application again relies on the faulty information.
- 5.15 **English Heritage: No objection**
English Heritage carefully scrutinised the justification put forward by the applicant in 2011/12 and there are no substantial changes to either the policy framework or

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the nature of the circumstances here that would lead to a different conclusion. English Heritage does not therefore object to the current application for listed building consent to demolish the Astoria.

The current proposal for the Gloucester Place façade remains unchanged from the previous application and would conserve the character and appearance of the Valley Gardens Conservation Area. The current application proposes a scheme of greater height and massing to the west to that consented in order to provide increased office, retail and residential accommodation. This part of the development relates more to the context of the North Laine Conservation Area, which in the main comprises lower, smaller buildings than in the Valley Gardens Conservation Area.

It is acknowledged that the scale of buildings proposed is less than that of the existing building, and that the tight grain of Blenheim Place, Cheltenham Place and the Laines beyond make views of higher elements of buildings difficult to achieve. The enlivenment of the Blenheim Place elevation, which is currently the blank flanking elevation of the Astoria, would enhance this part of the conservation area, and provide assurances are sought on quality finishes and materials, English Heritage does not wish to provide any substantive comments on the revised proposals.

5.16 **CAG:** No objection.

5.17 **Environment Agency:** No objection.

5.18 **Southern Water:** No objection.

5.19 **Sussex Police:** No objection.

5.20 **Southern Gas Networks:** No comment.

5.21 **UK Power Networks:** No objection.

5.22 **East Sussex Fire and Rescue Service:** Objection.

The application does not show compliance with B1 or B5 of the Building Regulations

5.23 **District Valuation Office:** No objection.

According to the District Valuer's records the building was built in 1910 as a theatre and subsequently adapted for use as a cinema. Its last use was as a Bingo Hall which ceased in June 1997. It is understood that the property has remained vacant. The property is configured as a traditional theatre with a raked auditorium and circle seating. The current planning use is Class D2 and initially market value for occupations with this class have been considered.

5.24 **Bingo Hall:** In recent years the number of Bingo Halls has declined owing to the introduction of the smoking ban, restrictions from the Gambling Act 2005, shrinking customer bases, and increased online gambling sites. In response to this the main chain operators, Mecca, Gala, Walkers and Top Ten reduced their

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estates. Some 54 Bingo Halls in the UK were closed in 2009. Only the strong performing locations remain with the majority situated in Shopping Centres or close to residential estates.

- 5.25 Converted cinemas have high operating costs and achieve lower profitability than modern types. Therefore the remaining converted cinema Bingo Halls are mainly found within local primary retail areas and where there is an absence of any competition for some distance. This property is not located close to a residential area and in my opinion there would be no demand for an occupation as a Bingo Hall. The comments made by Mr. Edward Flude BSc FRICS in paragraph 6.3 of his valuation report are therefore agreed with.
- 5.26 Cinema: Cinemas are valued by reference to the reasonable expectation of trading potential. The trading performances of single screen cinemas in Brighton and elsewhere have been examined and analysed. The DV's estimate of the reasonable expectation of gross trading receipts was deduced from comparable trading information and after making adjustments for location, competition and the establishment of the business. The market value of the property retained as a Cinema would be £500,000 (Five Hundred Thousand Pounds) for the Freehold vacant possession interest.
- 5.27 Casino: A casino occupation is not a viable consideration.
- 5.28 Other Occupations: No evidence for demand for other uses within Class D2 has been found:
1. Theatres: The trading performance of Theatres in Brighton & Hove and East Sussex have been examined. In the DV's opinion there would be no demand for occupation as a Theatre as provincial theatre struggle to achieve a profit or rely on grants to continue operating
 2. Licensed Night Club: The location of the property is isolated from the main trading centre and difficulties with the location are evidenced by the closures of the nearby Gloucester Club.
 3. Church or Religious Meeting Halls: A number of converted cinemas (like Finsbury Park in London) have been occupied as meeting halls. Demand for this use is incidental and therefore cannot be assessed.
 4. Other uses, like Health and Fitness Clubs, has also been briefly considered but in the Valuer's experience the Leisure market avoids auditorium layouts as they are considered to be inefficient and difficult to manage and operate.
- 5.29 Conclusion: It is considered that the market value of the property retained as a Cinema is £500,000 for the Freehold vacant possession interest. It is understood that the opinion of value prepared by Mr. Edward Flude BSc FRICS represents the best, or optimistic, consideration to demonstrate the negative residual value. The District Valuer does not consider there to be a conflict between the opinions of value.

Internal:

5.30 **Heritage: No objection**

This proposal is in effect a variation to the applications approved under BH2010/03759 and BH2010/03760. The principle of demolition of the building

and redevelopment of the site was accepted under those approvals. In terms of the loss of the listed building, the main change in policy considerations since then has been the replacement of PPS5 by the National Planning Policy Framework (NPPF), though the PPS5 Planning Practice Guide has not yet been superseded. The loss of the listed building represents substantial harm to the heritage asset under paragraph 133 of the NPPF. The criteria that must be met to justify this substantial harm are effectively unchanged from policy HE9.2 of PPS5 and therefore no additional justification is required to meet national policy. Since the previous approvals the South East Plan has been abolished and the council's City Plan (part 1) has progressed but remains an emerging policy document. Policy CP15 of that Plan is relevant to the application for demolition but does not conflict with the NPPF and does not require any additional justification to be provided beyond that to satisfy paragraph 133 of the NPPF. Consequently the loss of this building is accepted provided that the proposed redevelopment is acceptable and would produce the same heritage and other public benefits as the approved scheme.

- 5.31 The main part of the new building, fronting Gloucester Place, is to be the same height and design as previously approved but with residential use on the fifth floor. The front (east) elevation at fifth floor level would now be glazed to the northern-most bay in the same manner as the others but would still be set back to the same degree as previously approved. The fenestration at fourth and fifth floors to the main rear (west) elevation has been revised but there are no objections to these changes.
- 5.32 The previously-proposed solar chimneys on each flank elevation would be omitted and there would be other revisions to these elevations, including a more slender tower elevation on the south elevation and a revised roofline and fenestration. Overall and on balance it is considered that these amendments are acceptable and retain the necessary design quality of the development. The ground floor of the south flank elevation has also been revised and incorporates more door openings for fire escapes and stores. The design and appearance of these would need to be carefully considered to avoid a dead appearance.
- 5.33 This proposal differs most significantly from the approved scheme in terms of its footprint at the northern end and in additional floors to the rear wing. The courtyard between the main frontage building and the rear wing would be reduced in size as the front and rear buildings would be linked at the northern end, though there would be a light well above ground floor level. The rear wing would have an additional floor, making it three storeys above ground, but the new link section would rise a further storey to be four storeys in height. A key public heritage benefit of the approved scheme, mitigating the loss of the listed building, was the enhancement to the character and appearance of the North Laine conservation area arising from the substantial reduction in bulk along the rear of the site. The additional storey to the rear wing would mean that it would now be a storey higher than the historic Blenheim Place and Cheltenham Place buildings. Nevertheless it is still considered that in this respect that the development would make an appropriate transition in scale from the Valley Gardens frontage to the small scale of the North Laine.

