



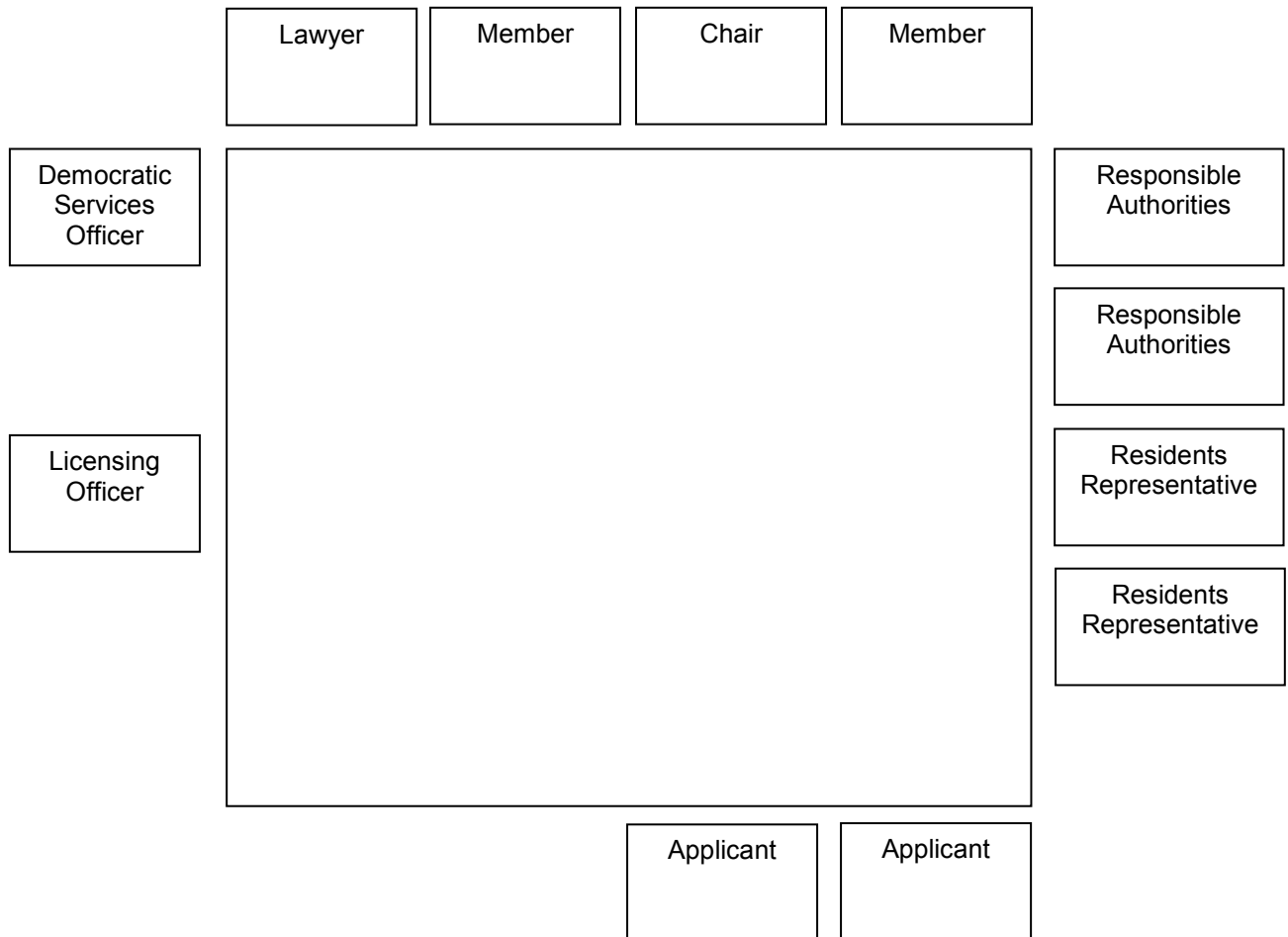
Licensing Panel

(Non Licensing Act 2003 Functions)

Title:	Licensing Panel (Non Licensing Act 2003 Functions)
Date:	25 August 2011
Time:	10.00am
Venue	Committee Room 1, Brighton Town Hall
Members:	Councillors: Hyde, A Kitcat and Sykes
Contact:	Penny Jennings Senior Democratic Services Officer

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Democratic Services: Meeting Layout



AGENDA

Part One

Page

1. TO APPOINT A CHAIR FOR THE MEETING

2. PROCEDURAL BUSINESS

- (a) Declaration of Substitutes - Where Councillors are unable to attend a meeting, a substitute Member from the main Licensing Committee may attend, speak and vote in their place for that meeting.
- (b) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading either that it is confidential or the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the categories of exempt information is available for public inspection at Brighton and Hove Town Halls.

3. BRIGHTON "O" HIGHWAY LICENCE

1 - 56

Contact Officer: David Fisher
Ward Affected: Queen's Park

Tel: 292065

NOTE: *There may be more than one item on this agenda, and as such the item you are interested in may not be heard until later in the day. However, the Chairman reserves the right to alter the running order of the agenda at the start of the meeting without prior notice.*

LICENSING PANEL (NON LICENSING ACT 2003 FUNCTIONS)

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Penny Jennings, (01273 291065, email penny.jennings@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Wednesday, 17 August 2011

LICENSING PANEL (Non-Licensing Act 2003 Functions)

Agenda Item 3

Brighton & Hove City Council

Subject:	Brighton 'O' Highway Licence		
Date of Meeting:	25 August 2011		
Report of:	Head of City Infrastructure		
Contact Officer:	Name:	David Fisher	Tel: 29-2065
	Email:	david.fisher@brighton-hove.gov.uk	
Ward(s) affected:	Queen's Park		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report relates to the application by Paramount Entertainments for a Licence to place an observation wheel on Dalton's Bastion, Madeira Drive which forms part of the Public Highway.
- 1.2 The application may be decided by the panel under part VIIA of the Highways Act 1980.

2. RECOMMENDATIONS:

- 2.1 That the Panel determines the application for a Licence.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Paramount Entertainments were granted planning permission on 19th May 2011 for the "*Erection of a 45 metre high observation wheel including extension of promenade over beach, new beach deck, ancillary plant, queuing areas, ticket booths and merchandise kiosk (for a temporary period of 5 years, except beach deck which is permanent)*" under planning application BH2011/00764.
- 3.2 Part of the structure will be placed on the Public Highway on Madeira Drive and therefore requires permission from the City Council as Highway Authority. (Appendix 1: Area plan).
- 3.3 Section 130 of the Highways Act 1980 imposes a duty on highway authorities to assert and protect the rights of the public to the use and enjoyment of the highway. This duty will include a duty to prevent, as far as possible, the obstruction of highways.

