

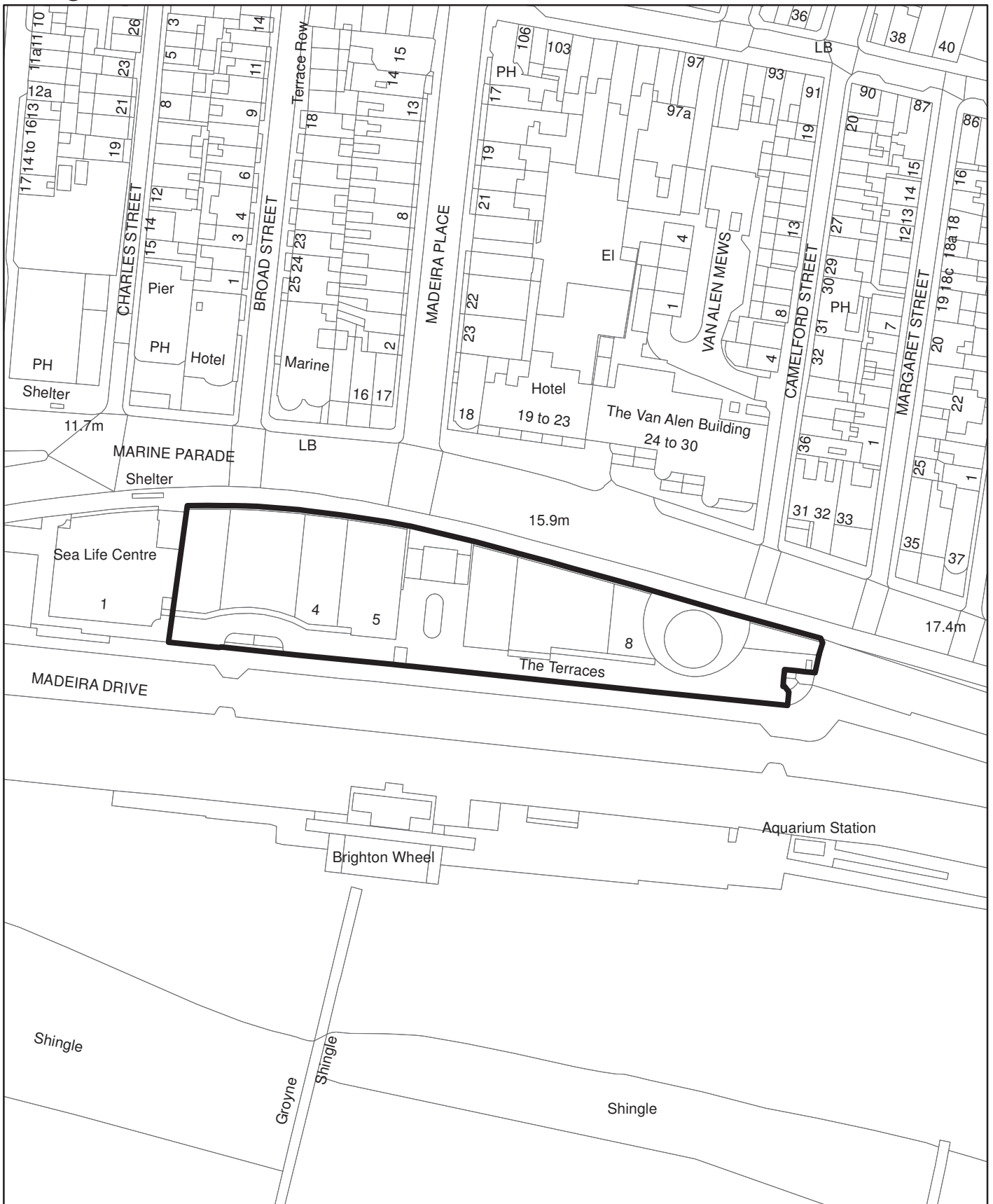
# **ITEM A**

**Units 2-8, The Terraces, Madeira Drive,  
Brighton BN2 1AY**

**BH2015/02443  
Full Planning**

**9 December 2015**

# BH2015/02443 Units 2-8, The Terraces, Madeira Drive, Brighton



**Brighton & Hove  
City Council**



**Scale: 1:1,250**

<b><u>No:</u></b>	<b>BH2015/02443</b>	<b><u>Ward:</u></b>	<b>QUEEN'S PARK</b>
<b><u>App Type:</u></b>	<b>Full Planning and Demolition in a Conservation Area</b>		
<b><u>Address:</u></b>	<b>Units 2-8 The Terraces Madeira Drive Brighton</b>		
<b><u>Proposal:</u></b>	<b>Demolition and replacement of existing oval glass pavilion on lower tier level to form new café (A3). Demolition of existing circular building on upper tier level. Change of use of units 6-8 on lower tier level from restaurants (A3) to Members Club (SG) together with construction of two new pavilions above at upper tier level consisting of restaurant and bar (A3/A4) with indoor and outdoor seating, open air plunge pool with changing facilities and terraced area with sunbeds solely for the use of the Members Club (SG). Alterations and refurbishment of existing public restaurants (A3) at lower tier units 2-5 including revised fenestration. Other associated works including the external and internal refurbishment of the existing 1920s pavilion.</b>		
<b><u>Officer:</u></b>	<b>Sue Dubberley Tel 293817</b>	<b><u>Valid Date:</u></b>	<b>11 August 2015</b>
<b><u>Con Area:</u></b>	<b>East Cliff</b>	<b><u>Expiry Date:</u></b>	<b>10 November 2015</b>
<b><u>Listed Building Grade:</u></b>	<b>Grade II</b>		
<b><u>Agent:</u></b>	<b>Stiles Harold Williams, 69 Park Lane Croydon CR0 1BY</b>		
<b><u>Applicant:</u></b>	<b>Brighton Seafront Regeneration Ltd, Mr Richard Franklin 150 St Johns Street London EC1V 4UD</b>		

## **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 application relates to The Terraces which are located on Madeira Drive and consist of 7 vacant units constructed in the 1990's all formerly in A3 restaurant use. Units 2 to 7 are single storey with unit 8 (formerly The Terraces bar and Grill) being two storeys with a round glass building at the upper level. To the north of the site is Marine Parade.
- 2.2 This property lies within the East Cliff Conservation Area and is within the setting of a number of listed buildings, notably the Aquarium, and is bounded on the north side by listed cast iron seafront railings, and on the South side by the walls piers railings and lamps associated with the Aquarium.

In the wider area opposite the site is the beach, the Volk's Railway terminus, the Brighton Wheel, a crazy golf course and linked fish and chip shop. Opposite and to the west is The Palace Pier.

### 3 RELEVANT HISTORY

#### Units 6-8

**BH2014/02654** Demolition of existing circular building on upper tier level and demolition of existing oval glass pavilion on lower tier level. Part change of use of unit 8 on lower tier level from restaurant (A3) to Members Club (SG). Alterations and refurbishment of existing public restaurants (A3) on lower tier units 6, 7 and part 8 with shared kitchen facilities and revised fenestration to units 6-8. Removal of existing roof over units 6-8 on lower tier level to enable construction of new storey and entrance at upper tier level consisting of restaurant and bars (A3/A4) with indoor and outdoor seating, open air plunge pool with changing facilities and terraced area with sunbeds solely for the use of the Members Club (SG). Other works include the external and internal refurbishment of the existing 1920s pavilion to facilitate a new kitchen service route and general improvements for public access to the terraces. **Withdrawn** 14/04/2015.