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- 5.34 Concerns were initially raised with regard to the impact of the additional storeys on the key views from Marlborough Place northwards to the historic roofline of Blenheim Place. The enhancement of these key views, and the enhancement of the North Laine conservation area by a careful transition in scale and massing from the Valley Gardens Conservation Area, were considered to be important public benefits of the redevelopment, contributing significantly to the balance of public benefits that were considered to outweigh the substantial harm caused by the complete demolition of the listed building. Additional and revised details, in the form of long sections and CGIs have satisfactorily demonstrated the very limited extent to which the proposed development would be visible above the historic roofline, and only at some distance southwards. On this basis there is no objection to the additional rear storeys.
- 5.35 **Planning Policy: No objection.**
The loss of the listed building and retail units, and the provision of new office floorspace has been accepted in principle through the approval of application BH2010/03759. Evidence has been submitted to demonstrate that there has not been a significant change in the viability of retaining the existing building as a community facility since that time. This revised application broadly maintains the level of office and community facility floorspace, whilst also providing six residential units, which are a welcome contribution towards the city's housing need.
- 5.36 **Loss of Community Facilities:** The building has been vacant for some years. The most recent use was a bingo hall (class D2 Assembly and Leisure) which closed in 1997 though there have been informal uses in the building since then (dance studio). There is a presumption against the loss of this use in policy HO20 which sets out four tests for justifying the loss, however the principle of an exception to policy has been accepted through the approval of the previous scheme (BH2010/03759). Evidence submitted to support the application under consideration from the marketing agents states that the conclusions of their 2010 marketing report remain unchanged, i.e. that a D1 and D2 community use would not deliver refurbishment or redevelopment of the site.
- 5.37 67m² of community meeting space is proposed in the development, which is a slight decrease on the 86m² proposed in the existing approved scheme, however this small decrease is not considered to be significant. As with the previous scheme, the community meeting space that is provided should be secured by condition and a management plan submitted (by condition or S106) to ensure that community groups are aware of its availability, it is clear how to use/book the room and that it is affordable.
- 5.38 **New Office Floorspace:** The proposal for new, modern office floorspace development (3301m²) is welcomed and will contribute towards shortage of good quality, modern office space identified in the Employment Land Study Review 2012, whilst helping to offset the loss of B1 office space that has taken place elsewhere in the city. The scheme is considered to meet to the criteria for new business use on unidentified sites set out in Policy EM4 of the Local Plan. Although the amount of office floorspace is a small decrease from the 3362m²

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proposed in the previous approved scheme, this decrease is not considered to be significant.

- 5.39 Provision of Residential Units: The provision of six new residential units is welcomed as a contribution towards the city's significant housing requirement as identified in the Submission City Plan. It is considered that the scheme meets the requirements of Policy HO3 of the Local Plan and Policy CP19 of the Submission City Plan due to the variety of dwelling sizes proposed.
- 5.40 The quantity of units falls below the threshold for provision of affordable housing set out in Policy HO2 of the Local Plan. Although Policy CP20 of the Submission City Plan requires an element of affordable housing on all sites of 5 or more dwellings, this policy is considered to hold less weight than the Local Plan policy as it is a significant change of approach and has not been fully tested through a completed Examination. In line with the requirements of Policy HO5 of the Local plan, the residential units are provided with private amenity space.
- 5.41 No outdoor recreation space is provided as part of the development. In line with Local Plan Policy HO6, contributions to their provision on a suitable alternative site may be acceptable. Using the open space 'ready reckoner', a figure of £18,525.69, including £2,940 towards indoor sport, should be sought.
- 5.42 Loss of Retail Units: There are 3-5 vacant retail type units on the ground floor. The proposal must be considered against policy SR7 Local Parades as it represents the loss of a local parade (cluster of more than 3 shops). The applicant makes the case for an exception to policy on the grounds of the close proximity of nearby retail centres; that the shops have been vacant for some years and the replacement use offsets the loss.
- 5.43 Convenience shops and the London Road District Centre are located within 400m (easy walking distance) of this vacant parade. For this reason and by reason of the overall benefits of the scheme (set out above) the proposal is considered satisfactory as an exception to policy along with the requirement for an active frontage.
- 5.44 Streetscape improvements: In accordance with policy SA3 Valley Gardens in the Submission City Plan, the proposal has proposals to enhance the streetscape and have an active frontage at ground floor level. The applicant is proposing an active elevation on the ground floor and this will be helped by the new proposed restaurant. Landscaping improvements are proposed at the front of the building including tree planting which should be secured through an S106 agreement.
- 5.45 **Sustainable Transport:**
General parking: Although the application is described as car free it cannot be guaranteed that commuters working at the development will not drive to work. However, the local circumstances here indicate that this aspect of the proposal is acceptable on balance. SPG4 indicates that non-operational parking is inappropriate for office developments within the CPZ (which the application site is) and the CPZ itself clearly prevents commuter parking in the immediate vicinity of the site. The applicants have demonstrated in their TA that provision for

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sustainable modes of transport in the area is good. Given these considerations it is considered that the car free nature of the proposal is acceptable. The standard car free conditions should be attached to any consent to prevent able bodied residents from buying residents parking permits.

- 5.46 Disabled parking: SPG4 indicates that the minimum disabled parking provision required is 33 spaces for the office use, 5 for the A1/ A3 use and none for the residential use, i.e. 38 in total. The applicants propose no on-site provision and suggest that the 2 existing on street bays on Gloucester Place can be used and the taxi rank which has been indicated by their surveys to be unused could be converted to disabled parking. Any conversion would be subject to consultation which the applicants would have to fund along with subsequent implementation if approved. Officers have indicated that some limited use is made of the taxi rank. Parking in the area will be subject to revision as part of the Valley Gardens project. In any case the proposed disabled parking provision is substantially below minimum requirements and mitigation should be sought by way of a contribution to shopmobility as provided for by policy TR18. An appropriate amount would be £30,000 and this should be required in the S106 agreement.
- 5.47 Cycle parking: The number of cycle parking places proposed is substantially above the SPG4 minimum but some of the details give rise to concerns. It is proposed to mostly replace Sheffield stands as in the previous consent with two tier Josta stands which are not as easy for cyclists to use. A cycle parking condition requiring further details should therefore be attached to any consent.
- 5.48 Highways impact: There will be negligible impact on local highway capacity since the application is car free.
- 5.49 Highways alterations: The applicants propose to fund the creation of a new loading bay on Gloucester Place and improvements to Blenheim Place involving resurfacing and raising the carriageway to footway level, provision of new street lighting and public art. This would make Blenheim Place and Gloucester Place more attractive pedestrian routes and prevent the need for loading in Blenheim Place. The work should be fully funded by the developers through a Section 278 agreement. Co-ordination with the Valley Gardens proposals and informal consultation with the neighbouring occupiers TSB should be required of the applicants if they choose to proceed with these works. It is currently expected that the part of the Valley Gardens scheme adjacent to the application site will be implemented in 2016.
- 5.50 Sustainable modes/Contributions: Taking into account the changes from the previous application the standard contributions formula suggest that an amount of £62,400 would be appropriate for this application. This is required for the development to comply with policy TR1. Although existing provision in the wider area is good there is scope for improvements and the S106 contributions should be directed to these. Examples of such improvements are a new pedestrian crossing in Gloucester Place, local wayfinding signs, pedestrian improvements identified in the local street audit, provision of real time bus information at the North Rd. bus stop, and resurfacing of the local section of NCN route 20. The contributions should be spent on measures such as these. However if the Valley

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Gardens scheme, which will comprehensively improve transport facilities near to the application site, is implemented at an appropriate time, the contributions should be spent on this instead.