However, Part VIIA of the Highways Act (sections 115A – 115K) allows highway authorities carry out works or place objects on the highway, or permit others to do so, for purposes of enhancing the amenity of the highway and its immediate surroundings, or of providing a service for the benefit of the public or a section of the public.

Permission is sought under Section 115E Highways Act 1980 (as amended) to obstruct part of the public highway.

In deciding whether to grant the permission regard should be had to the relevant highway policy (HP 8-4) together with the further policy adopted by the Licensing Committee on 24 April 2009 (Appendix 2: Highway policies).

- 3.4 Any licence granted by the panel will be bound by a set of conditions (Appendix 3: Draft Conditions). It will be a condition of the Licence that the terms of the lease of the seafront land are complied with. Copies of the lease will be made available to the Panel on the day of the hearing
- 3.5 The council received 22 objections to the placing of the wheel (Appendix 4: Objections). Objections are summarised below, with Officer's comments on those objections.

The objections relate to the obstruction of the public highway along the east-west route of Madeira Drive and to concerns regarding access to the beach.

Many of the objections refer to the status of Daltons Bastion and Madeira Drive as being part of a public right of way and ask the council to carry out its duty as highway authority under section 130 of the Highways Act 1980.

Comment:

The Council acknowledges that the area to which the application relates is part of the public highway.

Whilst the council does have a duty to protect the public highway, as Highway Authority it may grant consent to place items upon the highway provided that the correct statutory procedures are followed.

The area taken by the wheel (Dalton's Bastion) does not block either the steps or ramp to the beach, nor does it block the footpath and cycle lane. It will be a condition of any licence granted that full access to the beach must be maintained at all times and that the main east-west route is clear. There will be at least 9m of clear pavement available.

The proposal is consistent with the Council's adopted policies referred to above.

- 3.6 One objection asks for the queue area to be located both sides of the wheel.

Comment

The queue area was agreed as part of the planning permission to catch people heading towards the wheel after parking their cars on Madeira Drive. This will give visitors the opportunity to buy their tickets at the ticket booth next to The Volks Railway station, rather than heading straight to the base of the wheel and causing potential congestion.

- 3.7 Any licence granted will be temporary and will mirror the length of the lease granted for the council owned properties below Dalton's Bastion.

- 3.8 Many of the objections make representations in relation to the view, or to possible alternative locations for the Wheel, or to the economic impact of the proposals.

Comment:

These issues were fully considered in deciding whether to give planning permission for this development. The decision as to whether to grant the Licence must be taken on the basis of highway considerations and whether the proposals would amount to an unreasonable obstruction of the highway.

4. CONSULTATION

- 4.1 A 28 day consultation period has been carried out as required by the Highways Act 1980. Notices were attached to the surrounding area to invite representations on the proposal. 22 representations were received.
- 4.2 A number of objections refer to the consent of “frontagers with an interest” to the placement of items on the highway being required under section 115E of the Act.

The relevant legislation on this point is section 115A of the Highways Act 1980. Subsection (7) of section 115A states that

In this Part of this Act “frontagers” means the owners and occupiers of any premises adjoining the part of a highway on, in or over which an object or structure would be placed or on which facilities for recreation or refreshment or both have been, are being or would be provided; but frontagers have an interest under this Part of this Act only in proposals to place objects or structures or provide or operate facilities wholly or partly between their premises and the centre of the highway.

If this application is granted, the wheel will be placed on the South side of Madeira Drive. It will not be between the centre of the highway and any of the premises fronting Madeira Drive, and therefore there are no “frontagers with an interest” whose consent is required under the Act.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 Any costs associated with determining the application for licence have been met from within existing revenue budgets.

Finance Officer Consulted: Karen Brookshaw

Date: 16/08/11

Legal Implications:

- 5.2 These are mainly set out in the body of the report. The Panel's decision must take into account all relevant considerations including representations made.

Lawyer Consulted: Carl Hearsom

Date: 15/08/11

Equalities Implications:

- 5.3 The council seeks to ensure that public highways are used in a manner that maximises the benefit to the most number of users. However in the busiest areas of the city competing interests can come into conflict. It is the council's responsibility to manage these interests and to ensure equality of access particularly for those with mobility issues.

Sustainability Implications:

- 5.4 There are no sustainability issues identified.

Crime & Disorder Implications:

- 5.5 There are no direct crime and disorder implications arising from this report

Risk and Opportunity Management Implications:

- 5.6 There are no risk and opportunity management implications identified.

Corporate / Citywide Implications:

- 5.7 There are no corporate/citywide implications identified.

SUPPORTING DOCUMENTATION

Appendices:

1. Plan
2. Highway Licensing Policy
3. Licensing Committee Minutes 24th April 2009
4. Draft licence conditions
5. Representations

Documents In Members' Rooms

None.