**BH2014/03135** Removal of railings to create a new entrance to Units 6-8. Infilling of existing entrance with new railings to match existing. **Withdrawn** 14/04/2015.

#### Unit 2 & 3 The Terraces

**BH2010/00759** - Change of use from amusement arcade (sui generis) to spa and fitness studio with ancillary cafe/restaurant – **Approved** 16/06/2010.

**BH2007/01942** - Change of use from gambling hall to restaurant including a take-away area – **Withdrawn** 16/07/2007.

**BH2001/02825/FP** - Proposed change of use from retail (A3) to amusement arcade (SG) and alterations to elevations – **Approved** 05/04/2002.

#### Unit 5 The Terraces

**BH2010/00329** - New facades to South and East elevations, demolition of existing disabled ramp to allow for extension of existing terrace incorporating disabled lift and storage under, demolition of glass pavilion and installation of decking over vacant space. Refurbishment of 1920's pavilion including new doors and alterations to the layout to create new service access – **Approved** 30/04/2010.

#### Unit 9 The Terraces

**BH2003/03677/FP** - Change of use of ground and basement levels to a mixed use scheme for a Bar and a Club – **Approved** 12/01/2004.

#### The Terraces

**BH2010/00330 (CAC)** - Demolition of glass pavilion situated between units 5 and 6 The Terraces – **Approved** 30/04/2010.

#### Brighton Aquarium Upper and Lower Terraces

**BH1998/00263/FP**- Redevelopment of terraces comprising demolition of the Concord Bar, Tivoli Cafe and structures between; erection of single storey structures on upper and lower terraces, with 3/4 storey structure at eastern end

of upper terrace, to form 7 restaurants (A3), one leisure (D2) unit and one bar/restaurant. **Approved** 29/06/1998.

**BH1998/00266/LB** Redevelopment of terraces comprising demolition of the Concord Bar, Tivoli Cafe and structures between; erection of single storey structures on upper and lower terraces, with 3/4 storey structure at eastern end of upper terrace, to form 7 restaurants (A3), one leisure (D2) unit and one bar/restaurant. **Approved** 29/06/1998.

#### **4 THE APPLICATION**

- 4.1 Planning permission is sought for the demolition and replacement of the existing oval glass pavilion on lower tier level to form new café (A3). Demolition of existing circular building on upper tier level. Change of use of units 6-8 on lower tier level from restaurants (A3) to Members Club (SG) together with construction of two new pavilions above at upper tier level consisting of restaurant and bar (A3/A4) with indoor and outdoor seating, open air plunge pool with changing facilities and terraced area with sunbeds solely for the use of the Members Club (SG). Alterations and refurbishment of existing public restaurants (A3) at lower tier units 2-5 including revised fenestration.
- 4.2 The existing historic pavilions, balustrading and iron railings are retained in the scheme and repairs and the reinstatement of elements of these are included in the proposals.
- 4.3 The new buildings on the upper tier would be in the form of two single storey flat roofed curved pavilions with large areas of glazing on the south elevation, with open air terraces in front of the buildings and a plunge pool. A glass balustrade is proposed. The north elevation would be more solid in appearance with render punctuated by windows. A green roof is proposed on both buildings.
- 4.4 The refurbishment of the existing units on the lower tier would consist of the replacement of the current windows and doors with a more simplified glazing pattern to give a more modern appearance. The surrounding stonework which is currently damaged and badly weather would be repaired and refurbished.

#### **5 PUBLICITY & CONSULTATIONS**

##### **External**

- 5.1 **Neighbours: Thirty five (35)** letters of representation have been received from **Flats 1, 2, 12, 13(x2), 15, 17(x2), 18, 22, 26, 29 (x2), 38, The Van Alen Building, Marine Parade, 15 Powis Square (freeholder of 17 Marine Parade), 1 Van Alen Mews, 13, 23, Camelford Street, Amsterdam Hotel 11-12, Legends Hotel 31-34, 35, Marine Parade, 19(x2) Madeira Place, 19 West Drive, Outwood House, Outwood Lane, Outwood, Surrey, 94 President House, King Square London, 42 Trafalgar Avenue, Peckham, 14 Winnipeg Drive, Orpington Kent (x2) 63 Cudham Lane North, Orpington Kent (x4), 20b Oatfield Road, Tadworth, Surrey (1 email no address given) objecting the application for the following reasons:**

- Out of character with Marine Parade

- Will block sea views, the sea view along Marine Parade which is one of Brighton's biggest treasures.
- Will destroy the panorama or sea and pier.
- Strategic sea views will be lost.
- Loss of views to the whole City and its thousands of visitors.
- Members only section would be restricted to those able to pay and other facilities are food outlets. Brighton does not lack restaurants.
- Marine Parade will be reduced to a dingy back street.
- Air pollution will exceed acceptable limits.
- This is as private night club and should be assessed against policy SR13.
- No good reason to set a precedent for development east of the Palace Pier which could go higher than on floor above street level.
- Development conflicts with local plan policies.
- Does not provide public sports facilities.
- Historically it has been the practise to refuse buildings above road level on the seaward side of Marine Parade and Kings Road. Preservation of sea view has been paramount; the new buildings will block sea views.
- No more development should be allowed above road level. Previous applications in 1998 felt it was important to keep the main part of the metal roof below the level of the railings on Marine Parade (BH1998/00263FP).
- The wall above road level will inevitably be graffiti covered.
- Will block beach users views of Regency and modern architecture along Marine Parade.
- Devaluation of properties.
- Applicant has not filed accounts with Companies House since 2011 and it is not possible to be certain who the applicants are.
- Appearance and size of the new building is inappropriate and will fundamentally change the character of the area.
- Contemporary style is out of character with the historic seafront.
- No justification for a discordant structure in a conservation area.
- The development would appear overbearing.
- Area is overcrowded and congested, it could adversely affect the safety of other road users or pedestrians.
- The proposed development will block a public right of way.
- The area is the subject of noise pollution from busy and traffic congested seafront, with inadequate parking for existing amenities and another amenity will exacerbate the problem. Marine Parade is already becoming an unauthorised taxi rank.
- Loss of amenity for Legends Hotel as rooms are priced in accordance with the view with sea views at a premium.
- Marine Parade is unique with the raised seafront promenade and complements the lower promenade Madeira Drive, the new buildings will exceed the level of the road and Marine Parade will effectively be 'boxed in'.

- The 5 metre gap that has now been put in will have little impact and none for motorists and travelling in from the eastern side.
- Members of the club would obviously enjoy a view which would then be denied to many.
- Two buildings will create a wind tunnel which elitist members will then want to fill.
- No mention of servicing and deliveries.
- No mention of refuse bins and collection.
- Will there be a condition concerning the hygienic storage and disposal/collection of food waste?
- No contextual drawings and lack of detail.
- As lift is shown on the plans may be further plant on the roof.
- The regeneration is meant to be for everyone and not a private club. The beach and promenade is for everyone and should not be an exclusive club for exclusive people in a prime location.
- The duck egg blue railings start near the Marina and end at Hove Lagoon and are protected and are our doorway to the beach and we should not allow anyone to build in front of them setting a precedent for other high buildings.
- Increase in noise and disturbance particularly from open terrace and swimming pool.
- Loss of amenity for hotel (Legends) where rooms are priced according to the view.
- The new buildings will cause sound to bounce between buildings. The noise from existing pubs, clubs and bars will be reflected back into residential homes as well as noise from the new members club.
- Noise and disturbance from construction itself.
- Health and safety risk to residents as new building will prevent sea winds taking away the dust particles from the dusty road due to the reduction in free airflow.

5.2 **Neighbours: Six (6)** letters of representation have been received from **flat 5, The Van Alen Building, 18, 36, Marine Parade, 14 Charles Street, 20 Park Avenue, Woodford Green Essex (1 email no address given)** Supporting the application for the following reasons:

- Would be great to see a much neglected area regenerated.
- Sure that the new facilities would benefit the whole area.
- Support the project and its sensitive approach to the new building within the existing.
- Was previously against the proposals and live in the Van Alen building but new proposals has eliminated any doubts.
- Soho House would be fantastic for Brighton and regeneration of the Terraces area which is in a poor state of repair.
- While some of the project is a members club, there are also restaurants open to the public.

5.3 **Kingscliffe Society: Objection :**

- Main problem affecting the economic use of the site is its exposed nature which means it is hard to trade 4 to 6 months of the year. Application contributes nothing to the viability and well-being of Brighton residents and businesses alike.
- Application does not provide any social amenity for the local residents and visitors alike, as it is a private members club.
- Object to loss of this vista of Brighton seafront.
- Elevations are of a very poor design particularly the north elevation which has no architectural merit and pays no respect to the conservation area.
- Development does not meet the requirements of sustainable development.
- Brighton's iconic views of the seafront are of world class importance and recognition of this should form the basis of any planning application.
- Object to the works to be carried out on the listed building.
- No demolition drawings.
- Object to demolition works in the Aquarium which will require its closure and moving of livestock in and out of their tanks causing them stress.
- Object to the heights and the dune roofs will not be visible from the top of a double decker bus let alone the public from the pavement.
- Object to the lack of structural information. Concerned that the roof will be too heavy with concrete floor slabs and shingle and dune roof.
- Concerned about the pool safety protection and structural loading.
- No information on gym on ground floor.
- Gap between the two buildings will not provide an open visual brake between the structures as there are shrubs, table and chairs sun loungers and parasols shown on the plans.
- Possible failure of mechanical equipment on the roof from dune roof construction being blown and sucked down during dry weather conditions.
- Object to any closure of public right of way across the Terraces.

**5.4 Brighton Society Objection:**

- Primary objection relates to the proposed buildings on the top level of the development. Key viewpoints looking to the sea, Brighton Pier and western seafront will be affected. Currently views are only restricted by the circular pavilion at the eastern end of the site. The principle of the insertion of buildings between Marine Parade and the sea should not be permitted. To permit buildings would change the character of that section of Marine Parade to that of any other street inland from the seafront.
- The public interest has to be the main criteria and the proposal appears to close off the intermediate levels to the public on the eastern section to which people currently do have access and it is unclear if the restriction applies to the western section.
- Recognise that the current situation is not satisfactory and views would be retained if the pavement were extended over the site to form viewing decks much as the current application proposes but without the



buildings. Small cafes and sheltered seating could be included as long as they were small and transparent as possible to retain views.

**5.5 Regency Society: Objection:**

- Seafront views are the City's most important asset and should be protected. Should be a presumption against new buildings which obscure the views from seafront roads.
- This is a sensitive location where A23 meets seafront and the pier.
- Views from Marine Parade from the east are important. The new building will interrupt these views and will have a detrimental impact on the East Cliff Conservation Area. The provision of a small gap will do little to mitigate this undesirable effect.
- At present the terraces area public open space accessible to all. The proposal for a private member's club will reduce the ability of the public to explore this part of the conservation area.

**5.6 Councillors Barford and Chapman Objection:** The letter is attached to this report in full as an appendix.

**5.7 CAG: Objection:** The Group repeat their comments on the previous application (insofar as they are relevant) as follows:

*5.8 'Group recommend REFUSAL of the application, on the grounds that the proposal will cause a loss of views of the sea and Brighton Pier from Marine Parade. The Group are, in principle, against any structure which rises above Marine Parade. It is recommended that a planning brief is prepared for the site, to give clear guidance to developers which CAG could review before it is finalised. The Group requests that the application is decided by the Planning Committee and views from the north side of Marine Parade, Brighton Pier and the Royal Albion should be provided to assist committee members. The Group feel the proposed trees would be inappropriate and would not survive in such weather conditions. The Group feel that a condition should be added to any approved application, that any missing bronze lights and standards should be reinstated on the Madeira Drive frontage.'*

**5.9** The Group note that the sea views from Marine Parade are universally recognised as some of the best in the country, and feel that the scheme represents a disservice to the public due to loss of significant views to the seafront, pier and sea and the loss of public access to what is currently a public area. The Group recall a number of changes to the site in the last century, all of which have preserved views to the sea. The Group request that if the application is recommended for approval, it should be heard at Planning Committee.

**5.10 County Archaeologist: Comment:** Although the proposed development is not currently situated within an Archaeological Notification Area it is located within a Conservation Area and contains a number of designated and non-

designated historic buildings. Recommend a condition requiring an archaeological works programme.

- 5.11 **County Ecologist:** Support: The proposed development is unlikely to have any significant impacts on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NPPF, the Natural Environment and Rural Communities (NERC) Act 2006 and SPD 11.
- 5.12 **East Sussex Fire and Rescue Service:** Comment: Access for fire appliances and fire fighting is satisfactory.
- 5.13 **Environment Agency:** Comment: No objection to the development as proposed.
- 5.14 **Historic England:** Comment: Do not wish to comment in detail, but offer the following general observations. We are aware that this proposal differs from the previous one in that a gap has been created between the two upper pavilions in order to provide a partial view through to the seafront. We urge you to ensure that the proper consideration on the setting of the listed buildings is taken into account, in particular in relation to the impact of this taller development on the outlook of sea facing buildings on Marine Parade and on the open seafront character of this part of the conservation area. Any harm should be balanced against public benefits associated with the proposal including that associated with enlivenment of this area by bringing back into use units which have been empty for a number of years and repairs to listed structures.
- 5.15 **Southern Water:** Comment: A formal application is required for a connection to the public sewer. Request an informative to this effect.
- 5.16 **Sussex Police:** Comment: Doors and windows should be checked to ensure they are adequate and fit for purpose. The applicant should consider having access control on entry gates/doors to the restricted member's area. Ask that any A3 restaurant is conditioned to ensure that alcohol is ancillary to foods. Concerned that the site lies within the designated Cumulative Impact Zone of the City and the late night opening will impact on Police resources.
- 5.17 **UK Power Networks:** Comment: No objection to the proposed works.

**Internal:**

- 5.18 **Aboriculturist:** No objection subject to a suitable condition being attached to any planning consent granted.
- 5.19 **Economic Development:** Support: The senior economic development officer has no adverse economic development comments to make regarding this application and fully supports the proposal. An Employment & Training Strategy to be submitted for approval before commencement and a contribution of £32,080 to be made towards the Local Employment Scheme.