- 5.51 **Travel plan:** The applicants have submitted an acceptable travel plan framework and a full travel plan should be required by condition. This should be subject to approval which should be required before occupation.
- 5.52 **Economic Development: No objection.**
No objection subject to a contribution through a S106 agreement for the payment of £36,010 towards the Local Employment Scheme (LES) in accordance with the Developer Contributions Interim Guidance and the provision of an Employment and Training Strategy with the developer committing to using 20% local employment during demolition and construction phases of the development.
- 5.53 **Arboricultural Services: No objection.**
To facilitate the loading bay, 2 juvenile on-street Elms (*Ulmus glabra*) will need to be removed, which is to be regretted. The Arboricultural Section would not object to this, subject to a condition requiring 6 replacement trees of the same species to be planted further along the road beside the new parking bays.
- 5.54 The landscaping plan (P.409) supplied by the applicant is adequate and the Arboricultural Section are in full agreement with it. It is recommended that an Arboricultural Method Statement on size of Elms to be planted, staking, size of planting pits etc is sought prior to development commencing.
- 5.55 **Environmental Health: No objection.**
There are residential properties behind the site in Blenheim Place. The new residential units at 5th floor level will be set back from the front of the building. A noise assessment has been submitted that recommends installing thermal double glazing and ventilation systems to provide adequate acoustic insulation.
- 5.56 There is the potential for noise and odour from the ground floor restaurant to impact on the offices above and residents on the fifth floor. To manage this conditions are necessary to increased sound insulation. Noise from deliveries to the restaurant/café could cause noise issues and hours should be conditioned. It is recommended that the opening hours of the restaurant, offices and community rooms are conditioned in order to prevent noise complaints. All plant and machinery both internally and externally on the roof area including but not exclusively mechanical ventilation, odour control and air handling units should operate at 5dB below background. This should be capable of being met with all plant running simultaneously.
- 5.57 Two sites adjacent to the north and to west of the site have the potential to have caused localised contamination during their operation therefore a discovery strategy is recommended to be applied to any grant of planning consent. A Construction Environmental Management Plan (CEMP) should be submitted to detail proposals for managing the construction phase including proposals for dealing with any noise complaints that may arise.

5.58 **Air Quality:** No objection.

5.59 **Sustainability Officer:**

Policy SU2 states that planning permission will be granted for proposals which demonstrate a high standard of efficiency in the use of energy, water and materials. SPD08 states that major new built developments are expected to achieve BREEAM 'excellent', including 60% in the energy and water sections, for non residential development, and Code for Sustainable Homes (CfSH) Level 4 for residential development.

5.60 As submitted, the residential development is proposed to be delivered to CfSH Level 4 which meets expected residential standards. However, the non-residential development falls below the expected BREEAM standards, with the Office development to achieve BREEAM Office 'very good' (with 44% in energy and 50% in water sections), and the Retail element to achieve BREEAM Retail 'very good' (with 48% in energy and 44% in water sections).

5.61 The BREEAM Office pre-assessment shows that there is a relatively small shortfall of just 3.7% to achieve an 'excellent' score. Retail has a slightly larger shortfall. There has not been any specific information submitted which demonstrates that the achievement of 'excellent' would make the scheme unviable (such as costings against BREEAM credits). The inclusion of residential development in the scheme is proposed as enabling development to address viability.

5.62 Given the shortfall to achieve BREEAM Office 'excellent' is small, and that this scheme is being assessed on an older, less challenging version of BREEAM, it is recommended that the target of BREEAM 'excellent' be maintained. To allow the applicant some leeway in support of viability however, the energy and water section target could be dropped to 50%. Similarly, as a compromise position the BREEAM target for the Retail element, could be dropped to BREEAM Retail 'very good' with 50% in energy and water sections.

5.63 Approval is recommended with the inclusion of conditions to secure Code for Sustainable Homes Level 4 for housing, BREEAM Office 'excellent' with 50% in the energy and water sections, BREEAM Retail 'very good' with 50% in the energy and water sections, Considerate Constructors scheme, and Lifetime Homes standard

5.64 **Ecology:** No objection.

5.65 **Access:** No objection.

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."

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- 6.2 The development plan is:
- Brighton & Hove Local Plan 2005 (saved policies post 2007);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
 - East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
 - 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 relevant policies in the development plan according to their degree of consistency with the NPPF.
- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.
- 6.6 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 Local Plan:

TR1	Development and the demand for travel
TR2	Public transport accessibility and parking
TR4	Travel Plans
TR7	Safe development
TR8	Pedestrian routes
TR14	Cycle access and parking
TR15	Cycle network
TR18	Parking for people with a mobility related disability
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
SU3	Water resources and their quality
SU4	Surface water run-off and flood risk
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise nuisance
SU11	Polluted land and buildings
SU13	Minimisation and re-use of construction industry waste
SU14	Waste management
SU15	Infrastructure
SU16	Production of renewable energy

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QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – full and effective use of sites
QD4	Design – strategic impact
QD5	Design – street frontages
QD6	Public art
QD7	Crime prevention through environmental design
QD15	Landscape design
QD16	Trees and hedgerows
QD17	Protection and integration of nature conservation features
QD18	Species protection
QD25	External lighting
QD27	Protection of amenity
QD28	Planning obligations
HO19	New community facilities
HO20	Retention of community facilities
EM4	New business and industrial uses on unidentified sites
SR7	Local parades
SR12	Large use class A3 (food and drink) venues and use class A4 (pubs and clubs)
SR21	Loss of indoor recreation facilities
HE1	Listed buildings
HE2	Demolition of a listed building
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE8	Demolition in conservation areas

Supplementary Planning Guidance:

SPGBH4	Parking Standards
SPGBH9	A guide for Residential Developers on the provision of recreational space
SPGBH13	Listed Building – General Advice
SPGBH15	Tall Buildings

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD08	Sustainable Building Design
SPD11	Nature Conservation & Development

Brighton & Hove City Plan Part One (submission document)

SS1	Presumption in Favour of Sustainable Development
SA3	Valley Gardens
CP15	Heritage

8 CONSIDERATIONS & ASSESSMENT

- 8.1 Planning permission has previously been granted for the demolition of the Astoria and its replacement with an office-led mixed use scheme under application

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BH2010/03759. The permission is extant and the deadline for commencement of works expires on 15 May 2015.

- 8.2 The main considerations in the determination of this application relate to the principle of the development in relation to demolition of this grade II listed building and the principle of the proposed development, the impact of the design on the character and appearance of the Valley Gardens Conservation Area and the North Laine Conservation Area and the setting of the nearby grade II* listed St Peter's Church, its impact on neighbouring amenity, the standard of accommodation to be provided, the transport implications of the development and sustainability matters.
- 8.3 Since planning permission was previously granted there have been a number of changes to local and national policy. PPS5 'Planning for the Historic Environment' has been superseded by the National Planning Policy Framework (NB the PPS5 Planning Practice Guide has not yet been superseded) whilst the South East Plan has been abolished and the council's City Plan Part One has progressed but remains an emerging policy document. The main policy framework with regard the demolition of the listed building therefore comprises the National Planning Policy Framework (in particular paragraph 133), policy HE2 of the Brighton & Hove Local Plan, and policy CP15 of the emerging City Plan Part One.
- 8.4 The demolition of the Grade II listed Astoria represents substantial harm to a heritage asset under paragraph 133 of the NPPF. Paragraph 133 of the NPPF replicates the four key tests previously set out in policy HE9.2 from PPS5 that must be met in order to accept substantial harm to or total loss of a designated heritage asset:
- '133. 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, or all of the following apply:*
- a. the nature of the heritage asset prevents all reasonable uses of the site; and*
 - b. no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
 - c. conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
 - d. the harm or loss is outweighed by the benefit of bringing the site back into use.'*
- 8.5 Local Plan policy HE2 is considered compliant with the NPPF and also sets out three criteria that must be met in order to accept the demolition of a listed building. These criteria broadly mirror those in paragraph 133 of the NPPF:
- a. clear and convincing evidence has been provided that viable alternative uses cannot be found, through, for example the offer of the unrestricted freehold of the property on the market at a realistic price reflecting its condition and that preservation in some form of charitable or community ownership is not possible;*