Background Documents

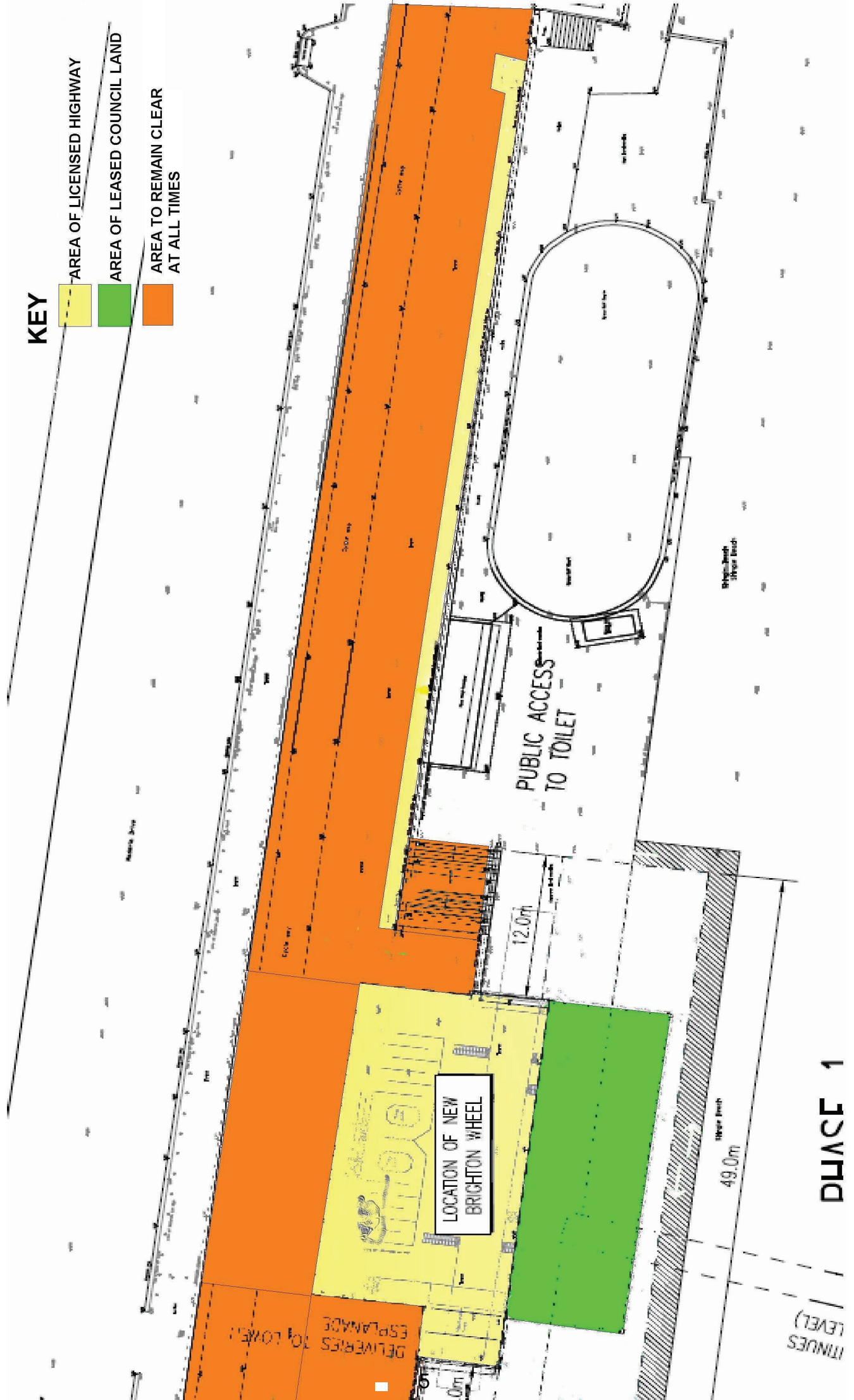
None.

KEY

AREA OF LICENSED HIGHWAY

AREA OF LEASED COUNCIL LAND

AREA TO REMAIN CLEAR
AT ALL TIMES



CONTROL OF PLACEMENTS ON THE HIGHWAY

HP8/4

Objective

To control obstructions upon the highway to ensure safe use and access, while permitting essential works, supporting business and encouraging a vibrant street scene.

1. The Director of Environment shall issue, where appropriate, statutory licences permitting the following obstructions:-

- (a) Temporary obstructions associated with building, refurbishment and development works, as permitted by the Highways Act 1980 (e.g. deposit of building materials, parking of builders' skips, erection of scaffolding/hoardings, etc.). A licence fee will reflect the cost of processing by the Council. Appropriate enforcement action shall be undertaken against unlicensed objects and breaches of licence conditions.
- (b) Temporary Highway Obstructions – e.g. private drain/sewer connections, etc.
- (c) Permanent Highway Furniture – e.g. roadside seats, bus shelters, etc.
- (d) Amenities on certain highways and provided for under Section 115A to K of the Highways Act as amended under the Local Government (Miscellaneous Provisions) Act 1982.

2. The Director of Environment shall, where appropriate, issue licences under the Highways Act 1980 as amended by the Local Government (Miscellaneous) Act 1982 for reasonable use and controlled obstruction of the highway by businesses and organisations. Permitted items shall include:-

- a) Shop displays (including stands and racks)
- b) Tables and chairs
- c) Event-related items (stalls, stages, safety barriers etc.)
- d) Free-standing items for advertising/information (map panels, menu boards, "A" Boards, dispensers etc.)
- e) Other items permitted by said legislation

A licence fee will reflect the cost of processing by the Council.

The Authority will set reasonable licence conditions, including site-specific conditions, for all licences issued. In general such conditions will relate to public access and safety.

Where deemed necessary, for example, in pedestrianised zones, conservation areas and districts within the main tourist areas of the City, the Council may, in addition to the above, impose reasonable conditions regarding the appearance of objects and structures authorised by licence. Such conditions would be intended to preserve or enhance the amenity of the highway and its immediate surroundings.

Appropriate enforcement action shall be undertaken against unlicensed objects and breaches of licence conditions.

3. Powers under the Highways Act 1980 shall be applied to control overhanging trees/hedges, projecting roots, etc. considered to obstruct the highway.

Policy (cont)

4. No advertising signs or banners of any nature which exceed four square metres in area shall be permitted upon any scaffolding placed upon the highway.
5. Unauthorised banners may be subject to removal and those responsible pursued under relevant legislation.
6. All licensees will be required to indemnify the Council against all claims arising from the grant of any permission relating to the highway.
7. Powers under the Highways Act 1980 shall be applied to control significant, non-vehicular obstructions of and encroachments on the highway not covered by the above.

Supporting Information

The Council will carry out its duty to protect and uphold the rights of use and enjoyment of all legitimate users of the public highway, without discrimination, as established by the Highways Act 1980 and other relevant legislation.

References

Highways Act 1980, Local Government (Miscellaneous Provisions) Act 1982, Disability Discrimination Act 1990, "Public Spaces, Public Life" document

Date of Approval:

Review By: Within 5 Years

BRIGHTON & HOVE CITY COUNCIL
LICENSING COMMITTEE (NON LICENSING ACT 2003 FUNCTIONS)

3.00PM 24 APRIL 2009

COUNCIL CHAMBER, BRIGHTON TOWN HALL

MINUTES

Present: Councillors C Theobald (Chairman), Lepper (Deputy Chairman), Allen, Mrs Cobb, Fryer, Hamilton, Harmer-Strange, Hyde, Janio, Kitcat, Older, Pidgeon, Simson, Watkins and West

Apologies: Councillors Marsh and Young

PART ONE

27. PROCEDURAL BUSINESS

27A Declaration of Substitutes

27.1 Councillor Janio declared he was substituting for Councillor Young.

27.2 Councillor Allen declared he was substituting for Councillor Marsh.

27B Declarations of Interest

27.3 Councillor Watkins declared a personal and prejudicial interest in item 33 Improvements to Access on Public Highways as he would be sitting on an Overview & Scrutiny Panel that would be scrutinising this issue in the next few months.

27.4 Councillor Pidgeon declared a personal and prejudicial interest in item 33 Improvements to Access on Public Highways as he would be sitting on an Overview & Scrutiny Panel that would be scrutinising this issue in the next few months.

27C Exclusion of the Press and Public

27.5 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Committee (Non Licensing Act 2003 Functions) considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100(1) of the Act).