- 5.20 **Environmental Health:** Support: Approve with condition regarding noise from plant.
- 5.21 **Flood Risk Management Officer:** Comment: The Lead Local Flood Authority (LLFA) has no objection to the development proposal provided no development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority.
- 5.22 The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing. This is to ensure that the principles of sustainable drainage are incorporated into this proposal.
- 5.23 **Heritage:** Support: It is considered that the harm is less than substantial and is outweighed by the public benefits, and therefore the principle of the development as proposed is acceptable. More information is required on detailing and materials; all elements essential to the success of the design.
- 5.24 **Planning Policy:** Support:  
Comments dated 2/09/2015  
The need for a high quality and sensitive regeneration of The Terraces is recognised alongside the opportunity for public realm improvements. The proposed retention and refurbishment of Units 2-5 for A3 use and the amalgamation and change of use of units 6-8 from A3 to a Sui Generis A4/D2/A3 members club focused at the creative industries in the city would not raise policy concerns. However the proposal creates an additional 903 sq m of A3, D2 and A4 uses. Given the sites edge of centre location, a sequential site assessment is required in accordance with the NPPF paragraph 24.
- 5.25 Comments dated 19/11/2015  
The applicant has submitted a sequential site assessment (dated 30<sup>th</sup> October 2015). It is considered that the proposed application has established that there are no sequentially preferable locations in the city centre and St James Street District Centre owing to unsuitability in site size or availability. It is considered that the sequential test is passed in accordance with the NPPF and CP6.1 of the Submission City Plan Part 1.
- 5.26 **Sustainability:** Comment: In order to ensure the scheme complies with local policy, it is recommended that a standard BREEAM condition be applied for major development requiring BREEAM 'very good' be achieved.
- 5.27 **Sustainable Transport:** Support:  
Comments dated (27/10/15)  
The Highway Authority has no objections in principle to the proposed application and the comments are similar to those from a similar previous application (BH2014/02654). However, prior to determination the applicant should provide clarification on the following matters:

Disabled access through the site - It is not apparent from the submission whether a lift is provided from Marine Parade down to the lower tier level between units 5 and 6. The applicant should provide clarification on this matter and ideally provide a continuous route to all levels for disabled people. This would require the installation of a lift at Marine Parade level down to lower tier level between units 5 and 6.

The applicant should also confirm whether they intend to provide the lift adjacent to the steps in front of unit 5 to the middle level; as indicated on the proposed lower tier plan. Currently the plan states potential new lift position but the applicant must confirm that they are going to provide this lift.

These lifts are necessary to provide access to the development for all irrespective of their disability.

Cycle Parking - the applicant should provide clarification as to the location of cycle parking for all units and for both customers and staff.

Should the Highway Authority be in a position to recommend approval following submission of this information the Highway Authority are likely to recommend the need for conditions to be included on any permission granted and the need to enter into a S106 agreement.

5.28 Comments dated (17/11/15)

Disabled access through the site:

The applicant has confirmed that no lift will be provided from Marine Parade down to the lower tier level of the development between units 5 and 6. There are alternative routes from Marine Parade to the development in front of the Harvester pub and down the ramp to the east of the site.

- 5.29 The applicant has stated that they are willing to accept a condition requiring further details of the proposed lifts to provide access between the two different tiers. A suggested condition is detailed below. The Highway Authority accepts the proposed lift adjacent to unit 5 is an improvement on the current situation but also saw this development as an opportunity to provide an enhanced provision with a lift from Marine Parade.

5.30 Cycle parking:

Plan number 12076/SHG/101 (Proposed Lower Tier Plan units 2-5) shows a staff cycle store. The proposed cycle store is likely to be able to accommodate 8-10 cycle parking spaces. As part of SPG04 this development should provide a minimum of 13 cycle parking spaces. Additional visitor cycle parking could be provided with the agreed S106 contribution within the local vicinity of the site.

**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 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
TR5	Sustainable transport corridors and bus priority routes
TR7	Safe development
TR8	Pedestrian routes
TR13	Pedestrian network
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
SU7	Development within the coastal zone

SU9	Pollution and nuisance control
SU10	Noise nuisance
SU14	Waste management
SU15	Infrastructure
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD3	Design – efficient and effective use of sites
QD4	Design – strategic impact
QD6	Public Art
QD7	Crime prevention
QD15	Landscape design
QD17	Protection and integration of nature conservation features
QD25	External lighting
QD27	Protection of Amenity
QD28	Planning obligations
SR12	Large Use Class A3 (food and drink) venues and Use Class A4
SR18	Seafront recreation
HE3	Development affecting setting of a listed building
HE6	Development within or affecting setting of conservation areas
NC4	Sites of Nature Conservation Importance

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD07 Advertisements

Brighton & Hove City Plan Part One (submission document)

SS1	Presumption in Favour of Sustainable Development
SA1	The Seafront
CP4	Retail provision
CP5	Culture and Tourism
CP8	Sustainable Buildings
CP11	Managing Flood risk
CP12	Urban Design
CP15	Heritage

**8 CONSIDERATIONS & ASSESSMENT**

- 8.1 Matters relating to property devaluation, loss of a view and the finances of the applicant are not material planning considerations. The main considerations in the determination of this application relate to the proposed use, design, impact on the East Cliff Conservation Area, impact on adjoining listed buildings and railings, impact upon neighbouring amenity, transport and sustainability.

**Background**

- 8.2 Soho House was founded in London in 1995 and is an experienced provider of private members clubs with 13 houses located around Europe and North America, including the UK, Berlin, New York, West Hollywood, Miami, Chicago, Toronto and Istanbul. Membership is focused on the creative industries and a

large proportion of members work in film, fashion, advertising, music, art and media.

- 8.3 The current application has been submitted following the withdrawal of an earlier application (BH2014/02654) for the demolition of the existing circular building on upper tier level and demolition of existing oval glass pavilion on lower tier level. Part change of use of unit 8 on lower tier level from restaurant (A3) to Members Club (SG). Alterations and refurbishment of existing public restaurants (A3) on lower tier units 6, 7 and part 8 with shared kitchen facilities and revised fenestration to units 6-8. Removal of existing roof over units 6-8 on lower tier level to enable construction of new storey and entrance at upper tier level consisting of restaurant and bars (A3/A4) with indoor and outdoor seating, open air plunge pool with changing facilities and terraced area with sunbeds solely for the use of the Members Club (SG). Other works include the external and internal refurbishment of the existing 1920s pavilion to facilitate a new kitchen service route and general improvements for public access to the terraces.
- 8.4 Although the application is not an amendment to the previously withdrawn scheme given the similarities, it is considered worth setting out the main differences between the previously approved scheme and that now proposed, namely;
- Two smaller separate buildings now proposed at upper floor level rather than one large building.
  - 10m gap introduced between the two new buildings.
  - The new buildings are now set into the site and have been moved away from the listed railings on Marine Parade.
  - The alteration and refurbishment of units 2-5 is now included in the application.

**Planning Policy and principle of development:**

- 8.4 Brighton & Hove's Seafront is of vital importance to the economy of the city and it also plays an anchor role for city's tourism economy which contributes an estimated £732 million to the city's economy each year and sustains 17,500 jobs (13,000 FTEs). Key strategic development sites along the seafront are identified through the City Plan and other council and city and sub-regional documents. The purpose of these strategic development sites are to act as catalysts for the wider renewal and regeneration of the city's seafront.
- 8.5 A strategic objective of the council reflected in the City Plan (SO17) is to enhance the seafront as a year round place for sustainable tourism, leisure, recreation and culture whilst protecting and enhancing the quality of the coastal and marine environment. Taking account material representations Part A sets out a number of priorities applicable to the whole seafront and

specific priorities for East of Palace Pier to the Marina are set out at Part B. which relate to the regeneration of Madeira Drive as a centre for sports and family based activities. There are no site specific priorities for The Terraces.

- 8.6 The supporting text to SA1 The Seafront at 3.118 recognises the role of the (emerging) Seafront Strategy in ensuring an integrated approach to improvement and regeneration. The draft Seafront Strategy sets a vision to *'Create attractive, sustainable, high quality environments for residents, businesses and visitors throughout the year'; the importance of the 'potential to broaden and enhance the main draw of the tourism appeal both spatially (wider than the prime location between the piers) and in time (with an extended all year round season)'*. One of the objectives is to: *'attract a diverse mix of independent businesses to achieve a unique vibrant Seafront'*.
- 8.7 It is considered that the policy framework supports a need for a high quality and sensitive refurbishment of The Terraces alongside the opportunity for public realm improvements. The proposed retention and refurbishment of Units 2-5 for individual restaurant/ café A3 units is welcomed.
- 8.8 Policy SR12 also applies. However, it is noted that the units 2 to 5 are existing restaurants serving food and provide seating to customers and it is only the members club which includes a bar area.
- 8.9 However Planning Policy raised the issue that the proposal creates an additional 903 sq m of retail and leisure floorspace which are considered to be town centre uses. Paragraph 24 of the NPPF sets out that the sequential test should be applied to applications for main town centre uses which are not in an existing centre and are not in accordance with an up-to-date Local Plan. This requires applications for such uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. The Terraces are in an accessible edge of centre location to both Brighton Regional Shopping Centre and St James Street District Centre. In accordance with Paragraph 24 of the NPPF a sequential site assessment is therefore required.
- 8.10 In response to policy comments the applicant has now prepared a sequential site assessment. It is considered that the assessment has established that there are no sequentially preferable locations in the city centre and St James Street District Centre owing to the unsuitability in site size or availability. It is considered that the sequential test is passed in accordance with the NPPF and CP6.1 of the Submission City Plan Part 1.
- 8.11 Economic Development supports the application and have commented that the Terraces are located in a key seafront location but the various units have suffered from long periods of vacancy impacting on the general environment and vibrancy of the wider seafront around Brighton Pier, the Wheel and the Sealife Centre, a main area of focus for visitors to the city. The proposal to redevelop The Terraces will enhance the visitor offer in this area as well as bringing an up-market private members club to the area. It is indicated that



205 jobs will be created from the redevelopment which is welcomed by Economic Development.

- 8.12 An Employment and Training Strategy would be required to include a commitment to using an agreed percentage of local labour. In addition to the Employment and Training Strategy, the Senior Economic Development Officer has requested a contribution through a S106 agreement for the payment of £32,080 towards the Local Employment Scheme in accordance with the Developer Contributions Guidance. The applicants have agreed to both a commitment to using local labour and to pay the contribution towards the Local Employment Scheme.

**Design and Impact on the East Cliff Conservation Area and setting of a listed buildings**

- 8.13 Policies QD1 and QD5 relate to the design of proposed development, it confirms that alterations must be of an appropriate scale and height, use quality materials and ensure visual interest at street level.
- 8.14 Policy HE6 will only permit development within a conservation area which will preserve or enhance its character and appearance.
- 8.15 Policy HE3 relates to development affecting the setting of a listed building and confirms that development will not be permitted where it would have an adverse impact on its setting, through factors such as its siting, height, bulk, scale, materials, layout, design or use.
- 8.16 The proposals for the new frontages for units 2-8 and the restoration of the historic structures in and around the site are welcomed. Due to the proposed positioning of the new pavilion buildings on the upper tier being above the level of Marine Parade and the stepping back of their position from Madeira Drive, it is considered that the main impact of the proposal for units 6-8 would be from the north.
- 8.17 An important element of the character of this part of the East Cliff Conservation Area is the openness of the sea views along Marine Parade. The East Cliff Conservation Area Study and Enhancement Plan acknowledges this stating:

*The relationship of the built environment to the sea is still an essential element of the area's character and public views of the sea are very important.*

And

*The southern side of Marine Parade remains a broad promenade overlooking the Madeira Terrace, Madeira Drive and the wide shingle beaches with the only significant built development being the Aquarium Terraces at the far western end..... The expanse of open beaches is an integral element of the setting of the buildings.*

- 8.18 Currently the foreground in the view of Madeira Drive and the beach across the site from Marine Parade is affected by the roofs of the commercial units, and the appearance of these areas is not a positive element in the street scene.

The Heritage Officer has commented that the revised form of the new upper floor, following concerns expressed on the previous (withdrawn) scheme is welcome. The overall design approach is now considered acceptable and the relationship to its setting and remaining structures is complimentary.

- 8.19 There was an initial concern from the Heritage Officer that there would be a significant area of unrelieved façade on the north elevation of the Easternmost building and it was therefore considered that window openings should be included to reduce this effect, in the same way as has been achieved on the Western building. These amendments have now been received and the elevation with the addition of window openings is now considered acceptable.

- 8.20 There was also a concern that there may be additional height from plant and lift housing and this has also been raised by some of the objectors. Confirmation has been received from the applicant that the plant will be in the form of flush grilles over service areas extraction system as shown on the plans and detailed in the Design and Access Statement. It has also been confirmed that the internal lifts proposed would be a 'platform' lift which does not have roof top plant associated with it and manufacturer's details have been provided.

- 8.21 The application initially proposed the use of trees in the landscaping proposal which was not considered reflective of this part of the conservation area and these have now been removed from the application.

- 8.22 The impact of the development of the upper tier on sea views has been raised by many of the objections to the application. It is acknowledged that the original development of The Terraces sought to retain sea view from Marine Parade and this has also been raised by some objectors. However the existing structures above the level of Marine Parade already punctuate the sea view at the Western end of Marine Parade, and one of these the existing circular building on upper tier, is to be removed as part of the scheme. This proposal for two separate structures provides a break in the development which will allow a view through the site. It is further considered that the curved design of the buildings at this gap would allow the view to emerge earlier to passing traffic and pedestrians, and will increase the effectiveness of this view-point.

- 8.23 It is acknowledged that the proposed new structures on the site would have an impact on the openness of the site and this would affect the identified character of the conservation area at this point. However due to the presence of existing structures at this level on the site, and the more developed nature of this end of Marine Parade, terminated by the Sealife Centre entrance, it is considered that the harm that would be caused to the character of the conservation area as experienced from Marine Parade is less than substantial, and that there would be no harm to the conservation area as viewed from

Madeira Drive. Due to its relative scale it is not considered that the new building will have a harmful impact on the setting of the buildings on the north side of Marine Parade, namely numbers 13, 14, 17 and 18 Marine Parade.

- 8.24 In regard to the impact on the setting of the listed Aquarium, as stated earlier the main impact would be from the north rather than the south and the new development is also located some 100m away from the Aquarium, therefore it is considered that the setting of the listed Aquarium would not be affected by the proposals.
- 8.25 Paragraph 134 of the NPPF requires that if the harm is less than substantial the public benefits of the scheme should be considered to outweigh the harm in order for a proposal to be acceptable. The heritage benefits to the public from the development of this underused and deteriorated structure are the repairs to the historic masonry balustrade, the filling of the gap in the railings and improvements to the façade treatment of units 2 – 5 and the existing lower level of units 6-8.
- 8.26 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in exercising its powers under the planning Acts in respect of buildings or other land within a conservation area, the local authority shall pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. 'Preserving' means doing no harm. There is therefore a statutory presumption, and a strong one, against granting permission for any development which would cause harm to a conservation area. This presumption can be outweighed by material considerations powerful enough to do so. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation or enhancement of the conservation area.
- 8.27 It is considered that in this case the harm is less than substantial and is outweighed by the public benefits, and therefore the development as proposed is considered to be acceptable in regard to design, impact on the East Cliff Conservation Area and setting of listed buildings.

**Impact on Amenity:**

- 8.28 Policy QD27 relates to amenity issues and confirms that permission will not be granted for proposals which cause material nuisance and loss of amenity to adjacent, existing or proposed occupiers.
- 8.29 The application has the potential to cause amenity issues due to the proposed uses and also the external restaurant area. However, the closest residential properties are located on the opposite side of Marine Parade which is a busy heavily trafficked main route into the City Centre and therefore it is considered that no significant detrimental impact would occur as a result of the development. Environmental Health has also raised no concerns in respect of residential amenity.

- 8.30 It is noted that some objectors who live in the Van Alen building on the opposite side of Marine Parade considered that the new buildings may magnifying noise levels and increasing road dust particles for residents. Environmental Health has responded stating that the increase in above ground structures will cause some reflection back of any sound along Marine Parade. However, any increase in noise levels at residencies along Marine Parade, will not be high and will not be noticeable by local residents.
- 8.31 The noise assessment submitted with the application shows that noise levels, even overnight are currently very high for this part of Brighton. Environmental Health have commented that currently, it would be necessary for the average resident to keep any bedroom windows facing Marine Parade shut, in order to achieve a good night sleep. With noise levels this high, it is also highly likely that any windows facing Marine Parade will be kept shut during the day and if opened for some purge ventilation, they are probably not open for long. Additionally, they are likely to be double glazed due to the high noise levels. As this is a very noisy area, to reflect all of the noise back, so that residents will notice a change in noise levels, would require a very high, entirely continuous above ground structure. In contrast the proposed above ground structures are low level, have rounded corners and are not continuous. Therefore, much of the sound energy from traffic and other activities, will bend around and over the structures and be dissipated by the rounded corners, even though some, will of course be reflected back. However, not enough sound energy will reflect back from the new structures to make much difference to the already high noise levels. For residents on the street and particularly inside their homes, there will be no perceivable difference at all.
- 8.32 Environmental Health has also commented that there is insufficient information with which to make a judgement about the plant noise and have recommended a condition that a noise assessment of plant is to be undertaken prior to any plant being introduced into the development.
- 8.33 It is considered that the application is acceptable in regard to its impact on amenity.

**Sustainable Transport:**

- 8.34 Policy TR1 confirms that development proposals should provide for the demand for travel they create and maximise the use of public transport, walking and cycling.
- 8.35 Policy TR2 relates to public transport accessibility and parking and confirms that permission will only be granted where the development proposal has been assessed to determine the level of accessibility to public transport.

Pedestrian & Mobility Impaired Access

- 8.36 The application proposes the closing off the pedestrian route in front of the Terraces between Madeira Drive and Marine Parade at lower tier level. The Highway Authority has commented that the land is private land and not adopted highway however in recent years the public have been allowed

access. The closure of this route does reduce pedestrian permeability through the site however as there are still alternative routes retained which do not add inconvenience to pedestrian movements between Madeira Drive and Marine Parade and access is to be enhanced via a lift, therefore the Highway Authority do not consider this a reason for refusal.

8.37 The remaining existing pedestrian routes through the site between Marine Parade and Madeira Drive are retained which is welcomed by the Highway Authority. The applicant is also proposing a lift at lower tier level which is welcomed. While no lift will be provided from Marine Parade down to the lower tier level of the development between units 5 and 6, there are alternative routes from Marine Parade to the development in front of the Harvester pub and down the ramp to the east of the site.

8.38 Furthermore the applicant has stated that they are willing to accept a condition requiring further details of the proposed lifts to provide access between the two different tiers. The Highway Authority have commented that while it is accepted that the proposed lift adjacent to unit 5 is an improvement on the current situation they also saw this development as an opportunity to provide an enhanced provision with a lift from Marine Parade.

#### Cycle Parking

8.39 A staff cycle store is shown on the plans which could accommodate 8-10 cycle parking spaces. In accordance with SPG04 the development should provide a minimum of 13 cycle parking spaces. However the Highway Authority has raised no objection commenting that additional visitor cycle parking could be provided with the agreed S106 contribution within the local vicinity of the site.

#### Disabled Parking

8.40 In accordance with SPG04 one disabled space should be provided. The Highway Authority as commented that unfortunately due to site constraints it is not possible to provide any level of disabled car parking on-site. There are however opportunities, in the form of on-street parking bays for disabled people to park when visiting the site by car on Madeira Drive. Blue Badge holders are also able to park, where it is safe to do so, on double yellow lines for 3 hours. Therefore in this instance the Highway Authority would not consider the lack of on-site disabled car parking to be a reason for refusal.

#### Servicing

8.41 The Transport Statement submitted with the application forecasts that there is likely to be between 5 and 8 deliveries per day. The nature of these delivery vehicles will range from transit vans to 7.5 tonne trucks. There are servicing opportunities in the form of marked loading bays on Madeira Drive. This level of provision is considered adequate to serve the development.

The Transport Statement also states that the deliveries will be planned to avoid more than 1 delivery taking place at the same time. The Highway Authority considers that further details of how this will be achieved and other measures to mitigate the impact of servicing can be secured via a condition requiring a Delivery and Servicing Management Plan to be submitted.

Car Parking

- 8.42 The applicant is not proposing any on-site car parking spaces. The maximum car parking standard for an A3 bar/restaurant use is 1 space per 5m<sup>2</sup> of public area plus 1 space per 4 full time staff. Therefore the proposed level of car parking is in line with these standards. Given the central and sustainable location of the site the lack of any on site car parking is deemed acceptable. The site benefits from good levels of public transport accessibility and should people wish to drive to the site, city centre car parks are in close proximity to the site.

Trip Generation/Highway Impact

- 8.43 The Transport Statement does not include any trip generation forecasts however; the Highway Authority considers that based on the increase in floor area there is likely to be an increase in total person trips above existing permitted levels.

S106 Developer Contribution

- 8.44 The Highway Authority considers that the applicant should enter into a S106 to contribute £50,000 towards public transport infrastructure (accessible bus stop kerbs and Real Time Information signs), footway and cycle parking improvements in the local area. These improvements will be focussed on the following public transport infrastructure:

- 8.45 Bus stop opposite New Steine – Real Time Passenger Information sign and accessible kerb  
Bus stop adjacent New Steine – Real Time Passenger Information sign and accessible kerb  
Bus stop sealife centre (Stop L) – Real Time Passenger Information sign
- 8.46 The S106 must also include the need to enter into a walkways agreement under section 35 of the Highways Act 1980. This is to agree a means of access and management of the existing pedestrian route between Marine Parade and Madeira Drive.

Other Comments

- 8.47 The Highway Authority has also commented that the proposals do not appear to be affecting the retaining wall which supports the adopted highway on Marine Parade. However, the applicant should be advised that if any works are planned on or that affect the retaining wall they must contact the Highway Authority. An informative is included advising the applicants of this.

**Sustainability:**

- 8.48 Local Plan policy SU2 seeks to ensure that development proposals are efficient in the use of energy, water and materials; proposals are required to demonstrate that issues such as the use of materials and methods to minimise overall energy use have been incorporated into siting, layout and design. Policy CP8 of the further modified City Plan (June 2015) also seeks to ensure that new developments are efficient in the use of energy, water and materials.

- 8.49 In accordance with policy CP8 major non-residential development is expected to achieve BREEAM 'excellent' and non-major development is expected to achieve BREEAM 'very good'. The threshold for non-major retail development as defined as 151-999sq/m. In this case the Sustainability Officer has commented that while the development floor area as whole would come within the definition of a major, the new build floor area itself is 953 sm and would fall into the non-major category, therefore in this case it is considered reasonable to require that BREEAM 'very good' is achieved.
- 8.50 The Sustainability Officer has noted that the application itself makes just one reference to sustainability policy in relation to Policy SU2 'efficiency of development in the use of energy, water and materials'. In response to policy SU2, the Design and Access Statement refers to factors such as the large area of glazing allowing natural light into the internal floorspace, and the sliding doors allowing natural ventilation. There is no reference to achievement of BREEAM standards. Therefore In order to ensure the scheme complies with policy, the Sustainability Officer has recommended that a condition be applied for requiring BREEAM 'very good' to be achieved. This condition forms part of the recommendation.

**Ecology/Nature Conservation:**

Ecology

- 8.51 The County Ecologist has commented that the site currently comprises hard standing and buildings/structures and is thus of relatively low ecological value. It is considered unlikely that the site supports any protected species and therefore no specific mitigation is required. If protected species are encountered during demolition/construction, work should stop and advice should be sought from an ecologist on how to proceed.
- 8.52 In regard to the proposed grass roof, the ecologist has stated that given the site's proximity to the Volk's Railway Local Wildlife Site (LWS aka Site of Nature Conservation Importance) which is designated for its coastal vegetated shingle, it is recommended that vegetated shingle species are used for the green roof. A condition requiring further details of the grass roof therefore forms part of the recommendation.

Trees

- 8.53 The Arboriculturist has commented that there are no trees or vegetation on the terraces themselves, however, on the public footpath beneath The Terraces are some fine Cordylines that are thriving considering their exposed coastal location.
- 8.54 The Arboricultural has commented that the trunks of these specimens are protected during the course of the development (wooden framework clad in marine ply or similar) in order to ensure they do not suffer from the demolition or building works in such close proximity. A condition requiring details of tree protection during construction works forms part of the recommendation.

**Other Considerations:**

Flood Risk

- 8.55 NPPF states when considering major development, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015, sustainable drainage systems should be provided unless demonstrated to be inappropriate.
- 8.56 The Flood Risk Officer has commented that as the application is proposing a green roof it is likely that the peak run off rate will decrease for the proposed development. It is recommended that the applicant illustrate this using a simple comparison of the existing and proposed. Further details are therefore required by condition.

Archaeology

- 8.57 Although the proposed development is not currently situated within an Archaeological Notification Area it is located within a Conservation Area and contains a number of designated and non-designated historic buildings.
- 8.58 The County Archaeologist has commented that in the light of the potential for loss of heritage assets on this site resulting from the development, the area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features, disturbed during the proposed works, to be adequately recorded.
- 8.59 It is considered that this in this case a condition requiring a programme of archaeological works is not necessary given that the only demolition is of a 1990's modern structure at the upper tier level of the Terraces and there is another modern structure below.

**9 CONCLUSION**

- 9.1 The proposed development on the site would provide two modern buildings of an acceptable scale, mass and design and the refurbishment of existing restaurant units. The proposed use is considered to be appropriate for the location and consistent with Development Plan policies.
- 9.2 The proposed new structures on the site would have an impact on the current openness and this would affect the identified character of the conservation area at this point. However it is considered that the harm that would be caused to the character of the conservation area as experienced from Marine Parade is less than substantial, and that there would be no harm to the conservation area as viewed from Madeira Drive. Due to its relative scale it is not considered that the new building will have a harmful impact on the setting of the buildings on the north side of Marine Parade. Paragraph 134 of the NPPF requires that if the harm is less than substantial the public benefits of the scheme should be considered to outweigh the harm in order for a proposal to be acceptable. The heritage benefits to the public from the development of this underused and deteriorated structure are the repairs to the historic masonry balustrade, the



filling of the gap in the railings and improvements to the façade treatment of units 2 – 5 and the existing lower level of units 6-8.

- 9.3 There is not considered to be any significant impact on residential amenity. The traffic impact of the development is acceptable. The building would meet BREEAM 'very good'.

## 10 EQUALITIES

The new members club would have flush entrances, disabled toilets and contain internal lifts. Two public lifts are proposed between the upper and lower tier terraces.

## 11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

### 11.1 S106 Heads of Terms

- A sustainable transport contribution of £50,000. This will be allocated towards:  
Public transport infrastructure (accessible bus stop kerbs and Real Time Information signs), footway and cycle parking improvements in the local area. These improvements will be focussed on the following public transport infrastructure:
  - Bus stop opposite New Steine – Real Time Passenger Information sign and accessible kerb
  - Bus stop adjacent New Steine – Real Time Passenger Information sign and accessible kerb
  - Bus stop sealife centre (Stop L) – Real Time Passenger Information sign
- A walkways agreement under section 35 of the Highways Act 1980. This is to agree a means of access and management of the existing pedestrian route between Marine Parade and Madeira Drive.
- A contribution of £32,080 towards the Local Employment Scheme.
- The provision of an Employment and Training Strategy.

### 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	12076/MBA/001	P	09/07/2015

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Existing and proposed block plan	12076/MBA/002	P	09/07/2015
Lower Tier Plan (Units 2 to 5)	12076/MBA/010	P	09/07/2015
Existing Upper Tier Plan (units 6-8)	12076/MBA/011	P	09/07/2015
Existing roof plan (units 6-8)	12076/MBA/012	P	09/07/2015
Existing sections AA and BB (units 6-8)	12076/MBA/013	P	09/07/2015
Existing south elevations (units 6-8)	12076/MBA/014	P	09/07/2015
Existing North and West elevations 1 and 2 (Unit 6-8)	12076/MBA/015	P	09/07/2015
Existing lower tier plan (Units 2 to 5)	12076/SHG/010	P	09/07/2015
Existing sections 1 and south elevation (units 2-5)	12076/SHG/011	P	09/07/2015
Existing south elevations	12076/SHG/012	P	09/07/2015
Proposed lower Tier Plan (Unit 2 to 5)	12076/SHG/100	Rev P1	10/11/15
Proposed Upper Tier Plan (units 6-8)	12076/MBA/101	Rev P1	10/11/15
Proposed roof plan (units 6 to 8)	12076/MBA/102	P	09/07/15
Proposed Lower Tier Plan (Units 2 to 5)	12076/SHG/101	Rev P1	10/11/15
Proposed Lower Tier Plan (Units 6 to 8)	12076/MBA/100	P	09/07/15
Proposed Advertisement on Awning (Units 2 to 5)	12076/SHG/201	Rev P	10/11/15
Proposed South elevation (units 2 to 5)	12076/SHG/201	P	09/07/15
Proposed North and West Elevations 1 and 2 (Unit 6 to 8)	12076/MBA/301	Rev P1	10/11/15
Existing and Proposed East elevations (Units 6 to 8)	12076/MBA/304	Rev P1	10/11/15
Proposed South elevations (Units 6 to 8)	12076/MBA/300	P	09/07/15
Proposed South elevations (Units 2 to 8)	12076/MBA/302	P	09/07/15
Proposed North elevations (Units 2-8)	12076/MBA/303	P	01/09/15
Detailed Elevation and Section (Unit 6 to 8)	12076/MBA/400	Rev P1	10/11/15
Proposed section 1 façade and	12076/SHG/	P	09/07/15

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awning (Units 2 to 5)	103		
Proposed sections AA and BB (Units 6 to 8)	12076/MBA/200	P	09/07/15
Façade and awning proposed	12076/SHG/200	P	09/07/15
Existing and Proposed Railing plan (units 6 to 8)	12076/MBA/401		09/07/15
Existing and Proposed Railing plan at new entrance (units 6 to 8)	12076/MBA/402	P	09/07/15
Existing and Proposed Railing Elevation at Existing Entrance	12076/MBA/403	Rev P1	10/11/15
Existing and Proposed Railings (Unit 6 to 8)	12076/MBA/404	Rev P1	10/11/15
Existing and Proposed Railing Elevation at Existing Entrance(Unit 6 to 8)	12076/MBA/405	P	09/07/15
Existing and Proposed Railing Elevation at new Entrance(Unit 6 to 8)	12076/MBA/405	P	09/07/15

3. The Private members club(units 6-8) hereby permitted shall not be open to customers between the hours of 02.00 and 07.00. **Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

4. The A3 restaurants (units 2-5) shall not be open to customers between the hours of midnight and 07.00.

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

Pre-Commencement Conditions:

5. No development 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.

6. No development of any part of the development hereby permitted shall take place until details of the construction of the 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 policy QD17 of the Brighton & Hove Local Plan.
7. No development or other operations shall commence on site in connection with the development hereby approved (including any demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement for the protection of the adjacent on-street Cordylines trees in Madeira Drive has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. **Reason:** As this matter is fundamental to protecting the Cordylines on-street trees during construction works in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.
8. Prior to the installation of plant into the development, an acoustic report shall be submitted for approval to the Local Planning Authority. This must show that the cumulative 'A' weighted sound pressure level from the plant and machinery (including non-emergency auxiliary plant and generators), that will be incorporated into the development, when operating at its noisiest, shall not at any time exceed a value of 10 dB below the minimum external background noise, at a point 1 metre outside any window of the nearest residential or other noise sensitive property, unless and until a fixed maximum noise level is approved by the City Council. The background level should be expressed in terms of the lowest LA90,15mins during the proposed hours of operation. The plant-specific noise level should be expressed as LAeqT, and shall be representative of the plant operating at its maximum. **Reason:** To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

11.3 Pre-Occupation Conditions:

9. Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the staff 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.

10. Prior to the first occupation of the development hereby approved a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries will take place and the frequency 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 polices S10, QD27 and TR7 of the Brighton & Hove Local Plan.

11. Prior to first occupation of the development hereby permitted, details of how both the proposed lifts as detailed on the Proposed Upper Tier Plan units 6-8 (drawing number 12076/MBA 101 revision P1) will operate 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 access to and from the development is provided for all and to comply with policy TR1, TR8 and TR13 of the Brighton & Hove Local Plan.

12. The reinstatement of the listed railings fronting Marine Parade shall be completed and Units 2 to 5 shall be refurbished and fitted out in accordance with the plans hereby approved and ready for occupation before the private members club is brought into use. **Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.

13. Unless otherwise agreed in writing by the Local Planning Authority, the non-residential development hereby approved shall not be occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM rating of 'Very Good' 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 policy CP8 of the Submission City Plan Part One.

#### 11.4

##### 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:-  
The proposed development on the site would provide two modern buildings of an acceptable scale, mass and design and the refurbishment of existing restaurant units. The proposed use is considered to be appropriate for the location and consistent with Development Plan policies.

The proposed new structures on the site would have an impact on the current openness and this would affect the identified character of the conservation area at this point. However it is considered that the harm that would be caused to the character of the conservation area as experienced from Marine Parade is less than substantial, and that there would be no harm to the conservation area as viewed from Madeira Drive. Due to its relative scale it is not considered that the new building will have a harmful impact on the setting of the buildings on the north side of Marine Parade. Paragraph 134 of the NPPF requires that if the harm is less than substantial the public benefits of the scheme should be considered to outweigh the harm in order for a proposal to be acceptable. The heritage benefits to the public from the development of this underused and deteriorated structure are the repairs to the historic masonry balustrade, the filling of the gap in the railings and improvements to the façade treatment of units 2 – 5 and the existing lower level of units 6-8.

There is not considered to be any significant impact on residential amenity. The traffic impact of the development is acceptable. The building would meet BREEAM 'very good'.

3. The applicant is reminded that a further application for listed building consent is required for the proposed works to the listed railings.
4. The applicant is advised that if any of the proposed works affect the retaining wall on Marine Parade the applicant must contact the Highway Authority, prior to the commencement of any construction works. Please contact the Structures Team in the Council's Highway Engineering & Projects Team for further information (01273 294 570).
5. 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](http://www.breeam.org)). Details about BREEAM can also be found in Supplementary Planning Document SPD08 Sustainable Building Design, which can be accessed on the Brighton & Hove City Council website ([www.brighton-hove.gov.uk](http://www.brighton-hove.gov.uk)).

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BN3 2LS

21<sup>st</sup> October 2015

**Objection to the Planning Application: BH2015/02443 (Aquarium Terraces)**

We are writing to object to the planning application referenced above. Whilst we feel strongly that the site needs redevelopment, we cannot support the current planning application for the following reasons:

- The application proposes to increase the height of the present buildings, which are currently level with Marine Parade. This would be out of character with existing buildings in the presently iconic seafront conservation area.
- Whilst we understand that there is no right to a general view when determining planning applications, we feel that this application will impact on the iconic vista of the City and sea, as described in Policy QD4 Design – Strategic Impact, which states ‘In order to preserve or enhance strategic views, important vistas, the skyline and the setting of landmark buildings, all new development should display a high quality of design. Development that has a detrimental impact on any of these factors and impairs a view, even briefly, due to its appearance, by wholly obscuring it or being out of context with it, will not be permitted’.
  - From the sea, beach and pier, the stunning view of the terraced elevation on Marine Parade will be affected
  - The iconic view of the sea and pier from Marine Parade would be lost, affecting not only residents but the tourist alike.
- The proposal for a private members club will restrict the use of the area and not allow the general public to benefit from the development. This could also have a negative effect the businesses located in Madeira Drive to the east of the development as it would not encourage through footfall.

We therefore urge you to reject this planning application on the basis of the above reasons.

Yours sincerely



Karen Barford  
Councillor, Queen's Park Ward  
Brighton and Hove City Council



Daniel Chapman  
Councillor, Queen's Park Ward  
Brighton and Hove City Council