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- b. *the redevelopment would produce substantial benefits for the community which would decisively outweigh the resulting loss from demolition or major alteration; and*
 - c. *the physical condition of the building has deteriorated, through no fault of the owner / applicant for which evidence can be submitted, to a point that the cost of retaining the building outweighs its importance and the value derived from its retention. A comprehensive structural report will be required to support this criterion.*
- 8.6 Policy CP15 of the emerging City Plan Part One is relevant to the application for demolition but does not conflict with the NPPF and does not require any additional justification to be provided beyond that to satisfy paragraph 133 of the NPPF.
- 8.7 In addition to considering the relevant policies in the NPPF and the Local Plan regard must be had to sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which require Planning Authorities to have special regard to the desirability of preserving a listed building or its setting, and to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Where harm to the preservation of a listed building, its setting or a conservation area is identified, the Act places a strong presumption against permission being granted.

Principle of development:

- 8.8 Demolition of the listed building: The Heritage Officer notes the significance of the building in summary as follows:
'The period 1920-1940 saw around 4,000 cinemas built in Britain and the large cinemas, usually built as part of chains, emerged in the late 1920s following the arrival of sound. They generally followed a standardised approach, usually incorporating tea rooms and an organ, and with either a classical or modern style to the external design but with a variety of styles adopted for the interiors. Each chain had distinctive styles and in-house architects and designers. This was an age of mass entertainment and avid film-viewing and the new cinemas displayed an architecture of glamour and escapism that was entirely appropriate. Architectural quality and extent of alteration are key considerations in whether cinemas of this period are listed.'
- 8.9 The Astoria was listed grade II in 2000. The significance of Brighton Astoria lies in its architectural and artistic interest as a 1930s super-cinema with associated tea room, shops and manager's flat, with the surviving architectural design of its exterior reflecting the 'moderne' style and its interior in a French Art Deco style, though the interior was altered in both 1958 and, especially, 1977 when it was converted to a bingo hall.
- 8.10 It can be deduced from the list entry and inspection of the building that its special interest resides in a number of factors:
- i) its survival as an example of the work of E.A. Stone, a noted cinema and theatre designer of the period in London and the South East;
 - ii) the design of its front elevation to Gloucester Place (excluding the later shop fronts);

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- iii) the scale of the auditorium;
- iv) the historical placing of the cinema as part of a wider chain of Astorias in seaside towns;
- v) the survival of its internal decorative scheme by the French designers Henri and Laverdet, particularly the proscenium arch; and
- vi) the rareness of the French art deco style of interior decoration.

- 8.11 These issues are mostly covered by the submitted Heritage Assessment, which provides a history of the building and an assessment of its place in the context of cinema design and development in the south east in the 1930s, as well as information on the career of E.A. Stone. This document does, however, downplay the overall significance of the Astoria, particularly with regard to the interior decoration. Heritage officers remain of the view that the significance of the building is unquestioned and its demolition must be considered on that basis.
- 8.12 Both paragraph 133 of the NPPF and Local Plan Policy HE2 presume against the demolition of a heritage asset unless in exceptional circumstances whereby their respective tests are met. Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a strong presumption against granting consent where a proposal would result in harm to the preservation of a listed building, the setting of a listed building, or to a conservation area.
- 8.13 In respect of test (a) within paragraph 133 of the NPPF, the building occupies the whole footprint of the site, with no subsidiary or secondary elements. The most significant element of the building is the auditorium which takes up around 55% of the floor area and sits central to the site. The continued significance of the Astoria as a heritage asset is therefore dependant on retaining the auditorium space in situ. The range of potential uses are therefore limited to those compatible with the auditorium as failure to conserve this element would result in the substantial loss of the Astoria's heritage significance. Given the site coverage and central position of the auditorium it is not reasonably possible for the existing building and its auditorium space to be worked around or incorporated into new development without substantial harm to, or the entire loss of, its significance. As such, any viable use of the building as required by test b) would need to ensure the preservation and restoration of the auditorium space in a form that would enable its special interest to be both conserved and appreciable. This constraint immediately limits the opportunities for viable alternative uses to come forward.
- 8.14 In respect of test b), the applicants have updated and re-submitted the supporting documentation previously considered to demonstrate the case for demolition as an exception to local and national policy. These documents include a 'Dilapidations Survey' (P H Warr), a 'Market Valuation' report (Flude), a 'Marketing Report' (Graves Jenkins), and a 'Report on the Yes No Productions Ltd Development of the Astoria, Brighton' (Bonnar Keenlyside), which includes an Order of Cost for Refurbishment.
- 8.15 The main updates are to the PH Warr 'Dilapidations Survey' and Flude Market Valuation Report. The PH Warr 'Dilapidations Survey' includes a Conditions Assessment Survey carried out in September 2013. This survey concludes that the condition of the building has deteriorated since last being surveyed in 2009,

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but without further major defects. The additional repair costs are estimated as being £83,000 which, in combination with uplifts in market rates and contractor preliminaries, results in the estimated restoration costs rising from £3.47m to £3.97m.

- 8.16 The updated 2010 Flude 'Market Valuation Report' re-confirms that the Astoria has no positive present day market value. This conclusion has been reached having regard alternative uses such as a theatre, nightclub or casino. Flude consider that the building's likely maximum market rent of £184,000 as calculated in the 2010 report would remain unchanged in the event the repair works set out in the PH Warr report are completed. This would result in the Astoria continuing to have a negative residual value of more than £2m. Flude consider this value to be of such significance that the retention and restoration of the Astoria would not be viable in the medium term even if offered to the market for sale at nil consideration.
- 8.17 The Graves Jenkins Marketing Report and addendum statement confirms that marketing has continued on the property since permission for the previous scheme was granted. The building has been marketed in the main as a development site with an extant planning permission however the particulars do relay the existing form and use of the building. Interest has been in the main from development companies looking to redevelop the site rather than refurbish. This ties with the feedback received from the previous marketing of the site. Although the marketing is not robust given its focus on being a development site rather than a cinema, taken in conjunction with the PH Warr Dilapidations Survey and Flude Market Valuation Report, and the conclusions of the extant permission, the case remains convincing beyond reasonable doubt that the condition of the building, the nature of its special interest, and broader market conditions render its restoration and conservation as a going concern unviable.
- 8.18 On this basis it is clear that the condition of the building and the market for its potential re-use remains broadly unchanged from previous, and that the site remains unviable for retention either as a cinema or as an alternative community use. The District Valuation Office has assessed the updated reports and remains unchanged in its conclusions, namely that the site is unviable for alternative uses and would have a significant negative residual value if its current use is maintained.
- 8.19 In relation to test (c), as previous the Bonnar Keenleyside report within the applicant's submission sets out the extensive search for funding partners and grant aid that has taken place. The authors have confirmed that its contents and conclusions remain applicable in every respect and, as previous, this report is considered to suitably address this test. The identified negative residual property value of more than £2m would suggest that even a low or zero asking price would be unlikely to attract charitable ownership, whilst the prospect of future public ownership in the medium term would seem unlikely in view of recent and future public spending cuts.
- 8.20 In relation to test (d), the Valley Gardens Conservation Area is an 'at risk' area on the English Heritage register and a specific area policy has been included in the

submission version of the Core Strategy to find solutions to revitalise Gloucester Place and provide a mix of uses. The site has been vacant for some 17 years and given its scale and prominent location along a key route through the City, its continued vacancy and poor condition has undoubtedly caused blight to the area. The redevelopment of the site as justified by tests a)-c) would both bring the site back into active use and bring significant benefits to the area. Such benefits include the provision of an active and attractive street frontage to Gloucester Place, the opportunity to substantially reduce the scale and massing of building to the rear, and the opportunity to introduce improvements to the public realm along Blenheim Place. By association these benefits would serve to both preserve and enhance the character and appearance of both the Valley Gardens Conservation Area and the adjoining North Laine Conservation Area to the wider public benefit.

- 8.21 In respect of the tests set out in Local Plan Policy HE2, test a) has been addressed above. In respect of test b), on the basis that the existing building and use has proven to be unviable, the redevelopment of the site with a building that provides active street frontage, viable commercial and community floorspace, and an improved relationship with the buildings to the rear to the benefit of the adjacent Conservation Areas, would produce substantial benefits for the community. In respect of test c), whilst the condition of the building has clearly deteriorated, officers consider that any neglect has occurred over a considerable number of years and under various ownerships despite temporary repairs being carried out. Officers are also satisfied that there is no evidence to suggest that the current owner has deliberately neglected or damaged the building.
- 8.22 On the basis of the above, and in line with extant permission and English Heritage advice, it is considered that the tests under paragraph 133 of the NPPF and those set out in Local Plan policy HE2 have been met and the case for the demolition of the Astoria remains justified.
- 8.23 In reaching this conclusion regard has been had to duty set out in Sections 16, 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The proposed works would result in the total loss of the Grade II listed building and its special interest, and considerable weight has been attached to this harm accordingly. However, the considerable weight attached to the loss of the building is considered to be outweighed by the absence of any viable alternative use that would enable the building to be retained, and by the public interest benefits of the proposal as detailed above.
- 8.24 Proposed development and mix of uses
The site's existing planning use is D2 (assembly and leisure) and was last in operation as a Bingo Hall up until circa 1996/97. This constitutes a community use protected under Local Plan Policy HO20 and paragraph 70 of the NPPF. Paragraph 70 of the NPPF seeks to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs, whilst policy HO20 contains an exception to allow the loss of community facilities where it can be demonstrated that the site is not needed for such uses. In this instance, the site has been redundant for over

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sixteen years therefore its value to the local community as a Bingo Hall or other community facility is now negligible. In terms of alternative community provision, it has been evidenced through the marketing and viability appraisals that the building is unsuitable for retention as a Bingo Hall or conversion in its entirety to any other community use. As such, and as previous, it is considered that the exception test d) in policy HO20 has been met.

- 8.25 In such circumstances policy HO20 prioritises the inclusion of starter business units within replacement development. As before the application proposes a number of flexible start-up units to the rear of the building totalling 416sqm of floorspace (5 units). Also proposed is a 67sqm community/exhibition room at the rear of the site accessed off Blenheim Place to help retain an element of community provision within the development. Although less floorspace than previously secured, the standard of community space to be provided is considered to remain sufficient having regard the difficulties in finding a community use for the building as a whole and the wider benefits of the development as set out in this report. On this basis the proposed development remains acceptable in compliance with paragraph 70 of the NPPF and as an exception to policy HO20.
- 8.26 To ensure that the community space operates to its potential, a management plan is sought via a legal agreement, as previous. The plan will include details such as method of advertising to ensure community groups are aware of its availability, agreement on how to use/book the facility and details of rates to ensure it is affordable.
- 8.27 Policy SR21 seeks to resist the loss or reduction of indoor recreation and sporting facilities such as Bingo Halls however as previous no conflict is identified given the provision of a Bingo Hall on Eastern Road to the east of the site.
- 8.28 The proposal will bring forward a total of 3,300sqm of modern and flexible B1 office floorspace with the potential of providing 173 jobs (based on offPAT employment densities – 5.25 jobs per 100sqm), plus a further 645sqm of retail/restaurant, cafe and community floorspace. This represents an increase in B1 office floorspace of 247sqm from previous, and an increase in retail/restaurant, cafe and community floorspace of 279sqm. The revised B1 office floorspace would be set in a range of unit sizes including five small start-up units of between 51sqm and 141sqm. The volume and format of the accommodation will help contribute towards meeting the forecast need for high quality modern flexible office space identified in the Employment Land Study Update (2009) and Review (2012), and help to offset the loss of B1 office space that has taken place elsewhere in the city in accordance with Local Plan policy EM4. The location of the site remains good in terms of both sustainable transport access and in terms of suitability for the creative industries and digital media sector.
- 8.29 The Economic Development Team remain in support of the proposal, subject to an appropriate contribution towards the Local Employment Scheme (LES) and the provision of an Employment and Training Strategy. This is to be secured within to S106 agreement, as previous.

- 8.30 The front portion of the site at ground floor level opening out onto Gloucester Place formerly function as a local parade of shops (3-5 units) which are all now vacant and have been for some time. The loss of the parade was previously considered acceptable under policy SR7 given the close proximity of convenience shops and the London Road District Centre. The application proposes an retail/restaurant unit at ground floor level in addition to the café unit and office reception previously approved. The additional unit would bring further diverse active frontage to the site to the benefit of the street scene, in a similar manner to the former parade of shops within the Astoria.

Design and Appearance

- 8.31 Local Plan policies QD1, QD2, QD3, QD4 and QD5 relate to the design quality of a development, the emphasis and enhancement of the positive quality of the local characteristics, making efficient and effective use of sites, the enhancement and preservation of strategic views and presenting an interesting and attractive frontage particularly at street level. Policies HE3 and HE6 relate to development within or affecting the setting of a listed building and conservation areas respectively.
- 8.32 The main building fronting Gloucester Place remains of the same height, scale, design and overall appearance as previously considered acceptable under the extant scheme. In this respect the proposal continues to suitably preserve the setting of Grade II* Listed St Peter's Church to the north, and views within the Valley Gardens Conservation Area and towards the North Laine Conservation Area. Minor alterations are proposed to the side elevations including the removal of two vent stacks and new door openings to Blenheim Place. These alterations do not fundamentally alter the appearance of the building and its relationship with both adjacent properties, or harm its contribution to the wider street scene. The loss of the north side vent stack would not substantially harm the relationship of the building with the Baptist Church adjacent, or result in an overly bland elevation in views above the Church. Although the building does not lie within one of the tall buildings nodes or corridors identified on SPGBH15, as previous it is considered that the height as proposed is acceptable within its context and the tall buildings statement provides sufficient justification for this.
- 8.33 The main alterations are to the rear. The extant permission included a two storey element at the rear of the site, separated from the main building by a courtyard. This proposal seeks to infill the northern third of the courtyard and add a third storey to the rear element. A further smaller fourth storey link section is proposed towards the northern end of the site.
- 8.34 One of the main benefits of the extant scheme was its reduction in scale at the rear of the site compared to existing. The Astoria building currently has a poor relationship with the two storey buildings and the intimate character of Blenheim Place and Cheltenham Place by virtue of its scale and proximity. In particular, the blank rear/south elevation rises up some 22.4m in height within 3.5m of a two storey residential terrace adjacent along Blenheim Place, creating significant bulk and a poor transition in massing and form. The extant permission breaks up this bulk dramatically with the southern elevation stepping down from six storeys to

two storeys to complement the residential terrace, with the materials and openings proposed improving its articulation. This arrangement greatly improves the relationship between the site and the scale and character of Blenheim Place and Cheltenham Place to the rear, to the benefit of the wider North Laine Conservation Area. The reduction in massing at the rear also benefitted views of the site from Marlborough Place to the south, with the bulk of the south elevation removed in longer views and the rooflines of buildings in the foreground better silhouetted against the sky.

- 8.35 The addition of a third storey to the rear element would retain a suitable transition in scale from the front to the rear of the site (from six storeys at the front of the site to three storeys at the rear and to two storeys on Blenheim Place). The third storey would be broadly the same height as the ridge to the adjacent building immediately to the rear at 38 Cheltenham Place and is set back from the south elevation of the lower floors such that it would be a subservient addition when viewed from Blenheim Place.
- 8.36 The fourth floor element would be a considerably smaller addition set 24m from the main southern elevation and 6m from the main northern elevation. As such it would not be appreciable in views from Blenheim Place or from Cheltenham Place. Although visible from along Gloucester Road to the north, the building would remain lower than the existing north elevation and would not be so harmful as to warrant the refusal of permission. To the rear, the main third storey would remain lower than the eaves height to the existing auditorium, thereby ensuring that the bulk and massing of the rear elevation remains reduced from existing. Although the fourth floor would be taller, given its limited width such an increase would not be significantly harmful to the overall massing of the building and the transition in scale through the site. A section drawing and visuals have been provided which demonstrate that the fourth floor would not impose in views from along Marlborough Place to the south, and would continue to enhance the setting of the listed buildings at 31-36 Marlborough Place.
- 8.37 The mix of materials suggested is supported in principle, are appropriate for the context and further help in articulating the elevations. The use of flint facing to the lower floors would relate well to the Baptist Church which also has flint facing, and to the character of Blenheim Place. The proposed pedestrianisation and hard landscaping of this area is again welcome, subject to further details by condition.

Public Art:

- 8.38 In line with policy QD6 the development is required to include an element of public art, calculated to be to the value of £34,000. Details of an appropriate proposal for public art are secured within the s106 heads of terms.
- 8.39 Trees, Landscaping and Ecology
Policies QD15 and QD16 relate to landscape design, trees and hedgerows and require that proposals for new development must submit details to show that adequate consideration has been given to landscape design at an early stage in the design process, including open space provision, the spaces around and between buildings, making effective use of existing trees and hedgerows and

where appropriate existing nature conservation features retained and new suitable ones created.

- 8.40 As previous, the applicants are proposing to remove two of the semi-mature street Elm trees adjacent to the entrance to Blenheim Place, to be replaced with six Elms lining the pavement in front of the site adjacent to the parking and loading bay. The arboricultural officer has raised no objection to this arrangement, which is secured in the S106 agreement. A landscaping scheme for the central courtyard is also sought, as previous.
- 8.41 The County Ecologist has identified that the existing building has very limited ecological value, however demolition works may uncover bats or nesting birds. An informative is attached to advise the applicant of their responsibilities under the Wildlife and Countryside Act 1981 as amended. As previous a condition is attached seeking a scheme to improve the nature conservation interest of the site. The County Ecologist has recommended that the installation of sparrow, swift and general purpose bat boxes would be sufficient in this instance.

Standard of accommodation:

- 8.42 The application now proposes a residential element comprising 6 flats at top floor level, four two-bedroom flats, one one-bedroom flat and one three-bedroom flat. The size and layout of each unit is of a good size with access to natural light and ventilation. Access to the residential units would be via a separate stairwell and lift from the commercial element of the scheme. Outside space for each unit would be provided by top floor balconies, to accord with policy HO5 requirements. Policy HO13 requires the units to be Lifetime Homes compliant, and this is secured by condition.
- 8.43 A noise assessment has been submitted that recommends installing thermal double glazing and ventilation systems to provide adequate acoustic insulation within the residential units from traffic noise below. These measures are secured by condition in accordance with Environmental Health advice.

Impact on Amenity:

- 8.44 Local Plan policy QD27 will not permit development which would cause a material nuisance or loss of amenity to the proposed, existing and/or adjacent users, residents or occupiers where it would be liable to be detrimental to human health.
- 8.45 As per the previous scheme, the building represents an improvement for neighbouring occupiers with the reduced bulk and massing to the rear having a less oppressive impact than existing. The Tall Buildings Statement contains an updated shadow study which shows that sunlight levels to adjacent land would be generally increased from existing. The Daylight Report also confirms that the enlarged building would continue to improve daylight levels to windows along Blenheim Place, Gloucester Road and Cheltenham Place. Although some windows to properties on Gloucester Road and Cheltenham Place would experience a technical drop in daylight levels, the report indicates that this drop would be marginal at worst with the affected windows remaining above the minimum BRE standard. On this basis it is concluded that the impact of the proposed additional height and massing in relation to neighbouring dwellings in

terms of overshadowing and overbearing impact remains an improvement on existing.

- 8.46 The application proposes four windows in the ground floor west elevation, with a further four windows in the new second floor level. These windows would face adjacent residential properties and, as previous, conditions are attached to ensure they are obscurely glazed. The affected units within the development would retain a suitable outlook to the east into the site.
- 8.47 The main six storey element remains a suitable distance from neighbouring dwellings (minimum distance 17.8m between the closest window and the western elevation of number 4 Blenheim Place) to preclude adverse overlooking from either the office units or the proposed residential units. The residential units would have access to the same front roof terraces as previously approved and use of this space for residential purposes would not result in overlooking issues. An additional terrace is proposed on the Blenheim Place elevation however this would face the neighbouring office building and would not result in direct overlooking issues for the nearest residents. The terrace above the rear element would be screened by 1.8m high screens, details of which are required by condition. Further conditions are attached to restrict the hours of use of the rear terrace to avoid noise disturbance to neighbouring dwellings, as previous. Subject to these conditions the proposed development is considered to have an acceptable impact on neighbouring amenity.

Sustainable Transport:

- 8.48 Policy TR1 requires that development proposals provide for the demand for travel they create and maximise the use of public transport, walking and cycling. TR7 will only permit developments that do not increase danger to other road users. While policy TR19 requires development proposals to accord with the Council's maximum car parking standards, as set out in Supplementary Planning Guidance Note 4: Parking Standards.
- 8.49 The site is in a sustainable City Centre location which benefits from strong public transport links. The area surrounding the site is part of a Controlled Parking Zone (CPZ).
- 8.50 The transport and highways aspects of the proposal remain as previous. No onsite car parking is proposed however given the sustainable location of the site within a CPZ this aspect of the scheme is considered acceptable. In accordance with policy HO7 a condition is attached to ensure that occupiers of the residential properties are ineligible for parking permits. The applicants propose to retain the two disabled parking space fronting the site however there remains a shortfall in disabled parking for the development. In this instance the shortfall is considered acceptable having regard the town centre location of the development on public transport routes, and the availability of other parking bays in the area that blue badge holders can use for free. The Transport Assessment recommends that the two taxi spaces fronting the site could be converted to two additional disabled parking bays and a commitment to explore this is included in the s106 heads of terms, alongside the other highway works referenced below.

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- 8.51 The submitted plans detail 52 cycle parking places, four on Blenheim Place, 18 within covered stores, four within the rear courtyard, and 26 at basement level. This level of provision is in excess of the standards set out in SPGBH4, which require approximately 27 spaces. However, 44 of the places would be on 'Josta' racks which are not easily accessible for all. A condition is attached requiring a revised scheme that includes the use of accessible Sheffield stands.
- 8.52 The off site works to Gloucester Place and Blenheim Place remain as previously approved, with the applicants proposing to fund the creation of a new loading bay on Gloucester Place and improvements to Blenheim Place involving resurfacing, raising the carriageway to footway level, and the provision of new street lighting. This would make Blenheim Place and Gloucester Place more attractive pedestrian routes and prevent unintended and obstructive loading and unloading in Blenheim Place. These works would be fully funded by the developers through a Section 278 agreement.
- 8.53 In order to off-set the impact of the proposal and make improvements to sustainable infrastructure in the vicinity of the site in compliance with policy TR1, a contribution of £62,400 is sought via the S106 agreement. This figure has been adapted from previous to reflect the increased floorspace and new residential units in the building. In addition to the above the applicants have submitted an acceptable travel plan framework, with a full travel plan required by condition.

Sustainability:

- 8.54 Policy SU2 and SPD08 requires the commercial element of the scheme to meet 'Excellent' BREEAM achieving 60% in the energy and water sections, and the submission of a Sustainability Checklist. It also recommends a commitment to join the Considerate Constructors Scheme, ensure zero net annual Carbon Dioxide from energy use, and a feasibility study on rainwater harvesting and grey water recycling systems. As part of a major development, the residential element would be required to meet level 4 of the Code for Sustainable Homes.
- 8.55 As submitted, the application proposed to meet BREEAM 'very good' for the office element, achieving 48% in the energy and 44% in the water sections, BREEAM 'very good' for the retail/cafe element, achieving 43% in the energy and 50% in the water sections, and Level 4 of the Code for Sustainable Homes for the residential element. Measures to meet these targets include a general passive ventilation approach incorporating air stack ventilation approach and underground earth ducts, photovoltaic panels, solar shading, grey water and rainwater harvesting, and biodiversity improvements.
- 8.56 Following negotiations, the Council's Sustainability Officer has agreed to accepting BREEAM 'excellent' of the office part of the development, achieving 50% in the energy and water sections, and 'very good' for the retail/café element, again achieving 50% in the energy and water sections. However, in order to meet the 'excellent' standard, the applicants have transferred energy generated by the solar photovoltaics from the residential to the office element, thereby resulting in the residential element dropping from a low Code level 4 to a high Code level 3. In this instance this small drop is considered acceptable in order to secure the up-rating of the remaining majority of the development. Accordingly it is considered

that the development has suitably met the requirements of policy SU2 and SPD08 guidance.

Other Matters:

- 8.57 The site is within a Cumulative Impact Area therefore conditions are attached to ensure the restaurant and café uses cease by midnight daily and alcohol is served to seated customers only, in order to preserve the amenities of the area. A further condition is recommended to restrict use of the rear roof terrace to 22:00 daily, to preserve the amenities of adjacent residents. A scheme for odour control and associated soundproofing is also requested in the event the ground floor units are first occupied in A3 use.

9 CONCLUSION

- 9.1 It is considered that, on balance, the demolition of the building as an exception to national and local policy remains justified by the evidence submitted in support of the application. The loss of the existing facility has been sufficiently justified in relation to the benefits provided by the modern flexible B1 office floorspace, residential flats, and community room. Subject to conditions the design of the replacement scheme and the increased massing proposed to the rear would preserve the character and appearance of the North Laine and Valley Gardens Conservation Areas without resulting in harm to neighbouring amenity.

10 EQUALITIES

- 10.1 None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

11.1 S106 Heads of Terms

- Management Plan and Community Use Agreement for the community meeting room/exhibition space.
- Contribution towards improvements to sustainable transport infrastructure to the sum of £62,400.
- Off-site highway improvements to Blenheim Place to change the surfacing and provide street lighting, and to Gloucester Place to provide a loading bay and disabled parking bays – details to be agreed.
- Off-site tree planting of six Elm trees within the vicinity of the site.
- Contribution towards the 'Local Employment Scheme' to the sum of £36,010.
- Commitment to an Employment Strategy to use 20% of local labour.
- Integrated public art provision element within the scheme that equates to the value of £34,000.
- Prior to demolition, the detailed recording of the existing building and agreement of suitable retention and integration of original features within the new development.

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- The submission of a Construction Environmental Management Plan, to include the registration of the development with the Considerate Constructors Scheme

11.2 Regulatory 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 plan and block plan	P-001	-	18/11/2013
Existing site plan	P-002	A	06/12/2013
Existing elevations and sections	P-003	A	06/12/2013
Existing elevations	P-004	-	18/11/2013
Existing landscaping/tree plan	P-005	-	18/11/2013
Proposed site plan	P-300	-	18/11/2013
Proposed floor plans	P-400	-	18/11/2013
	P-401	-	18/11/2013
	P-402	-	18/11/2013
	P-403	-	18/11/2013
	P-404	-	18/11/2013
	P-405	A	07/03/2014
	P-406	A	07/03/2014
	P-407	-	18/11/2013
Proposed landscaping/tree plan	P-409	-	18/11/2013
Proposed elevations	P-301	-	18/11/2013
	P-500	-	18/11/2013
	P-501	-	18/11/2013
	P-502	-	18/11/2013
	P-503	A	07/03/2014
	P-504	-	18/11/2013
	P-505	A	06/12/2013
	P-506	A	06/12/2013
Typical bay study	P-601	-	18/11/2013
Proposed sections	P-507	-	18/11/2013
	P-508	-	18/11/2013
	P-509	-	18/11/2013
	P-510	-	18/11/2013
	P-511	-	18/11/2013
Mechanical services	50BG01	P1	18/11/2013
	500001	P2	18/11/2013
	500101	P2	18/11/2013
	500201	P2	18/11/2013
	500301	P2	18/11/2013
	500401	P2	18/11/2013

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	500501	P2	18/11/2013
	500601	P2	18/11/2013
	50ZZ01	P1	18/11/2013
	50ZZ02	P1	18/11/2013
	50ZZ03	P1	18/11/2013

3. Prior to first occupation the windows within the west elevation of the three storey element shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan.
4. Unless otherwise agreed in writing by the Local Planning Authority, no cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.
Reason: To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies QD1 and QD27 of the Brighton & Hove Local Plan.
5. 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.
6. The restaurant and café uses hereby permitted as shown on drawing no. P-401 received on 18 November 2013 shall not be open to customers except between the hours of 07:00 and 00:00 daily.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
7. The third floor roof terrace as shown on drawing no.P-404 received on 18 November 2013 shall not be used except between the hours of 08:00 and 22:00 daily.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
8. No loading or unloading of vehicles shall take place to the premises except between the hours of 07.00 and 19.00 Mondays to Saturdays and 08.00 and 18.00 on Sundays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
9. No intoxicating liquor shall be sold or supplied within the A3 units except to persons who are taking meals on the premises and who are seated at tables. 'Meals' means food that has been cooked or prepared and

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purchased within the premises. Any bar area shall be ancillary to the approved A3 restaurant use.

Reason: In the interest of general amenity and public order and to comply with policies QD27 and SR12 of the Brighton & Hove Local Plan.

10. Any noise from all plant or machinery 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(A) below the existing LA90 background noise level. Rating Level and existing background noise levels to be determined as per the guidance provided in BS 4142:1997.

Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

11. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason: In the interests of the protection of controlled waters as the site overlies a principal aquifer and to comply with policy SU3 of the Brighton & Hove Local Plan.

12. Unless otherwise approved in writing by the Local Planning Authority, no plant or equipment shall be erected or installed on the roofs except where specifically shown on the drawings hereby approved.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD1 and HE6 of the Brighton & Hove Local Plan.

11.4 Pre-Commencement Conditions:

13. The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted 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 & Hove Local Plan.

14. The development hereby permitted shall not begin until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.

Reason: To ensure that the development is car-free and to comply with policy HO7 of the Brighton & Hove Local Plan.

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15. The new dwellings hereby permitted shall be constructed to Lifetime Homes standards prior to their first occupation and shall be retained as such thereafter.
Reason: To ensure satisfactory provision of homes for people with disabilities and to meet the changing needs of households and to comply with policy HO13 of the Brighton & Hove Local Plan.
16. No development shall commence until a scheme to protect the residential dwellings from noise disturbance has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of glazing and ventilation systems in accordance with the recommendations set out in the 7th Wave Acoustics Planning Noise Assessment received on 18 November 2013, and be implemented in full prior to the first occupation of the residential properties and retained as such thereafter.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
17. In the event the ground floor units are occupied in A3 use, the use shall not commence until a scheme for the fitting of odour control equipment and associated sound insulation to the building has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in strict accordance with the approved details prior to the occupation of the unit(s) and shall thereafter be retained as such.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
18. No development shall take place until details of any external lighting 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 be retained as such thereafter.
Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.
19. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for the landscaping of the courtyard and terraces, which shall include details of materials, hard surfacing, means of enclosure, and all planting.
Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.
20. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the

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next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policies QD1 and QD15 of the Brighton & Hove Local Plan.

21. No development shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.

22. No development shall commence until details, including sections, of measures to preclude overlooking from the roof terrace over the three storey element have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details and thereafter retained as such.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policy QD27 of the Brighton & Hove Local Plan.

23. No development shall take place until sample elevations at 1:20 scale showing all the architectural elements of each elevation of the development, including gates, have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD1 and HE6 of the Brighton & Hove Local Plan.

24. No development shall take place until details at 1:20 scale of all balustrading or railings to the roofs have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies QD1 and HE6 of the Brighton & Hove Local Plan.

25. Notwithstanding the approved drawings, no development shall commence until details of the cradle equipment to be fitted to the roof of the six storey element for maintenance of the façade have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter retained as such.

Reason: To ensure a satisfactory appearance to the development and to comply with policy QD1 of the Brighton & Hove Local Plan.

26. No development shall commence until a scheme to enhance the nature conservation interest of the site has been submitted to and agreed in writing

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by the Local Planning Authority. The scheme shall include the provision of sparrow, swift and bat boxes and be implemented in full prior to the occupation of the development hereby approved.

Reason: To increase the biodiversity of the site, to mitigate any impact from the development hereby approved and to comply with policies QD17 and QD18 of the Brighton & Hove Local Plan.

27. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage and sewerage 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 policies SU3, SU4 and SU5 of the Brighton & Hove Local Plan.

28. Unless otherwise agreed in writing by the Local Planning Authority, no residential development shall commence until a Design Stage/Interim Code for Sustainable Homes Certificate demonstrating that the development achieves a Code for Sustainable Homes rating of Code level 3 as a minimum for all residential units has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

29. Unless otherwise agreed in writing by the Local Planning Authority, no office development shall commence until a BRE issued 'Office' Interim/Design Stage Certificate demonstrating that the development has achieved a minimum BREEAM rating of 50% in energy and water sections of relevant BREEAM assessment within overall 'Excellent' for all office development has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

30. Unless otherwise agreed in writing by the Local Planning Authority, no retail/café/restaurant development shall commence until a BRE issued 'Retail Shell and Core' Interim/Design Stage Certificate demonstrating that the development has achieved a minimum BREEAM rating of 50% in energy and water sections of relevant BREEAM assessment within overall 'Very Good' for all retail/café/restaurant development has been submitted to, and approved in writing by, the Local Planning Authority.

A completed pre-assessment estimator will not be acceptable.

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Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

11.4 Pre-Occupation Conditions:

31. Prior to first occupation of the development a Travel Plan (a document setting out a package of measures tailored to the needs of the site and aimed at promoting sustainable travel choices and reduce reliance on the car) for the development shall be submitted to and approved by the Local Planning Authority. The Travel Plan shall be approved in writing prior to first occupation of the development and shall be implemented as approved thereafter. The Travel Plan must be reviewed on an annual basis by undertaking a travel survey and updating the travel plan where appropriate.

Reason: To seek to reduce traffic generation by encouraging alternative means of transport to private motor vehicles in accordance with policies TR1 and TR4 of the Brighton & Hove Local Plan.

32. Unless otherwise agreed in writing by the Local Planning Authority, none of the residential units hereby approved shall be occupied until a Final/Post Construction Code Certificate issued by an accreditation body confirming that each residential unit built has achieved a Code for Sustainable Homes rating of Code level 3 as a minimum 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 SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

33. Unless otherwise agreed in writing by the Local Planning Authority, none of the office development hereby approved shall be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the office development built has achieved a BREEAM Office rating of 50% in energy and water sections of relevant BREEAM assessment within overall '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 SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

34. Unless otherwise agreed in writing by the Local Planning Authority, none of the retail/café/restaurant development hereby approved shall be occupied until a BREEAM Design Stage Certificate and a Building Research Establishment issued Post Construction Review Certificate confirming that the retail/café/restaurant development built has achieved a BREEAM rating of 50% in energy and water sections of relevant BREEAM assessment within overall 'Very Good' has been submitted to, and approved in writing by, the Local Planning Authority.

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Reason: To ensure that the development is sustainable and makes efficient use of energy, water and materials and to comply with policy SU2 of the Brighton & Hove Local Plan and Supplementary Planning Document SPD08 Sustainable Building Design.

11.5 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) 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:-

It is considered that, on balance, the demolition of the building as an exception to national and local policy remains justified by the evidence submitted in support of the application. The loss of the existing facility has been sufficiently justified in relation to the benefits provided by the modern flexible B1 office floorspace, residential flats, and community room. Subject to conditions the design of the replacement scheme and the increased massing proposed to the rear would preserve the character and appearance of the North Laine and Valley Gardens Conservation Areas without resulting in harm to neighbouring amenity.
3. 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).
4. The applicant is advised that formal applications for connection to the public sewerage system and to the water supply are 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
5. The applicant is also advised that an agreement with Southern Water is required, prior to commencement of the development, for the measures to be undertaken to divert/protect the public water supply main.

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6. The applicant is advised that as the scheme includes a basement, the detailed design of the proposed drainage system should take account of possible surcharging within the public sewerage system.
7. The applicant is advised that under Part 1 of the Wildlife and Countryside Act 1981 disturbance to nesting birds must not occur and the applicant must comply with all relevant legislation. Nesting season is from March – September inclusive, any nest found on the site should be protected until such time as they have fledged and left the nest.