27.6 **RESOLVED** – that the press and public be not excluded.

28. MINUTES OF THE PREVIOUS MEETING

- 28.1 **RESOLVED** – That the minutes of the previous meeting held on 5 February 2009 be approved and signed by the Chairman as a correct record.

29. CHAIRMAN'S COMMUNICATIONS

- 29.1 The Chairman updated the Committee that since the last Licensing Committee (Non Licensing Act 2003) Officers in the Hackney Carriage Office have suspended 2 drivers and revoked the licence of 1 driver. In addition to this 8 drivers were reminded of their licence conditions.

30. CALLOVER

- 30.1 **RESOLVED** – That all items on the agenda be reserved for discussion.

31. PUBLIC QUESTIONS

- 31.1 Mr Bennett asked the following question at the Committee meeting:

Churchill Square, Brighton is owned by Standard Life. No A Boards or other obstructions are permitted either in the covered area or the northern open area. CS is not a thoroughfare but a space given over completely to trade. This is flourishing. In great contrast, the City's pavements, which are thoroughfares owned and maintained from the public purse, are obstructed by traders private clutter. Why does the Council tolerate this invasion?

- 31.2 The Chairman responded with the following statement:

Thank you very much for your question Mr Bennett. As you say, Churchill Square is privately owned and so not subject to Highway's legislation. Churchill Square does occasionally permit a market on its forecourt and for instance, this week officers noted a Farmers Market operating there. I hope that my oral answer is sufficient. However, this matter is also dealt with in the published report later in the agenda under item 33.

- 31.3 Mr Bennett asked the following supplementary question:

The Committee are able to take this opportunity to get rid of A-Boards. There are many things on the public highway that are not licensed. Do Councillors realise the public good that will come of clearing the clutter here?

- 31.4 The Chairman responded with the following answer:

All options are open to Members of the Committee and are contained within the report. All views will be taken into account.

- 31.5 Mr Chavasse asked the following question at the Committee meeting:

The recommended 1.3m norm envisages retention of 1m, with escape provisions for immobile persons trapped by obstructions, but not the many dangers to the public. Best practice is the DfT guidance 2m norm. In our Western Road's Brunswick section 2m advantageously places all A Boards in private forecourts but, as officers know, neither 1.3 nor 1m is safe at bottleneck sites, including combinations of street furniture, active outdoor areas, trade displays and corners. Will the Committee please add a 2m norm and commission consultation to eliminate complicity in the licensing of unsafe, obstructing bottlenecks contemplated by lesser distances?

31.6 The Chairman responded with the following statement:

The deputation you made concerning obstructions of the pavement is included in the papers at item 32. A discussion of public pavement widths is detailed in the officers report item 33, which aims to balance the interests and improve access for all users of the highway, and I recommend that the matters you raise in both your question and deputation are dealt with in the members discussion in that report. I hope that my answer is sufficient.

31.7 Mr Chavasse asked the following supplementary question:

Will the Committee consider a 1m lower limit, particularly in regard to wheelie-bins?

31.8 The Chairman responded with the following answer:

This issue will be discussed in full under agenda item 33.

32. DEPUTATIONS

32.1 The Chairman reported that one deputation had been referred from Full Council on 19 March 2009. It concerned regulations covering 'A' Boards, display of goods and outdoor facilities on the highway.

32.2 The Chairman referred to the response she had provided at Full Council.

32.3 **RESOLVED** – That the deputation be noted.

33. IMPROVEMENTS TO ACCESS ON PUBLIC HIGHWAYS PAVEMENTS

33.1 The Committee received a report from the Director of Environment regarding Improvements to Access on Public Highway Pavements (Highway Licensing) (for a copy see minute book).

33.2 The Senior Highways Enforcement Officer, Mr Denyer, addressed the Committee and stated that the report set out certain measures to improve access to highways in the city. There were already regulations in place on this matter, and the report hoped to standardise the issue. He noted that applicants for A-Boards in the city would still have the right to appeal decisions made by Officers, but a greater clarity of regulation would help to streamline this process.

The Senior Highways Enforcement Officer noted that a number of representations had been received regarding the report, with many of direct relevance. A minimum two metre turning area had been suggested, and this was incorporated into the recommendations to Committee. Other suggestions included a limit to the number of boards placed outside each premises, and exceptions for conservation areas.

Many representations had asked for a minimum width of two meters for all highways in Brighton & Hove, but the Senior Highways Enforcement Officer stated that some of these propositions would have significant economic implications for traders, particularly in the present economic climate, which might be deemed to conflict with the council's policy to support local businesses. Other concerns in the representations related to, or would have an impact on, issues which fell outside the direct remit of the Licensing Committee. The Senior Highways Enforcement Officer added that Officers believed that these other propositions deserved to be fully examined in another more suitable forum, as part of a full and holistic strategic review of all highway placements, and not simply applied to those traders' items licensed under the Highways Act. He stated that the Committee might wish to recommend that this takes place.

- 33.3 Councillor Lepper asked how many traders had been subject to enforcement and the removal of their A-Boards, what the enforcement procedure and penalties were and whether traders in the city were aware of the need for a licence to display A-Boards. The Senior Highways Enforcement Officer stated that between 7 and 10 boards were currently in custody and enforcement was taken where possible. He stated that there was a need to be sure that the boards were causing an obstruction before action could be taken.

The process for enforcement was in three stages: advice to the traders regarding the obstruction; a warning; and finally action, which could result in prosecution if necessary. The Senior Highways Enforcement Officer also stated that a letter would be sent out over the next few weeks to traders in the primary licensing zone, to remind them of their obligations regarding A-boards. He stated that the department was changing the way they worked, and he hoped this would result in a more focussed approach from now on.

- 33.4 Councillor Simson asked what was included in the primary licensing zone and the Senior Highways Enforcement Officer stated that the area was encompassed by George Street, Hove, Brunswick and Adelaide to St James Street, West Street to Trafalgar Street and Rottingdean.
- 33.5 Councillor Simson asked why a city wide policy was not being suggested, and how many sites would not meet the 1.5 meter minimum standard suggested in the report. The Senior Highways Enforcement Officer stated that the original intent was to have a city-wide scheme but due to a lack of resources for policing and enforcing this issue, it was decided to focus the policy on those areas where the most complaints were received. The Senior Highways Enforcement Officer did not have exact figures regarding those roads that would be eliminated by a policy with 1.5 meters minimum standard, but noted that the main effects would be seen in the North Laine area. He stated that he could supply this information to the Committee at a later date.
- 33.6 Councillor Mrs Theobald asked what the effect of a 2 meter minimum width would be. The Senior Highways Enforcement Officer stated that this would effectively eliminate all

traders' placements in the North Laine and Lanes area and including other areas as well.

- 33.7 Councillor Kitcat asked what minimum standard was recommended in the report, whether the idea of having different widths for different areas had been looked into and why the full range of minimums from the DfT report had not been incorporated into the Officer's report.

The Senior Highways Enforcement Officer stated that a minimum turning width of 1.6 meters had been originally recommended, but the Federation of Disabled People had suggested a minimum of 2 meters in their representation, and this had been agreed to. He confirmed that different widths for different areas had been considered as an option, but felt this policy would be difficult to justify to traders on the most heavily restricted streets and would make it very difficult for the Council and other agencies to enforce effectively. He added that a range of DfT minimums had been taken from a different report to the one Councillor Kitcat referred to, which was why some were not included, but noted that the highest recommendations of 3.5 – 4.5 meters as a standard minimum width would in fact be wider than many highway footways in the city.

- 33.8 Councillor Fryer asked for an explanation of the option to restrict the number of A-boards per premises, and asked where the western boundary of the policy lay. The Senior Highways Enforcement Officer stated that Officers had looked at the planning limits on private land, which allowed a certain amount advertising space per premises (4.6 sq. metres). From this Officers had concluded that for the public highway, two boards would be an appropriate match for what was allowed on private land. If a limit of one licensed board per premises policy were applied, then this would only affect boards on the highway. A shop could therefore lawfully have one board on their own land and one on the highway. He added that the zone extended west to Brunswick and Adelaide, and the Committee could be provided with a map of the area if they wished.

- 33.9 Councillor Cobb asked whether a minimum width would apply to tables and chairs on the highway or just A-boards, and asked what was to stop traders from hanging signs over the highway if they could not place A-boards on it. The Senior Highways Enforcement Officer confirmed that a city-wide minimum width would apply to every type of obstruction on the highway, including tables and chairs and shop displays, and could not be used simply to prevent the use of A-boards. In his opinion a city-wide ban on A-boards alone might lie outside the remit of the Licensing Committee and would best be approached by means of a Bylaw. Further legal advice would be needed as to how this could be considered and decided upon by the Council. The Senior Highways Enforcement Officer stated that once signs are off the highway they are no longer the responsibility of the Highways Department and that he would support this kind of measure, but he assumed that planning permission would be needed to hang additional signage.

- 33.10 Councillor Cobb noted that many premises conducted the majority of their business on the highway, with tables and chairs placed outside. She asked how many would be affected by the policy. The Senior Highways Enforcement Officer stated that a 1.3 meter limit would affect some premises, but for the majority, a repositioning of their tables and chairs would suffice in meeting this limit. A 1.5 meter minimum would start affecting more traders detrimentally and a 2 meter minimum would exclude nearly all North Laine

traders from using the highway. The Senior Highways Enforcement Officer confirmed that a more detailed survey could be conducted if necessary.

- 33.11 Councillor Simson asked if there was a possibility of limiting the size of the A-boards and whether the Council had considered charging for these licenses based on size. The Senior Highways Enforcement Officer confirmed that a size limit was already part of the licence conditions. The option to charge for licences based on A-board size could be looked into and introduced if approved by the Council.
- 33.12 Councillor Older stated that many newsagents had several signs outside their premises to advertise different papers and news stories. She asked if these traders would not be limited to only one sign. The Senior Highways Enforcement Officer confirmed this would be the case, but noted that the policy did not affect boards on private land
- 33.13 Councillor Janio asked if any case studies of other Councils who had introduced a 1.3 meter minimum width had been looked into, and asked how soon the decision could be reviewed after the Committee meeting. The Senior Highways Enforcement Officer stated that East Sussex County Council had introduced a form of licensing for Brighton old town when they were responsible for highways in Brighton. In introducing the revised system under Brighton & Hove other Council's systems were looked at, but Brighton & Hove were actually one of the first authorities to set up a comprehensive highway licensing system of this nature.

The Senior Highways Enforcement Officer stated that since then, other authorities' methods were constantly looked at for new ideas and improvements, but it was largely the case that other councils looked to Brighton & Hove to see how its own policies and systems work, rather than the other way round. He gave the example of West Sussex County Council, who were currently experimenting with a system based upon the Brighton & Hove model.

The Senior Highways Enforcement Officer noted that the new policy guidelines struck a fine balance between traders' economic concerns and safety concerns, and felt that a 1.3 meter limit was the right balance. The Head of Network Management added that a 1.2 meter limit was outlined in DfT guidelines, and the department had used this as a basis and added 0.1 meters.

- 33.14 Councillor Lepper was pleased to note that Overview & Scrutiny were looking into this issue and felt it would make more sense to wait until the results of this review had been completed. She felt that 1.3 meters was a very narrow strip for people with disabilities to access and this was a wide-spread problem within the city, but agreed that a policy was needed to ensure that the regulations could be enforced properly. She proposed a deferral of the decision pending the outcome of the scrutiny review.
- 33.15 Councillor Hamilton disagreed with the proposal and stated that the correct forum for making the decision was the Licensing Committee. He felt that the concerns of the street traders also needed to be taken into account when making the decision.
- 33.16 Councillor Simson agreed she had thought about deferring the decision, but believed this process would take too long and the current policy needed to be improved as soon

as possible. She suggested an amendment to the decision to allow only one A-board per premises.

- 33.17 Councillor Kitcat stated that applying one limit to the entire city was not appropriate in this circumstance and noted that traders in the old town had no access to passing trade, and relied on A-boards to advertise their business to customers passing on adjacent streets. The policy and amendment as proposed would restrict these traders to advertising at only one end of their street. Councillor Kitcat felt that these local businesses added to the general ambience of Brighton, but recognised the concerns over access to highways for people with disabilities. He agreed that the best place to examine these issues was a full scrutiny review and felt the decision should not be rushed into. He stated that Officers already had delegated powers to operate the current scheme and so the situation would not be made worse by deferring the decision pending a scrutiny review.
- 33.18 The Senior Highways Enforcement Officer stated that although Officers did have delegated powers to make decisions on this issue, applicants still had a right of appeal, and there were currently no guidelines for an appeal panel to refer to.
- 33.19 Councillor Kitcat asked if the appeal panel would be able to ignore guidelines set by the Licensing Committee if the scrutiny review came to a different recommendation. The Senior Highways Enforcement Officer stated that each appeal case was taken on its merits, and the intentions of Members would of course be taken into account when assessing whether an A-board was appropriate or not.
- 33.20 Councillor Janio stated that the decision needed to be made at the Licensing Committee, and this would enable the relevant Overview & Scrutiny Committee to assess the effects of the policy.
- 33.21 Councillor Fryer asked what percentage of business owned private land in the central licensing zone. The Senior Highways Enforcement Officer stated that approximately 53% on Western Road, Hove and 40% on St James' Street. There was a perception that a large amount of signage was situated on the highway in other parts of town, but these were in fact on private land.
- 33.22 Councillor Fryer stated she would support deferral of the decision and felt that an Overview & Scrutiny Panel would be able to consider the issue from a blank starting point.
- 33.23 Councillor Hamilton asked if Members had any input in the appeals process, and whether they could write a representation in support of an applicant. The Senior Highways Enforcement Officer stated that it was possible for Ward Councillors to personally represent the applicant during the appeal process, but noted that under the Highways Act, unlike under other licensing legislation, it was normally only applicants, relevant frontagers and those materially affected by a placement who could make direct representations to Committee. An individual Councillor might not necessarily be personally and directly affected by a licence. In such cases the Member might not have a right to make a representation regarding a licence application to Committee. A Councillor would have a right to make a representation on their own behalf if personally materially affected by the licence, or if a relevant frontager. He noted however that

Officer Reports to Committee would include mention of all relevant representations received.

- 33.24 Councillor Hamilton asked if a member of the Licensing Committee could make a representation at an appeals hearing and the Solicitor to the Committee stated that this might be possible, but would be taken on a case by case basis.
- 33.25 Councillor West felt this was a serious issue and affected people's ability to navigate the highway effectively. He did not think the Committee should be forced into a decision for the sake of good governance and that it should be deferred until it had been scrutinised properly.
- 33.26 The Head of Environmental Health and Licensing stated that if the Committee took the decision to defer, they would be deferring to another Licensing Committee meeting. He noted that the Council was not in a strong position given there was no approved policy, and felt the authority could be challenged successfully. He also noted that applicants were unsure of the regulations regarding highways as there was no guidance currently published for this. He stated that it was the function of the Licensing Committee to set policy in this area, but noted that any decisions could be reviewed by other forums should the need arise.
- 33.27 Councillor Kitcat asked if there was a previous policy on this issue and the Head of Network Management stated that there was an old East Sussex County Council policy in existence, but that it was not specific enough.
- 33.28 Councillor Kitcat asked if Officers considered the Council's position to be weak because of the lack of measurements in the current policy or because no guidance had been produced by the Council. The Head of Environmental Health and Licensing stated that the Council needed to show consistency and reasonableness in decision making, and therefore an up-to-date policy was needed.
- 33.29 A vote was taken, but failed, on the motion to defer the decision, as proposed by Councillor Lepper and seconded by Councillor Kitcat.
- 33.30 A second vote was taken, and agreed, on the motion to amend the recommendation to include a limit on A-boards to one per premises, as proposed by Councillor Simson and seconded by Councillor Fryer.
- 33.31 A third vote was taken, and agreed, on an amendment to the recommendation to allow special consideration for premises situated in twittens and alleyways regarding this policy, as proposed by Councillor Kitcat and seconded by Councillor West.
- 33.32 **RESOLVED** – That the Committee agrees the following policy in relation to traders' items placed upon the public highway:
1. That no licensed traders' items should be permitted to reduce the width of a footway to less than 1.3 meters except where:
 - a) A formal pedestrian zone has been established in a road by Traffic Order and the whole of the carriageway is kept clear for pedestrian use;

- b) A road is closed to vehicular traffic by virtue of a temporary Traffic Order and the whole of the carriageway is kept clear for pedestrian use;
 - c) A road is considered to be shared space and the whole carriageway is generally available for pedestrian use.
2. That where a footway is reduced to a width of 1.3 meters (or less) by objects (whether these objects be traders' items of fixed street furniture such as lamp posts, bins etc.) 'turning areas' for manual wheelchair users and guide dogs must be established at regular intervals. These turning areas shall not be less than two meters in length and shall be the full width of the footway. Such areas must be maintained at intervals of no more than six meters along the length of any restricted footway.
3. That, except in the case of items within large, waiter-serviced sitting-out areas, no traders' item shall be permitted to be placed more than 5 meters from the licensed premises. All objects must be within sight from a window or door of said premises or in clear visual range of CCTV camera(s) monitored from within the licensed premises. This provision will mainly affect advertising boards.
4. That where an application is refused by Officers, an applicant may appeal to the Licensing Sub-Committee (the Licensing Panel).
5. That applications for A-Boards shall be restricted to 1 per premises (excluding those situated on private land), but that:
- a) Special consideration will be given to those premises situated in twittens and alleyways regarding this policy.

34. STREET TRADING - DESIGNATION OF STREETS

- 34.1 The Committee considered a report from the Assistant Director of Public Safety regarding Street Trading – Designation of Streets (for a copy see minute book).
- 34.2 The Licensing Manager addressed the Committee and stated that the report set out proposals for the designation of streets and that Officers were requesting that further consultation take place with traders regarding this issue.
- 34.3 Councillor Hamilton asked for clarification on which streets in Portslade were included and the Head of Environmental Health and Licensing stated that the area was split into north and south. The streets in the south were generally prohibited streets, except for those listed at appendix 1 of the report. The streets in the north were generally allowed, except for those streets listed in appendix 1 of the report.
- 34.4 Councillor Kitcat asked the Officers to present this information in a clearer way when consulting the public on this issue and the Head of Environmental Health and Licensing agreed to this.

34.5 Councillor Lepper noted that there was confusion about what a street trader was and how they differed to peddlers and those offering services. She asked for this to be made clear as part of the consultation. The Head of Environmental Health and Licensing agreed that this was a difficult area to explain because of the high number of exemptions that applied to street traders. He noted that a strict regime was unnecessary, but stated that a private Bill was going to parliament regarding the removal of peddler exemptions, and would include allowing Councils the power to seize goods. The Committee could offer their support to this Bill, if they so wished. The Head of Environmental Health and Licensing added that a report had been submitted to Committee on 27 November 2008 and had described the numerous exemptions to this policy.

34.6 **RESOLVED** – That the Committee agrees the following in relation to Street Trading – Designation of Streets:

1. That the Committee authorises Officers to publish Notice of Intention to designate streets as set out in appendix 1.
2. That the Committee authorises Officers to serve a copy of Notice on the Chief Officer of Police and the Highways Authority.
3. That the Committee authorises Officers to consult further with existing street traders.

35. STREET TRADING POLICY

35.1 The Committee considered a report of the Assistant Director of Public Safety regarding the Street Trading Policy (for a copy see minute book).

35.2 The Licensing Manager summarised the report and stated that the added conditions would make the existing policy more transparent and enforceable. Relevant interested parties were consulted on 27 November 2008 and representations had been received from Dorothy Stringer school. She stated that the curtilage of schools had been exempt from the policy in June 2004, and that Officers were requesting permission from the Committee to fully consult on the proposals.

35.3 Councillor Kitcat stated that he was concerned about approving permission for consultation as this would indicate to residents that the consultation responses could influence future policy. He did not feel that consultation responses were always considered properly, and did not want to raise the expectations of residents and interested parties. He asked what influence the proposed consultation would have on policy.

35.4 The Head of Environmental Health and Licensing recognised that a key lesson learnt from previous consultation exercises was that the responses sometimes raised radical options, which had not been considered as proposals under the initial consultation. If the authority implemented these radical options they would be exposed to allegations of unfairness, as many interested parties would not have had the opportunity to comment on the amendments. Therefore a second consultation exercise needed to be conducted

on amended proposals, and limits set, which would give everyone the opportunity to comment fairly.

The Head of Environmental Health and Licensing went on to say that creating a healthy eating zone around schools, as proposed by the Education Department in the initial consultation, would be difficult as street trading policy was not intended as a tool to encourage healthy eating decisions. He stated that the Council ran a Healthy Awards Scheme that the Licensing Team were promoting to address this problem.

35.5 Councillor West asked for the recommendation contained within 2.2 of the report to be worded more accurately, and Councillor Simson proposed an amendment to the recommendation.

35.6 **RESOLVED** – That the Committee agrees the following in relation to the Street Trading Policy:

1. That the Committee supports the street trading policy as set out in appendix 1 of the report (for copy see minute book).
2. That Members agree to consult on a standard street trading condition that would be imposed to exclude traders 25 meters from school curtilages.
3. That the Committee authorises Officers to consult further with existing street traders and Officers engage with street traders concerning the Council's Healthy Choice Award Scheme.

36. ITEMS TO GO FORWARD TO COUNCIL

36.1 There were none.

The meeting concluded at 4.55pm

Signed

Chairman

Dated this

day of

BRIGHTON & HOVE CITY COUNCIL
Consent to the placement of an Observation Wheel upon the public highway

HIGHWAYS ACT 1980 PART VIIA

PERMISSION to place an observation wheel upon the public highway at the site listed below.

RECITAL

- A) By an agreement for Lease dated 18th February 2011 ("the Agreement") **BRIGHTON & HOVE CITY COUNCIL** ("the Council") have agreed to grant a Lease to **PARAMOUNT ENTERTAINMENTS LIMITED** ("the Licensee") of land known as Dalton's Bastion, Kings Road, Brighton part of which comprises a public highway.
- B) In order to give effect to the provision of the Agreement an application has been made by 'the Licensee to the Council for their consent under the provisions of the Highways Act 1980 ("the 1980 Act") to the erection of an observation wheel and associated facilities(in accordance with the planning permission reference BH2011/0764 dated 19th May 2011) upon the public highway at Madeira Drive and Dalton's Bastion as shown on the attached plan (hereinafter called 'the Placement').
-

PERMISSION

The Council acting as the Highway Authority in exercise of their powers under Part VIIA of the Highways Act 1980 HEREBY CONSENT to the said application upon the following conditions:-

1. Legal Issues

- 1.1 This Licence is personal to the Licensee and may not be transferred.
- 1.2 Sub-letting of the highway is forbidden.
- 1.3 The Licensee shall indemnify and keep indemnified the Council against all actions claims and liabilities which may arise by reason of the Placement or of this consent. The Licensee shall provide public liability cover to an adequate level and this shall not be less than £10m. Evidence for this cover must be produced to the Council's officers on demand.
- 1.4 If deemed necessary the Council may (acting reasonably) alter the conditions of this Licence at any time for any legally defensible reason. The Licensee shall not be entitled to any compensation for loss of trade or business as a result.
- 1.5 The consent hereby granted shall remain in force until the expiry or earlier termination for any reason of the Lease granted pursuant to the Agreement after which date the Placement shall be removed by the Licensee at their expense.
- 1.6 This Licence relates only to the placing of objects upon the highway. It is the responsibility of the Licensee to obtain all other consents required in connection with the proposed extension of their business onto the highway.

- 1.7 It is a condition of this Licence that all consents and permissions and all health & safety, environmental health or other legal provisions or measures required by Brighton & Hove City Council or other legal authorities are obtained and adhered to. Proven failure to comply with legislation and/or the reasonable and legitimate instructions of an authorised officer of the Council, Her Majesty's Health & Safety Executive or the Police may be considered a breach of the conditions governing the licence.
- 1.8 Without prejudice to any other rights the Council may have (and without prejudice to any claim that the Council may have against the Licensee in respect of any prior breach of a condition of the Licence), this Licence may be revoked upon the Licensee (acting by its officers or otherwise) passing a resolution for winding-up, or a court of competent jurisdiction making an order to that effect; or entering into liquidation, a voluntary arrangement or administration or having a receiver appointed and the Licensee (nor any administrator or receiver thereof) shall not be entitled to any compensation for loss of trade or business as a result.
- 1.9 Any material breach by the Licensee of the covenants contained in the Lease granted pursuant to the Agreement and made between the Council in its capacity as landowner and the Licensee may be deemed to be a breach of this Licence and enforcement action may be taken by the Council under clause 4 hereof.
- 1.10 For the avoidance of doubt no provision of this Licence shall prevent the Council taking any lawful action whatsoever that it deems to be appropriate in the interests of highway safety and the Licensee shall not be entitled to any compensation for loss of trade or business incurred as a result of such action.

2. Licensed Area:

- 2.1 In this Licence "the Licensed Area" means the area shaded yellow on the attached plan, a copy of which is to be kept available for inspection at the Licensed Area by the Licensee at all times.
- 2.2 The Council, acting reasonably, reserves the right to insist that the Licenced Area is surrounded by a barrier or fencing. The use and design of all such barriers must be approved in writing by the Council.
- 2.3 The Licensed Area must be kept clean, being washed down as necessary, and free of litter at all times. The Licensee is responsible for regularly clearing all debris and litter associated with the Licensed Area, whether inside the bounds of the Licensed Area or not.
- 2.4 No object may be placed upon the highway outside the Licensed Area at any time. Items left unattended or found out of sight of the licensed premises may be removed and impounded without warning.
- 2.5 The cooking and/or sale of food and drink within the Licenced Area is prohibited save as otherwise permitted in the Lease.
- 2.5 The Licensee shall make good any damage caused to the Highway arising out of the erection, presence, use, maintenance, dismantling or removal of the Placement to the complete satisfaction of the Council.

3. General:

- 3.1 The Licensee must clearly display on site a Display Licence provided by the Council in such a position that it is clearly visible from the highway.
- 3.2 The improper parking of vehicles by staff or persons associated with the licensed site (including delivery vehicles) will be considered a breach of the licence.

4. Enforcement

- 4.1 In the event of any breach of the terms of this Licence the Council may take such enforcement action as it considers appropriate under the provisions of the Highways Act 1980 and the Licensee shall not be entitled any compensation for loss of trade or business as a result.
- 4.2 For the avoidance of doubt the permission given by this Licence extends only to the Placement and items not forming part of the Placement or otherwise outside the terms of this Licence are subject to removal save that the Licensee will not be restricted from placing any signs on the queuing area and/or any signs adverts and branding on the Wheel itself subject to having all appropriate planning consents and permissions in relation to the same PROVIDED THAT no sign of any type may be fixed to the seafront railings or any other property belonging to the Council.

Dated

Signed for and on behalf of Brighton & Hove City Council

.....
For and on behalf of the Head of City Infrastructure

.....
For and on behalf of Paramount Entertainments Limited

City Regulation & Infrastructure
Hove Town Hall Norton Road
Hove BN 3BQ
For the Attention of David Fisher

7th August 2011

Dear Mr Fisher

Re Proposed ' Brighton Wheel In Madeira Drive

I would Object to the Placing of this Wheel on the Public Highway including Daltons Bastion under the Highway Act 1980 my reasons are that under Section 130 of the Highway Act 1980 it states

' Protection of public rights

(1) It is the DUTY of the highway authority Brighton & Hove City Council to assert and protect the rights of the public to use and enjoyment of any highway which they are the highway authority including any roadside waste which forms part of it.

I therefore Charge Brighton & Hove City Council to carry out their Duty and protect my Rights to walk this area and enjoy the unique views.


In support of my request I would confirm that I have walked this part of the sea front for many years and enjoyed its unique views.no matter the season and or weather even the snow but most of all the moonlight nights.reflected in the sea and not forgetting the storms.at sea.

I would also Object under Section 115E of the Highways Act 1980 as I believe that the Council has not followed the statutory process in this section and first obtainthe consent of the frontagers with an interest I would also Object therefore under (2)(a) *for a purpose which will result in the production of income* because this is the sole reason why the Wheel is to be placed there but this is also the most ccongested part of the sea front because of the unique view.

I would like to attend the Council meeting for this application to speak and to expand on my above reasons.

I would ask you not to give permission under the Highway Act for my above reasons.

Yours sincerely

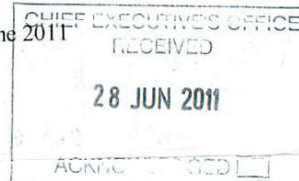
 15 MADEIRA P.L BN2 1TN

cc Simon Kirby MP and Local Green Councillors

37 VAN ALLEN
24 MARINE PARADE
BRIGHTON
BN2 1WP
post@audreysimpson.com
01273675949
07941511241

John Barradell
Chief Executive
Brighton and Hove City Council
Grand Avenue
Hove

22 June 2011



Dear Mr Barradell

'Public Right of Way'
under the Highways Act 1980 Part 111 31 (1) (2)
to be supported by
Part 1X 130 (1) (2) (3)

Should the development of the proposed Ferris Wheel be constructed we are concerned that the public right of way between the Brighton Pier and Duke's Mound will no longer be available for the enjoyment of the residents of the City.

We have lived in Brighton since 1978 and have regularly used this stretch of the sea front. Our grandchildren, who now range from 16 – 23, have all grown up in the knowledge that they had this right of way. We have walked this ground during the day and at night on our way to and from Brighton and Hove, particularly when we lived in Eastern Terrace. The usage for us, our two children and five grandchildren cannot be counted, as our journeys are innumerable. Regardless of weather, small children are taken out for walks and sea air. Now our family are older they have come to value this environment on their various walks. Our enjoyment would be severely affected.

This public right of way should be kept clear for the benefit of all residents of Brighton and Hove. We have never in the past been challenged from using Madeira Drive and Daltons Bastion over the 33 years of living here. We also have concern about the pavement, balustrade and lighting which to the best of our knowledge have always been maintained by the Council.

We urge you to consider the detrimental effect the development of the Ferris Wheel would have upon the public right of way that has become an intrinsic enjoyment for the residents of the City.

Yours faithfully,

Audrey and David Simpson

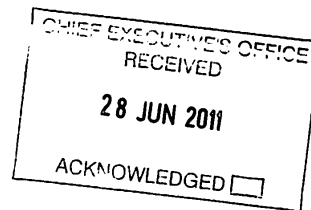
Audrey + David Simpson

12, Royal Crescent Mews,
Brighton. BN2 1AW.

19th June 2011.

Chief Executive John Barradell
Brighton & Hove City Council.

RE; Proposed Brighton Wheel.



Dear John Barradell

I have walked for over 25 years the south side pavement of Madeira Drive, between the Brighton Pier and Dukes Mound both East and West, including the area of Daltons Bastion which I have used on many occasions. As I have walked this for over 20 years I claim this pavement area as a 'Public right of way' under the Highways Act 1980 Part III 31 [1] [2] to be supported by Part IX 130 [1] [2] [3]. Once a Highway always a Highway. I walk this section of seafront all year, as a keen artist I like to watch the weather and how that effects the colours of the sky and sea. I often stand on Daltons Bastion and enjoy the view northwards along the line of houses. An important aspect of this view is the terrain that tiers down from the architecture to the sea. This is also important to consider looking west towards the pier from further up the promenade. The horizontal is part of the beauty and this extends out along the pier. The view would be changed considerably by a huge vertical construction.

This part of Brighton seafront is very special to my life. My right of way that I have enjoyed for so long should be preserved.

During the last 25 years I have never been stopped from traversing the south side of Maderia Drive and Dalton's Bastion and have never seen any notices saying 'private' or 'keep out' or 'trespassers will be prosecuted' or any sign to deter its use. I have never been verbally or physically challenged from using Maderia Drive and Daltons Bastion. To the best of my knowledge the pavement, balustrade and lighting have always been maintained by the Council.

Yours Sincerely

Jonathan Tibbett.

BRIGHTON SEAFRONT REGENERATION LIMITED
148 - 150 ST JOHN STREET
LONDON
EC1V 4UD



020 7025 6063

8th August 2011

David Fisher
Brighton and Hove City Council
Room 500
Hove Town Hall
Norton Road
Hove
BN3 3BQ

Dear Mr Fisher

The Highway Act and 'The Brighton Wheel'

I write to you as the owner of The Terraces, