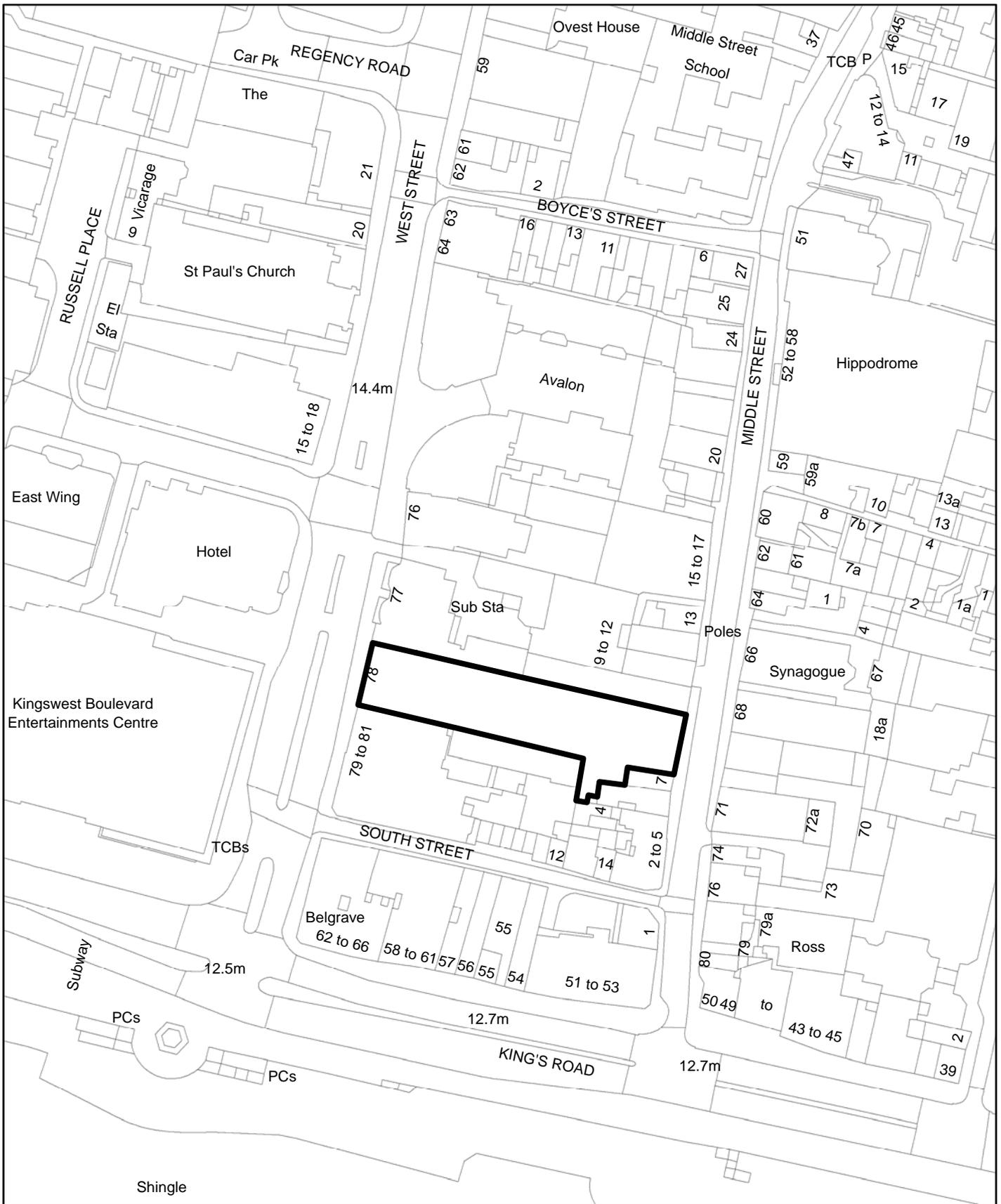


ITEM A

**78 West Street & 7-8 Middle Street, Brighton
BH2016 / 04577
Full Planning**

13 July 2016

BH2015/04577 78 West Street & 7-8 Middle Street, Brighton



**Brighton & Hove
City Council**



Scale: 1:1,250

<u>No:</u>	BH2015/04577	<u>Ward:</u>	REGENCY
<u>App Type:</u>	Full Planning		
<u>Address:</u>	78 West Street & 7-8 Middle Street Brighton		
<u>Proposal:</u>	Demolition of existing nightclub buildings (Sui Generis use). Construction of part 5, 6 and 7 storey building plus basement to provide 'A' uses (A1 retail, A2 financial & professional services, A3 restaurant/café, A4 drinking establishment) on part of basement and ground floor fronting West Street and hotel use (C1) on all floors with reception fronting Middle Street to provide a total of 133no hotel rooms.		
<u>Officer:</u>	Maria Seale Tel 292175	<u>Valid Date:</u>	25/01/2016
<u>Con Area:</u>	Old Town	<u>E.O.T:</u>	13/08/16
<u>Listed Building Grade:</u>	Adjacent to Grade II listed building		
<u>Agent:</u>	Morgan Carn Partnership, Blakers House,79 Stanford Avenue Brighton BN1 6FA		
<u>Applicant:</u>	London & Regional Properties, Mr Tom Wilson 8th Floor South Block 55 Baker Street London W1U 8EW		

1 RECOMMENDATION

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

2 SITE LOCATION & DESCRIPTION

- 2.1 The site is a former nightclub building (previously known as Headkandi) located between West Street and Middle Street. The buildings form the whole length of the block between these two streets and have two accesses, the main frontage being on West Street. It was last used as night club about 4 years ago and is currently being used by Synergy a 'multi-media community arts centre and cafe/bar' use on a temporary basis.

The West Street frontage is of 1960's architectural style and the Middle Street frontage is from the Victorian era. The building is not listed. Commercial buildings border the site to the north and commercial and residential uses are to the south.

The site is located within the Old Town Conservation Area. There is a Grade II listed building adjacent to the north (no.77) West Street, a listed bollard in front of the site in West Street and other listed buildings in the vicinity.

The site is located on the boundary of the Brighton Centre and Churchill Square Development Area and within the Central Brighton Area as defined in policies DA1 and SA2 in the Brighton & Hove City Plan Part One.

3 RELEVANT HISTORY

BH2011/01960 Change of use of part of ground floor bar and part of basement of existing night club (sui generis) to form separate bar (A4). Approved 30/08/11.

BH1997/00874 Change of use of ground floor amusement arcade to D2 nightclub for use in connection with Paradox. Approved 2/10/97.

There have also been various recent applications approved for signage and minor alterations, and many more historical permissions going back to 1948, but these are not considered relevant to the current proposal.

Pre-Application Consultation: With Planning, Heritage, Transport and Environmental Health officers. The applicant also carried out a public consultation exercise. The application was presented at the pre-application stage to elected members at a briefing session on 27th October 2015.

4 THE APPLICATION

- 4.1 Planning permission is sought for the demolition of all the buildings on the site and erection of a part 5, 6 and 7 storey building plus basement to provide flexible 'A' uses (A1 retail, A2 financial & professional services, A3 restaurant/café, A4 drinking establishment) on part of basement and ground floor fronting West Street and a 133 room hotel use (C1) on all floors with reception fronting Middle Street.

The application site measures 0.12Ha. The existing buildings have a gross internal area of 3,550m² and an above ground volume of 19,140m³. The proposed scheme has a gross internal area of 6,206m² and an above ground volume of 15,630m³. The total floor area including potential kitchen, w.c.'s and other ancillary areas of the proposed A uses is 844sqm and equates to about half of the basement and ground floors. The public floor area of the A uses is likely to be about 570sqm.

The applicant has submitted an indicative Masterplan which covers this site and that adjacent to the south (79-81 West Street & 8-12A South Street). This indicative plan shows how this application and that for the adjacent site (BH2015/04575) could be developed together or independently.

Amended plans have been received which alter the roof profile and plant.

5 PUBLICITY & CONSULTATIONS

External

5.1 Neighbours:

One (1) letter of representation have been received from **Casablanca Jazz Club 2-5 Middle Street** objecting to the application for the following reasons:

- Loss of privacy
- Overshadowing/Loss of light
- Design out of character with area
- Overdevelopment/excessive scale
- Impact to door used as smoking area for nightclub

- Traffic congestion
- Refuse congestion
- Too many licensed premises in area

- 5.2 **Brighton & Hove Archaeological Society:** Comment. The development lies in the centre of Old Brighton. It is possible that Palaeolithic deposits may remain or vestiges of the medieval or reformation periods. It is possible that other archaeology may remain underground and view of the County Archaeologist should be sought.
- 5.3 **Conservation Advisory Group (CAG):** Approve. It is suggested iron work from the first floor balconies of the ballroom be reused in the hotel. A full archaeological survey is needed.
- 5.4 **County Archaeology:** Comment. The site is located in the archaeological notification area. The submitted desk based assessment and standing building appraisal is useful. This has identified limited below ground archaeological potential due to the presence of extensive existing basements, which is reasonable, although aspects of the existing basements could be of potential archaeological or historic interest. Detailed recording of the buildings to be demolished is needed and detailed survey of the basements. There could be remains of Henry Thrales house which stood on the site from 1767-1866. In light of the potential for impacts to heritage assets (below ground and with respect to the standing buildings) a condition requiring a programme of archaeological works should be imposed – before demolition.
- 5.5 **County Ecologist:** Support. The proposal is unlikely to have a significant impact on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement.

Given the nature scale and location of the proposed development there are unlikely to be any significant impacts on sites designated for their nature conservation interest. The site comprises buildings and hardstanding within an urban setting and is relatively low ecological interest. The site is unlikely to support any protected species. The site offers opportunities for enhancement including use of species of known value to wildlife within landscaping and provision of green walls and roofs. Native species of local provenance should be used. Bird boxes should target starlings and swifts.

- 5.6 **Historic England:** Comment. The site lies in an area which developed in the 18th century with a mix of small scale buildings that were part of the old fishing town of Brighthelmstone. These were gradually developed by larger late 19th century buildings as Brighton expanded its hotel and entertainment offer. Whilst many of the buildings have been altered or redeveloped over the years, the tight grain of the streets and sense of enclosure create a very distinctive character to Brighton's Old Town Conservation Area. The area contains a variety of buildings of different heights, ages and types that adds to this character.

In 19th century a grand concert hall was erected in the centre of the site with hotels either end, designed to be tall and stand out above the other buildings

but in a playful Italianate style reflecting their seaside location. They were by Horatio Nelson Gouly responsible for a number of other distinctive buildings in Brighton including the decorative Norfolk Hotel on the seafront. The buildings on the site were changed and altered and used for different purposes over the years as a result of changing tastes and fashions. In the 1960's, the West Street elevation was demolished and replaced by a plain fronted nightclub and amusement arcade and in the 1970's the ground floor entrance of the Middle Street façade was altered to provide a nightclub entrance and its upper floor iron balconies removed.

Do not object in principle to redevelopment of this area which would enliven and regenerate this part of the conservation area creating a more vibrant quarter of Brighton. Furthermore, the current elevations on both West Street and South Street that are to be replaced detract from the character and appearance of the conservation area. It is considered the new design of the West Street frontage to be contextual and of an appropriate scale and massing. The LPA needs to ensure the massing and scale of the new blocks of new development behind the frontages are also appropriate so that they are not overly dominant in views and are in keeping with the established form of the historic townscape and its irregular and varied roofline.

Whilst it is agreed that the height of 7 Middle Street is unusual in the conservation area and that the building is now derelict and run down, it is considered the façade has some aesthetic value and if restored could make a positive contribution to the character and appearance of the conservation area. The variety of height and scales is a feature. Furthermore it is noted that in Middle Street in general there has been an erosion of historic character through loss of historic features on buildings such as the replacement of windows etc. and development of building plots. The loss of 7 Middle Street would contribute further to this process.

As a result of this, whilst it is agreed the overall wider scheme will help regenerate and enliven this rundown and neglected part of the conservation area, the LPA needs to be satisfied that the loss of 7 Middle St is clearly and convincingly justified and that what replaces it is of sufficient quality and any harm caused is outweighed by the public benefits of the wider scheme, as required by the NPPF.

- 5.7 **Southern Water: Comment**. Connection to the public sewer is required, at the developers expense to the satisfaction of SW. Foul sewage and a water supply can be provided to the development and disposal should be conditioned. The detailed design for the basement should take into account the possibility of surcharging of the public sewers. An appropriate condition and informatives should be added to the permission.
- 5.8 **Sussex Police: Comment**. With regard to the proposed A4 pub usage, the applicant is strongly advised to take note of licencing policy in the Cumulative Impact Area and consult directly with the police before making any such application. The Police are fully supportive of policy SR12. Perimeter security and access control are paramount to ensuring safety and security of the 133

bed hotel. There needs to be less permeability. Concerns expressed regarding the impact of such a development on Sussex Police's resources as has potential to create additional footfall and anti-social behaviour across city centre.

5.9 UK Power Networks: No objection.

Internal:

5.10 CityClean: Comment. CityClean do not collect from commercial premises. The site should provide suitable space for separation of recycling and storage.

5.11 City Regeneration: Support. Proposal will deliver welcome regeneration of the area plus will provide 133 hotel beds to help meet demand for wide range of visitors to the city. Proposal will improve and diversify areas commercial and tourist offer and in addition new 'A' uses further enhance the street level offer. through streetscape improvements and new uses. The site is in a prime location The proposal will create jobs (approx 91 in total). Indirect benefits and induced benefits will also benefit neighbouring businesses and the wider local economy. Care should be taken to ensure night-time economy businesses adjacent are not negatively affected.

In accordance with the Developer Contributions Guidance a contribution of £62,050 towards the council's Local Employment Scheme is sought, and an Employment and Training Strategy is also required, with a commitment to using at least 20% local labour.

5.12 Environmental Health: Recommend approval subject to conditions. Given the location in close proximity to uses which generate high levels of noise late into the night it is critical that any uses introduced are well thought out and have adequate level of protection necessary to afford the end users the ability to use their properties/commercial spaces. There are also a number of residents nearby and the development needs to make sure they are not negatively impacted.

The Site Investigation report submitted is considered robust. 77 West Street could potentially be on contaminated land due to historically being used as a car dealers. The report identifies a number of potential complete pollutant linkages which present a potential risk to human health. The report therefore recommends a full Phase II intrusive investigation is undertaken at the site. This can be satisfactorily conditioned.

The submitted acoustic report is considered robust. In their unmitigated form, the air source heat pumps and the canteen extract/kitchen extract have the potential to cause significant noise impact to existing residents and new hotel users. Mitigation measures are recommended in the report to reduce incident noise levels to the council's required 5dB(A) below background target. This requires both an inline attenuator in the kitchen extract and acoustic louvres around the air source heat pumps. Mitigation measure such as enhanced glazing are needed against city centre entertainment/environmental noise. This may mean windows cannot be opened and a need for mechanical ventilation is

therefore required. There is potential for courtyard noise. Enhanced glazing and use of absorbent panels in the courtyard would assist the reduction of the reverberation within this area.

A CEMP is needed given the scale of the scheme. Details of external lighting are needed.

- 5.13 **Heritage: Support** This site lies within the Old Town conservation area, which represents the original extent of Brighthelmstone as a fishing village and is an area of generally small scale buildings set in a tight knit urban grain with a mix of architecture, but predominantly 18th and 19th century, and a mix of commercial, leisure and residential use uses. Old Town is bounded by North Street, West Street and East Street with the seafront to the south. West Street is a main thoroughfare that has been subject to significant redevelopment in the 20th century and is now very varied architecturally. Middle Street is a much tighter and narrower historic thoroughfare. Generally the buildings vary between three and four storeys, but because of the variance in floor heights, there is a broad prevailing height to the buildings – except for number 7, which in the context of the street is a full two storeys higher than anything else. South Street is a narrow service road that has suffered from some 20th century demolition and neglect.

The main part of the site in its current form largely dates back to 1867 when the iron-framed Grand Concert Hall was built in the centre of the site and an Italianate hotel building on both the West Street and Middle Street frontages, as 'bookends', designed by the architect Horatio Goulty for William Childs. The current number 78 West Street is plain fronted nightclub elevation built in 1969 that lacks any context and is typical of the insensitive designs of the 1960s. In a poor state of repair, it presents a soulless, windowless and blank painted façade to the street. The taller concert hall itself is barely visible from the street apart from the glimpse of the blank west gable end and the blank rendered elevation seen from South Street. Number 7 Middle Street retains its 1867 frontage but this end was substantially altered in the 1970s and has a bulky plain south elevation (seen from South Street) and a blank ground floor frontage that harms the street scene.

The submitted structural report makes clear that the Middle Street building is in poor condition and that works to bring it back into a usable state of repair would be extensive. Such repair would be possible but would be more costly than demolition and rebuild. The NPPG states that "disrepair and damage and their impact on viability can be a material consideration in deciding an application".

The Historic England comments refer to paragraph 132 of the NPPF and the need to demonstrate, clearly and convincingly, that the scheme could not be delivered without the demolition of 7 Middle Street. However, the NPPG states that "an unlisted building that makes a positive contribution to a conservation area is individually of lesser importance than a listed building" and that "If the building is important or integral to the character or appearance of the conservation area then its demolition is more likely to amount to substantial harm to the conservation area, engaging the tests in paragraph 133 of the

National Planning Policy Framework. However, the justification for its demolition will still be proportionate to the relative significance of the building and its contribution to the significance of the conservation area as a whole".

Number 7 Middle Street does contribute positively to the conservation area but is somewhat atypical for the Old Town area in its height and scale, particularly for Middle Street, and is a later development than much of Old Town. It has also been significantly altered, with an unattractive rear extension and the loss of its original ground floor frontage. Moreover its 'twin' façade in West Street was demolished long ago. All of these factors combined suggest that its significance is modest and that its contribution to the significance of the conservation area as a whole is minor, so that the loss of the building would amount to less than substantial harm, not substantial, and should therefore be judged against the test in paragraph 134 of the NPPF. Therefore its loss must be judged against the public benefits of the scheme and these benefits are considered to include that this scheme as a whole would enhance the appearance and character of the Old Town conservation area.

Number 77 West Street is a grade II listed building, a double fronted detached property with segmental bays dating from the early 19th century and adjacent to it is a grade II listed cast-iron post dating from the 18th century, being all that remains of a post and chain fence which once stood outside the house at 78 which was, at one time, occupied by Henry and Hester Thrale, friends of Dr Johnson. Across West Street is the grade II* listed Church of St Paul, which is a distinctive local landmark. Opposite number 7 Middle Street to the north east is the grade II* listed synagogue of 1874-5 in a Romanesque style of stock brick with brick and stone detailing. To the south east are 3 grade II listed terraced houses dating from the early 19th century.

This is an unusual site, being a long linear footprint spanning the whole length between West Street and Middle Street, with the main part of the site being largely hidden from view. The proposals have been subject to constructive pre-application discussions.

There is no objection to the demolition of the former Victorian concert hall building, which was always a long plain 'shed like' structure externally, and which has modest historic interest only (though some internal features survive behind the modern nightclub finishes). The Standing Buildings Assessment suggests that the basement level may include remnants of the earlier Thrales' house and a watching brief would be required by condition if permission is granted. The 1969 frontage to West Street is very harmful element in the street scene and its loss is very much welcomed. Whilst the Middle Street elevation does retain some architectural interest on its upper storeys it has been badly compromised by later 20th century alterations and divorced from its former matching 'bookend' in West Street. In addition it is uncharacteristically tall for Middle Street. Its significance as a heritage asset is now minor.

The development proposed is substantial in scale with the six storey plus roof plant block to the west notably uncharacteristic for a backland plot between street frontages in Old Town. However, as the Tall Buildings Statement

demonstrates, the development behind the two street frontages would barely be visible from public viewpoints within the conservation area or from adjoining conservation areas, due to the topography, tight urban grain and dense building form of the area. The new West Street and Middle Street frontages are clearly contemporary in design but have taken strong contextual reference, in their scale, rhythm and proportions, from the 19th century buildings and they would form a coherent 21st century recreation of the 1867 'bookends' to the site. The detailing and materials proposed would ensure a suitably high quality development, subject to approval of samples by condition. In this respect the choice of stone cladding, to achieve the appropriate texture, would be especially important. The new frontage to West Street would be a particularly positive addition to the street scene and would be respectful to the adjacent listed building at number 77. The Middle Street frontage would still be taller than is typical for this street but would be significantly lower at the frontage than the existing building and would not be unduly intrusive in the street scene. The attractive and active ground floor frontage would be a particular benefit to the area.

The only public viewpoint where the scale of the development would be apparent from would be South Street, if the concomitant application for the adjoining site were not to be developed or were to be delayed. The blank south end elevation of the central 6 storey block would be prominent, although it is accepted that the existing buildings on the site present a largely blank and unattractive backdrop to South Street. The full height link through to the Middle Street block would result in a substantial massing and it is unfortunate that there is so much roof top plant and structures at this end of the development, including the covered fire escape walkway, which results in a rather incoherent roofline that is at odds with the otherwise carefully considered design. It is appreciated that this would not be an issue if the proposals for the adjoining site were approved and implemented, but considered on its own merits this does raise concerns. This aspect of the proposals has since been satisfactorily addressed through the submission of revised plans which reduce the cluttered massing of the roof level and providing a more coherent outline.

Overall, it is considered that the proposals would enhance the appearance and character of the Old Town conservation area and would preserve the setting of the nearby listed buildings in West Street and Middle Street.

Any approval should be subject to conditions requiring approval of materials, 1:20 scale sample elevations and sections, and a landscaping plan. Subject to the comments of the County Archaeologist a watching brief and recording condition would also be needed given the possibility of below ground heritage within the Archaeological Notification Area as well as the possible remains of the earlier Thrales' house. A pre-commencement condition would also be required to ensure satisfactory measures are put in place to protect the listed bollard from damage during demolition and construction works.

- 5.14 **Planning Policy:** Comment There is no policy protection for sui generis nightclub uses in either the Local Plan or City Plan – the loss of the existing use is therefore acceptable.

The hotel would be located within the central Brighton zone where hotels are acceptable in principle (SA2/CP6). A more detailed Hotel Impact Report has been received, and is considered to meet the requirements of City Plan Policy CP6. It demonstrates how citywide occupancy rates have increased in recent years. It is further noted that Visit Brighton have commented on the previous version of the Statement and have confirmed that it is reasonable and in line with their knowledge of the hotel market in the city.

With regard to the proposed mixed A class uses, the potential for A1/A2 uses is considered acceptable in this location without the sequential test assessment that is strictly required for town centre uses outside of a defined centre. This is because of the site's location with the central Brighton area defined by Policy SA2 and the broad compliance with that policy, the proximity to the regional centre and the proposed major new retail development expected through the expansion of Churchill Square as set out in City Plan Policy DA1.

For A3/A4 uses, the proposed scheme would provide a much larger potential floorspace than is permitted under Local Plan Policy SR12 as the site is within 400m of other similar large establishments. The A3/A4 floorspace should be restricted to 150m², unless service is to seated customers only, as permitted by the policy. This could be controlled by a condition.

City Plan policies CP5, CP7 and CP13 support the provision of public art within development schemes. A contribution of £49,500 is sought based on past levels sought for such sized developments.

- 5.15 **Sustainable Transport:** No objection in principle subject to appropriate S106 and conditions. The dual access to the site is welcomed as provides access to hotel from West St taxi rank. The level of cycle parking proposed is acceptable – details need to however be secured by condition. Due to site constraints no disabled parking can be provided on site as per SPG04. There are other alternatives on street and in car parks nearby and there are opportunities to improve the pedestrian routes between them and the site as part of this application. Servicing will primarily occur from the existing loading bay on Middle St. Whilst no end user is known more could be done to promote measures to mitigate impact deliveries will have on the transport network. This can be secured by a condition requiring a delivery and servicing management plan. No general parking on site is considered acceptable as per SPG4 maximum standards given the sustainable central location and proximity to many car parks and public transport. A travel plan should be secured to promote sustainable modes. A CEMP is needed given the nature and scale of the proposal and constrained nature of the site. The proposal will change the time and nature of trips generated etc and there may be existing deficiencies in the transport network which need to be addressed to provide a safe and accessible environment for all. No disabled parking is proposed so it is pertinent that safe accessible routes are provided to existing parking areas. There is a lack of necessary sustainable infrastructure in the form of dropped kerbs and tactile paving, and a S106 contribution of £12,000 is therefore sought towards pedestrian improvements.

- 5.16 **Sustainability:** No objection. A Pre-BREEAM assessment has been submitted indicating the development is on target to meet BREEAM ‘Excellent’ as required by policy CP8. Improvements have been made to the scheme in particular to the fabric performance, energy reduction, water attenuation and biodiversity. Policy CP8 has been addressed well. Air source heat pumps and PVs and CHP are likely to be used and green roofs and walls incorporated. Any plant used should have capacity to connect to a district heating network in future (policy DA1).

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”
- 6.2 The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) is a material consideration.
- 6.4 Due weight should be given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.
- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP4	Retail provision
CP5	Culture and tourism
CP6	Visitor accommodation
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity

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CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
DA1	Brighton Centre and Churchill Square Area
SA2	Central Brighton

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

TR4	Travel plans
TR7	Safe Development
TR9	Pedestrian priority areas
TR14	Cycle access and parking
TR18	Parking for people with a mobility related disability
SU3	Water resources and their quality
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD5	Design - street frontages
QD10	Shopfronts
QD15	Landscape design
QD18	Species protection
QD25	External lighting
QD27	Protection of amenity
EM9	Mixed uses and key mixed use sites
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas
HE8	Demolition in conservation areas
HE12	Scheduled ancient monuments and other important archaeological sites
SR1	New retail development within or on the edge of existing defined shopping centres
SR12	Large Use Class A3 (food and drink) venues and Use Class A4 (pubs and clubs)

Supplementary Planning Guidance:

SPGBH4	Parking Standards
SPGBH15	Tall Buildings
	Guidance on Developer Contributions

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD11	Nature Conservation & Development
SPD02	Shop Front Design.

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to:
- Principle of the proposed hotel and 'A' commercial uses in this location
 - Impact to tourism and the economy
 - Impact to the shopping area
 - Principle of demolishing buildings in a Conservation Area

- Impact to the visual amenities of the locality including the Old Town Conservation Area and setting of nearby listed buildings
- Impact on amenity of existing and prospective occupiers
- Crime prevention
- Transport demand and sustainable transport accessibility
- Sustainability
- Biodiversity

8.2 Planning Policy Context:

The main policies that are relevant to this application are stated below.

City Plan policy DA1 'Brighton Centre and Churchill Square Area' is relevant to this proposal as, whilst not located within the defined Development Area, the site does have a boundary with it to the west. The policy states that it seeks to 'secure a new state of the art conference centre in a landmark new building to benefit the city and the region and to sustain the tourism and service economy for the next 30 years, positioning Brighton & Hove as one of Europe's leading conference and meeting destinations. The redevelopment of the Brighton Centre will form part of a comprehensive scheme including the extension of the Churchill Square Shopping Centre and new leisure facilities'.

The site is located within the Central Brighton Area defined in City Plan policy SA2, the main aim of which is 'to reinforce central Brighton's role as the city's vibrant, thriving regional centre for shopping, leisure, tourism, cultural, office and commercial uses'. It goes on to state that the focus for significant new retail development will be Brighton Regional Centre. It states the Council will promote a balanced range of complementary evening and night-time economy uses which appeal to a wide range of age and social groups, avoid a spread of large bars/pubs and night clubs and address public safety concerns. It states that mixed use developments will be promoted which retain active ground floor uses and accord with a range of appropriate city centre uses.

City Plan policy CP4 is relevant as town centre 'A' uses are proposed including retail, and the site is located close to the defined Regional Shopping Centre. It states that Brighton & Hove's hierarchy of shopping centres will be maintained and enhanced by encouraging a range of facilities and uses, consistent with the scale and function of the centre, to meet people's day-to-day needs, whilst preserving the predominance of A1 use classes. It states that applications for all new edge and out of centre retail development will be required to address the tests set out in the NPPF. Applications will be required to complete an impact assessment at a locally set threshold of 1,000 sqm (net) floorspace or more.

Policy SR12 of the Local Plan is relevant as it relates to large (greater than 150sm) A3 restaurant and A4 drinking establishment uses. It states that new cafés, restaurants, bars or public houses with a total resultant public floorspace in excess of 150 sq m will be permitted provided they meet certain criteria including the following:

- the premises would not be within 400m of another establishment falling into the above category;

- that having regard to the location of the premises and the type of building in which it is accommodated, the use will not, in the opinion of the local planning authority, be likely to cause nuisance or an increase in disturbance to nearby residents by reason of noise from within the premises;

- that having regard to the location of the premises in relation to other similar establishments; the customer capacity of on or off-site parking facilities; and public transport facilities, in the opinion of the local planning authority, the use is unlikely to result in increased levels of public disorder or nuisance and disturbance to nearby residents as a result of people leaving the premises late at night and dispersing to transport and other destinations.

The policy states that exceptions may be permitted provided that any customer floorspace in excess of 150 sq.m is for service to seated customers only in the manner of a restaurant or café. To ensure this, planning conditions would be imposed to ensure that no alcohol could be sold or supplied except to persons who are taking meals on the premises and who are seated at tables. Where appropriate, conditions will also be applied to ensure that closing times in relation to other similarly large venues in the vicinity are staggered in order to avoid large numbers of people dispersing from an area at the same time.

Policy CP6 of the City Plan is relevant as it relates to tourism and visitor accommodation. It aims to support the city's tourism and business conference economy and support the provision of a sufficient and wide ranging type of visitor accommodation. It states, amongst other things, the following:

- Proposals for new hotel accommodation will be assessed in line with the national planning policy framework and the sequential approach to site selection with proposals for new hotel development directed firstly to central Brighton (SA2).

- Proposals for new hotel accommodation should be accompanied by an impact assessment to identify how the proposal would add to and impact on the current supply and offer of accommodation; whether it has the ability to create new demand and how it might meet needs currently unsatisfied in the city.

- The council will work with the hotel industry to encourage the creation of apprenticeship schemes/ local jobs.

- Proposed extensions to existing hotels will be supported where this is required to upgrade existing accommodation to meet changing consumer demands.

With regard to design, heritage and amenity, CP12, CP13 and CP15 of the City Plan Part One and policies HE3, HE6, HE8, HE12, QD5, QD10, QD14 and QD27 of the Brighton & Hove Local Plan are relevant.

City Plan policy CP12 expects all new development to be built to a high quality standard and CP15 seeks to conserve and enhance the special character and appearance of heritage assets, including Conservation Areas. Local Plan policies HE3 and HE6, seek to conserve or enhance the setting of Conservation Areas and Listed Buildings. Policy HE12 seeks to preserve and enhance sites of known and potential archaeological interest and their settings.

Local Plan policy HE8 seeks to retain buildings, structures and features that make a positive contribution to the character or appearance of a conservation

area. The demolition of a building and its surroundings, which make such a contribution, will only be permitted where all of the following apply:

- a. supporting evidence is submitted with the application which demonstrates that the building is beyond economic repair (through no fault of the owner / applicant);
- b. viable alternative uses cannot be found; and
- c. the redevelopment both preserves the area's character and would produce substantial benefits that would outweigh the building's loss.

Demolition will not be considered without acceptable detailed plans for the site's development. Conditions will be imposed in order to ensure a contract exists for the construction of the replacement building(s) and / or the landscaping of the site prior to the commencement of demolition.

The Council has statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 in relation to development affecting listed buildings and conservation areas:

S66 (1) "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses";

S72(1) "In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2) [N.B. these include the Town and Country Planning Act 1990], special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".

The NPPF states that in determining planning applications, local planning authorities should take account of: the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation assets can make to sustainable communities including their economic vitality and the desirability of new development making a positive contribution to local character and distinctiveness (para 131).

Para 132 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

Paras 133 & 134 of the NPPF state that where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Where a development proposal will lead to less than substantial harm to the significance

of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

Para 136 of the NPPF states that Local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

Para 137 of the NPPF states that Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

City Plan policies CP12 and CP13 seek to ensure places that are created are safe, and that development incorporates design features which deter crime and the fear of crime. Retained Local Plan policy QD5 states that all new development should present an interesting and attractive frontage at street level for pedestrians. Policy QD10 seeks good design for shopfronts/commercial frontages.

Local Plan Policies QD27 and SU10 are relevant as they seek to ensure development protects the general amenity of the locality and of neighbouring occupiers from undue noise or disturbance. Retained Local Plan Policy QD27 states that planning permission for any development will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

With regard to transport, City Plan Policy CP9 (Sustainable Transport) and retained Local Plan Policies TR4 (Travel Plans), TR7 (Safe Development), TR14 (Cycle access and parking), TR15 (Cycle network), TR18 (Parking for people with a mobility related disability) are relevant. These seek to ensure development is safe, meets the demand for travel it creates and maximises use of sustainable modes. SPG4 sets out maximum parking standards for development and minimum standards for disabled parking. Local Plan policy TR9 specifically identifies the Old Town Area as a pedestrian priority area.

With regard to sustainability, City Plan Policy CP8 is relevant. It requires all development to incorporate sustainable design features and major commercial developments are required to achieve a minimum standard of BREEAM 'Excellent'. City Plan Policy CP10 relating to biodiversity is relevant and this states all schemes should conserve existing biodiversity and provide net gains wherever possible.

8.3 Principle of development:

Redevelopment of this vacant site is welcomed in principle. Replacement of the unsympathetic 1960's West Street facade is welcomed. The site has not been used as a nightclub for at least 4 years and bringing a large centrally located site into re-use is encouraged.

It is noted that currently there is a temporary use on a short notice contract within part of the building – Synergy - a 'multi-media community arts centre and cafe/bar'. This is considered either a mixed D1/D2 or more likely a one off sui generis use as it comprises many different types of land uses including theatre and music performance space. It is recognised that City Plan policy CP5 seeks to encourage use of temporary or vacant sites for arts related activity however this use is not the lawful planning use of the building and therefore is not considered relevant to the assessment of the proposal. It is hoped the owner and council will work with the tenant to find suitable alternative premises. There is no policy to resist the loss of the existing nightclub use.

The proposed uses (hotel and 'A' uses) are considered appropriate town centre uses and are acceptable in principle on this site and in this location. A mixed use is welcomed and makes an effective sustainable use of the site. The proposed uses would provide active frontages throughout the day and evening to both West Street and Middle Street, which is welcomed, and a significant improvement upon the existing nightclub use.

The potential for A1/A2 uses is considered acceptable in this location without the sequential test assessment that is strictly required for town centre uses outside of a defined centre. This is because of the site's location with the central Brighton area defined by Policy SA2 and the broad compliance with that policy, the proximity to the regional centre and the proposed major new retail development expected through the expansion of Churchill Square as set out in City Plan Policy DA1.

For A3/A4 uses, the proposed scheme would provide a much larger potential floorspace (approx. 570sqm public floor area of a total 844sqm over 2 floors) than stated under Local Plan Policy SR12 (150sqm). The site is within 400m of other similar large establishments and there is concern regarding a large A4 drinking establishment use here in particular given the potential for increased noise and disturbance and anti-social behaviour. As a result of this, together with the comments of the Sussex Police, on balance it is recommended that the main large A4 use should be prohibited and any ancillary A4 use be restricted to solely to an element of less than 150sqm by condition, notwithstanding the fact the scheme replaces a previous nightclub.

The hotel would be located within the identified central city zone for such uses in the City Plan. The site is well located in a central location close to amenities, tourist attractions, public transport and public car parks. The Hotel Impact Assessment submitted is considered robust and demonstrates the city's tourism economy is growing and that additional visitor accommodation is needed to meet demand and would not adversely impact existing provision. The proposal will bring new jobs to the city and is supported by the Council's Regeneration Team. Further jobs and use of local labour will be secured via a Section 106 agreement towards the Local Labour Scheme and construction training.

Regeneration of this in site in principle is particularly welcomed from a visual point of view. The site is located within the Old Town Conservation Area and currently detracts from it and the proposal would be a significant improvement.

8.4 Design and impact to the character and appearance of the locality and heritage assets:

The site is located within the Old Town Conservation Area and lies within the setting a number of listed buildings.

The applicant has carried out a thorough assessment of the impact the proposal would have on designated heritage assets and the overall visual amenities of the locality and has submitted extensive supporting information with the application. A structural report has been submitted to demonstrate the very poor state of repair of 7 Middle Street.

It is considered that the proposals would enhance the appearance and character of the Old Town conservation area and would preserve the setting of the nearby listed buildings in West Street and Middle Street for the reasons stated in the Heritage Team comments in section 5 of this report. CAG are supportive of the scheme.

Historic England are generally supportive of the scheme and agree that the overall wider scheme will help regenerate and enliven this rundown and neglected part of the conservation area. Their comments with regard to 7 Middle Street are noted, and it is recognised that this 1867 Italianate frontage has some value, however, this end was substantially altered in the 1970s and has a bulky plain south elevation (seen from South Street) and a blank ground floor frontage that harms the street scene. The building is in a very poor state of repair and that works to bring it back into a usable state of repair would be extensive. Such repair would be possible but would be more costly than demolition and rebuild. The NPPG states that "disrepair and damage and their impact on viability can be a material consideration in deciding an application". Number 7 Middle Street does contribute positively to the conservation area but is somewhat atypical for the Old Town area in its height and scale, particularly for Middle Street, and is a later development than much of Old Town. Moreover its 'twin' façade in West Street was demolished long ago. All of these factors combined suggest that its significance is modest and that its contribution to the significance of the conservation area as a whole is minor, so that the loss of the building would amount to less than substantial harm, not substantial, and should therefore be judged against the test in paragraph 134 of the NPPF. Therefore its loss must be judged against the public benefits of the scheme and these benefits are considered to include that this scheme as a whole would enhance the appearance and character of the Old Town conservation area.

As can be seen from the council's Heritage team comments, they are satisfied that the loss of 7 Middle St is clearly and convincingly justified and that what replaces it is of sufficient quality and any harm caused is outweighed by the public benefits of the wider scheme, as required by the NPPF. A condition is recommended to ensure no demolition takes place until a contract is in place for its replacement.

There is no objection to the demolition of the former Victorian concert hall building, which was always a long plain 'shed like' structure externally, and which has modest historic interest only (though some internal features survive behind the modern nightclub finishes). The Standing Buildings Assessment suggests that the basement level may include remnants of the earlier Thrales' house and a watching brief would be required by condition if permission is granted. The 1969 frontage to West Street is very harmful element in the street scene and its loss is very much welcomed.

The proposal is considered to preserve the setting of nearby listed buildings including the grade II listed 77 West Street.

This is an unusual site, being a long linear footprint spanning the whole length between West Street and Middle Street, with the main part of the site being largely hidden from view. The Tall Buildings assessment and other supporting information submitted with the application are considered to satisfactorily demonstrate the proposal would have an acceptable impact on the immediate and wider locality including key views. This is confirmed by the Heritage Team who held constructive pre-application discussions with the applicant. It is considered the scale and massing of the blocks behind frontages are appropriate and not overly dominant in views and are in keeping with the established form of the historic townscape and varied roof line.

The new West Street and Middle Street frontages are clearly contemporary in design but have taken strong contextual reference, in their scale, rhythm and proportions, from the 19th century buildings and they would form a coherent 21st century recreation of the 1867 'bookends' to the site.

The detailing and materials proposed would ensure a suitably high quality development, subject to approval of samples by condition. In this respect the choice of stone cladding, to achieve the appropriate texture, would be especially important. The new frontage to West Street would be a particularly positive addition to the street scene and would be respectful to the adjacent listed building at number 77. The Middle Street frontage would still be taller than is typical for this street but would be significantly lower at the frontage than the existing building and would not be unduly intrusive in the street scene. The attractive and active ground floor frontage would be a particular benefit to the area.

The only public viewpoint where the scale of the development would be apparent from would be South Street, if the concomitant application for the adjoining site were not to be developed or were to be delayed. The blank south end elevation of the central 6 storey block would be prominent, although it is accepted that the existing buildings on the site present a largely blank and unattractive backdrop to South Street. The full height link through to the Middle Street block would result in a substantial massing and amended plans have been received that are considered to satisfactorily reduce the cluttered massing of the roof level and provide a more coherent outline.

The submission of the Masterplan document and visuals is welcomed and it is considered to demonstrate how the scheme and that of the adjacent site have been carefully thought out and ensures a consistent and complimentary approach. It demonstrates that each scheme is capable of being implemented successfully individually or together.

The site has potential archaeological interest and given the comments of the County Archaeologist it is considered that conditions can satisfactorily deal with this aspect.

8.5 Impact on Amenity:

The site is located in a very busy central location which is relatively noisy. The area has significant late night activity.

The council's Environmental Health team are satisfied that provided appropriate mitigation measures are implemented, there would be no adverse effect to prospective occupiers of the development that could lead to complaints. This includes enhanced glazing and ventilation and other noise prevention measures. These would also ensure nearby existing occupiers are protected and the night time economy is not unduly compromised. These measures can be conditioned. Whilst the proposal will undoubtedly introduce more people and activity into the area this is encouraged and is acceptable given its sustainable city centre location.

The impact of the proposal in terms of light and privacy on existing neighbours has been assessed and is considered acceptable. A Daylight/Sunlight assessment has been submitted and its methodology and conclusions are concurred with. It states no neighbouring windows would suffer unacceptable loss of daylight or sunlight as defined under BRE standards. In fact the situation would improve for some neighbours by the removal of a large wing of the building and a reduction in height at the Middle Street end.

It should be recognised that this is central high density location and the proposed relationship between proposed and existing windows/properties is considered typical of the area and the development would be located sufficient distance way so as not to result in undue loss of amenity.

A Construction Environmental Management Plan (CEMP) is secured via S106.

In terms of crime prevention, the views of Sussex Police are noted and it is considered that provided the measures stated by the applicant are implemented (and Secure By Design accreditation achieved) the proposal would not unduly compromise security. There are however concerns regarding a large A4 use in this location given the potential for anti-social behaviour in close proximity to other large pubs, and the Police support the restrictions stated within policy SR12. A prohibitive condition is therefore imposed to prevent this use and limit it to a solely ancillary element of under 150sqm in floor area. Restrictive hours of operation are recommended to ensure the A1/A2/A3 uses are not open very early or very late.

8.6 Sustainable Transport:

The council's Highways team support the proposal provided appropriate conditions and S106 obligations are secured.

The site is centrally located to take advantage of the public transport, pedestrian and cycle networks and public car parks. The lack of site car parking, including disabled, is therefore considered acceptable in principle. The proposal will generate demand for travel and a financial contribution is sought towards enhancement of sustainable modes to address this. Enhancement of the pedestrian network in particular is sought, in line with policy TR9. In addition, a Travel Plan is sought. Satisfactory cycle parking can be secured by condition to serve the development. A Delivery and Servicing plan can ensure this aspect is satisfactorily addressed.

A CEMP will cover the development and this will satisfactorily manage construction traffic and other highways issues during construction.

8.7 Sustainability:

The proposal is considered to be sustainable. It makes effective and efficient use of the site. It incorporates sustainable design features and the submitted pre-BREEAM assessment indicates the hotel development is able to meet a standard of 'excellent', as per the requirements of policy CP8. The council's Sustainability Officer supports the scheme.

The proposal would enhance biodiversity through the inclusion of green roofs and walls and bat and bird boxes.

9 CONCLUSION

There is no policy objection to the loss of the existing nightclub building.

The introduction of a new hotel and A1/A2/A3 uses is considered acceptable in this city centre location and would provide welcomed active frontages. The proposal would significantly regenerate the area and enhance visual amenity. The site currently detracts from the Old Town Conservation Area and the proposal would make a significant and positive contribution to its appearance. The loss of 7 Middle Street frontage has been convincingly justified and the benefits of the scheme are considered to outweigh any harm. The proposal would not compromise the setting of nearby listed buildings. The proposal would bring jobs and would improve the tourism offer of the city. The proposal would make effective and efficient use of this large city centre site and would be sustainable. The proposal would not adversely affect the amenity of existing or prospective occupiers or compromise security. The proposal would meet the demand for travel it creates.

This scheme would deliver welcome regeneration of this site is considered to have significant benefits. The proposals would reinforce central Brighton's role as the city's vibrant, thriving regional centre for shopping, leisure, tourism and commercial uses, therefore approval is recommended.

10 EQUALITIES

The site is flat and has flush thresholds access. Disabled car parking is nearby. An accessible lift is proposed in the hotel. 7 'accessible' hotel rooms are proposed.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

S106 Heads of Terms

- Submission of a Construction Environmental Management Plan
- A financial contribution of £62,050 towards the council's Local Employment Scheme
- Submission of an Employment and Training Strategy, with a commitment to using at least 20% local labour.
- Incorporation of an artistic element within the site itself or as artistic public realm 'influence' in its immediate vicinity to the value of £49,500
- A financial contribution of £12,000 towards sustainable transport enhancement in the form of pedestrian improvement in the following locations: a) Vehicle crossover 9-12 Middle Street make flush and fully accessible, b) Vehicle crossover 38-39 Middle Street make flush and fully accessible and realign kerb line, c) Prince Albert Street/Black Lion Street make pedestrian crossing flush, d) South Street/Middle Street dropped kerbs and tactile paving

- 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 [full list to be inserted into the Late List].

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3) The ground and basement floor fronting West Street shall be used as flexible retail, financial or professional services or restaurant/café uses (Use Classes A1, A2 and A3) only and for no other purpose (including any other purpose in Class A of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission obtained from the Local Planning Authority. Furthermore, any ancillary bar/seating area dedicated solely to the consumption of alcohol associated with the uses hereby approved shall not exceed 150sqm in area.

Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and as a large A4 bar use is not considered appropriate in this location in the interests of crime and noise prevention, to

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comply with policies SU9, SU10, SR12 and QD27 of the Brighton & Hove Local Plan and SA2, CP4, CP12 and CP13 of the Brighton & Hove City Plan Part One.

- 4) The A1, A2 and A3 use class premises hereby permitted shall not be open to customers except between the hours of 07.00 hours and 00.00 hours on Mondays to Saturdays and 08.00 hours and 23.00 hours on Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with policies SU9, SU10, SR12, and QD27 of the Brighton & Hove Local Plan.

- 5) No development above ground floor slab level of any part of the development hereby permitted shall take place until samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

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

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

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

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

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

- 7) No development above ground floor slab level shall take place until full details of all facades, entrances, canopies, shopfronts, balconies, railings/ironwork, cladding, fenestration and windows and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.

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

- 8) The works of demolition hereby permitted shall not be begun until documentary evidence is produced and submitted to and agreed in writing by the Local Planning Authority to show that contracts have been entered into by

the developer to ensure that building work on the site the subject of this consent is commenced within a period of 6 months following commencement of demolition in accordance with a scheme for which planning permission has been granted.

Reason: As this matter is fundamental to the acceptable delivery of the permission to prevent premature demolition in the interests of the character and appearance of the Conservation Area and to comply with policy HE8 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

- 9) Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
- (i) details of all hard surfacing;
 - (ii) details of all boundary treatments;
 - (iii) details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees.

All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. 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 first 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 next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

- 10)(i) No development, including demolition, shall take place until a programme of archaeological work has been secured in accordance with a Written Scheme of Archaeological Investigation which has been submitted to and approved in writing by the Local Planning Authority.
- (ii) The development hereby permitted shall not be brought into use until the archaeological site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Archaeological Investigation approved under part [i] and that provision for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: This pre-commencement condition is imposed because it is necessary to ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policy HE12 of the Brighton & Hove Local Plan and CP15 of the Brighton & Hove City Plan Part One.

- 11) No development, including demolition, shall take place until a scheme to protect the listed bollard in front of 77/78 West Street from damage during demolition and construction works has been submitted to and approved in

writing by the Local Planning Authority. The agreed scheme shall be implemented during the duration of the construction.

Reason: To comply with policies HE1, HE3, HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

- 12) Unless otherwise agreed in writing by the Local Planning Authority, the commercial A1, A2 and A3 use class premises and Hotel development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the development built has achieved a minimum BREEAM New Construction rating of 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.

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

- 13) No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of the living 'green' roofs have been submitted to and approved in writing by the Local Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The roofs shall then be constructed in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure that the development contributes to ecological enhancement on the site and in accordance with policies CP8 and CP10 of the City Plan Part One.

- 14) No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the proposed green walling and maintenance and irrigation programme have been submitted to and approved in writing by the Local Planning Authority. The walls shall thereafter be constructed, maintained and irrigated in accordance with the approved details.

Reason: To ensure that the development contributes to ecological enhancement on the site and in accordance with policy CP8 and CP10 of the City Plan Part One.

- 15) No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the local planning authority:

a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice;

And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then

b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A1:2013;

And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,

c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of the above part (c) that any remediation scheme required and approved under the provisions of part (c) above has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:

- (i) built drawings of the implemented scheme;
- (ii) photographs of the remediation works in progress;
- (iii) certificates demonstrating that imported and/or material left in situ is free from contamination.

Reason: To safeguard the health of future occupiers of the site and to comply with policy SU11 and QD27 of the Brighton & Hove Local Plan.

16) 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, a method statement to identify, risk assess and address the unidentified contaminants.

Reason: To safeguard the health of future occupiers of the site and to comply with policy SU11 and QD27 of the Brighton & Hove Local Plan.

17) The development hereby permitted shall not be first occupied until evidence that the acoustic mitigation measures listed within the 7th Wave Report dated 10th June 2016; reference 1075.002R.2.0.RS have been incorporated within the development have been submitted to and approved in writing by the Local Planning Authority. The agreed measures shall be implemented.

Reason: To safeguard the amenity and living conditions of neighbouring properties and future occupiers of the site and to comply with policy SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

18) Within 6 months of development commencing (excluding demolition), the applicant shall submit a written scheme for approval to the local planning

authority to demonstrate how and where ventilation will be provided to the various premises/properties including specifics of where the clean air is drawn from and that sufficient acoustic protection is built into the system to protect end users of the development. The scheme shall ensure compliance with Building Regulations as well as suitable protection in terms of air quality. The agreed scheme shall be implemented prior to first occupation.

Reason: To safeguard the amenity and living conditions of future occupiers of the site and to comply with policy SU9, SU10 and QD27 of the Brighton & Hove Local Plan.

19) (i) Within 6 months of the commencement of the development (excluding demolition), details of the external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors. The lighting installation shall comply with the recommendations of the Institution of Lighting Professionals (ILP) "Guidance Notes for the Reduction of Obtrusive Light" (2011,) for zone E4, or similar guidance recognised by the council.

(ii) Prior to occupation, the predicted illuminance levels shall be tested by a competent person to ensure that the illuminance levels agreed in part (i) are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in Part (i).

(iii) The approved installation shall be maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to a variation.

Reason: Reason: To safeguard the amenities of the occupiers of adjoining properties and the locality in general to comply with policies HE3, HE6, QD25 and QD27 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

20) No part of the development hereby permitted shall be first occupied or brought into use until written evidence, such as certification, has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the scheme meets Secure By Design standard.

Reason: In the interests of crime prevention in this busy central location, to comply with policies CP12 and CP13 of the Brighton & Hove City Plan Part One.

21) No development above first floor level shall take place until details of a minimum of 10 bird boxes aimed at starlings and swifts and 5 bat boxes have been submitted to and approved in writing by the Local Planning Authority. The details shall include the type, location and timescale for implementation of the bird / bat boxes. The scheme shall then be carried out in strict accordance with the approved details.

Reason: To ensure appropriate integration of new nature conservation and enhancement features in accordance with policies QD18 of the Brighton & Hove Local Plan and CP10 of the Brighton & Hove City Plan Part One.

22) Prior to the first occupation of the development hereby approved a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries will take place, hours of deliveries and the frequency of deliveries shall be submitted to and approved in writing by the Local Planning Authority. All deliveries shall thereafter be carried out in accordance with the approved plan.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.

23) Within three months of the date of first occupation, a Travel Plan for the development shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall thereafter be fully implemented in accordance with the approved details.

Reason: To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

24) Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

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

25) 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.

26) No development shall commence until a scheme for the provision of surface water drainage works and proposed means of foul and surface water sewerage disposal has been submitted to and approved in writing by the Local Planning Authority in consultation with Southern Water. The works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent the increased risk of flooding and to prevent pollution of controlled waters by ensuring the provision of a satisfactory means of surface water disposal and to comply with policy SU3 of the Brighton & Hove Local Plan.

27) Within 6 months of the date of commencement of development hereby permitted (excluding demolition) evidence shall be submitted to demonstrate that any new energy plant/room has capacity to connect to a future district heat network in the area. Evidence should demonstrate the following:

a) Energy centre size and location with facility for expansion for connection to a future district heat network: for example physical space to be allotted for installation of heat exchangers and any other equipment required to allow connection;

b) A route onto and through the site: space on site for the pipework connecting the point at which primary piping comes onsite with the on-site heat exchanger/ plant room/ energy centre. Proposals must demonstrate a plausible route for heat piping and demonstrate how suitable access could be gained to the piping and that the route is protected throughout all planned phases of development.

c) Metering: installed to record flow volumes and energy delivered on the primary circuit.

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

28) Prior to first occupation of the development hereby permitted full details of any proposed extraction/ventilation and associated odour control equipment fitted to or within the building shall have been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of each unit of the development and shall thereafter be retained as such.

Reason: To safeguard the amenities of the occupiers of adjoining properties and visual amenity and to comply with policies HE6 and QD27 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.

29) Prior to first occupation of the development hereby permitted a scheme for the sound insulation of the odour control equipment referred to in the condition set out above shall have been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the first occupation of each unit of the development 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.

30) 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 HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

PLANNING COMMITTEE LIST – 13 July 2016

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:-

There is no policy objection to the loss of the existing nightclub building. The introduction of a new hotel and A1/A2/A3 uses is considered acceptable in this city centre location and would provide welcomed active frontages. The proposal would significantly regenerate the area and enhance visual amenity. The site currently detracts from the Old Town Conservation Area and the proposal would make a significant and positive contribution to its appearance. The loss of 7 Middle Street frontage has been convincingly justified and the benefits of the scheme are considered to outweigh any harm. The proposal would not compromise the setting of nearby listed buildings. The proposal would bring jobs and would improve the tourism offer of the city. The proposal would make effective and efficient use of this large city centre site and would be sustainable. The proposal would not adversely affect the amenity of existing or prospective occupiers or compromise security. The proposal would meet the demand for travel it creates. The proposals would reinforce central Brighton's role as the city's vibrant, thriving regional centre for shopping, leisure, tourism and commercial uses.
3. The applicant is advised that a formal application for connection to the public sewerage system is required in order to service this development. To initiate a sewer capacity check to identify the appropriate connection point for the development, please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk
4. The applicant is advised that an agreement with Southern Water, prior to commencement of the development, the measures to be undertaken to divert/protect the public water supply main. Please contact Southern Water, Southern House, Sparrowgrove, Otterbourne, Hampshire, SO21 2SW (tel 0330 303 0119), or www.southernwater.co.uk Southern Water informative regarding connection to the sewer.
5. The applicant is advised to contact Southern Water to discuss the detailed design for the proposed basement as it should take into account the possibility of surcharging of the public sewerage system in order to protect the development from potential flooding.
6. The applicant is advised that having a planning application in place is no defence against a statutory noise nuisance being caused or allowed to occur. Should the council receive a complaint, they are required to investigate under

the provisions of the Environmental Protection Act 1990 to determine whether or not a statutory nuisance is occurring.

7. The applicant should also note that any grant of planning permission does not confer automatic grant of any licenses under the Licensing Act 2003 or the Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2). The applicant may also wish to be aware that the site is in a special stress area and the applicant would have to have extra regard to licensing objectives.
8. 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).
9. The applicant is advised that details of the BREEAM assessment tools and a list of approved assessors can be obtained from the BREEAM websites (www.breeam.org).
10. The Travel Plan in condition 23 above shall include such measures and commitments as are considered necessary to mitigate the expected travel impacts of the development and should include as a minimum the following initiatives and commitments:
 - (i) Promote and enable increased use walking, cycling, public transport use, car sharing, and car clubs as alternatives to sole car use
 - (ii) A commitment to reduce carbon emissions associated with leisure and business travel:
 - (iii) Increase awareness of and improve road safety and personal security:
 - (iv) Undertake dialogue and consultation with adjacent/neighbouring tenants/businesses:
 - (v) Identify targets focussed on reductions in the level of car use:
 - (vi) Identify a monitoring framework, which shall include a commitment to undertake an annual staff travel survey utilising iTrace Travel Plan monitoring software, for at least five years, or until such time as the targets identified in section (v) above are met, to enable the Travel Plan to be reviewed and updated as appropriate:
 - (vii) Following the annual staff survey, an annual review will be submitted to the Local Planning Authority to update on progress towards meeting targets:
 - (viii) Identify a nominated member of staff to act as Travel Plan Co-ordinator, and to become the individual contact for the Local Planning Authority relating to the Travel Plan.
 - (ix) Provide the all hotel residents with necessary information to make informed decisions on the sustainable travel options available to them when travelling to the site and within the city during their stay.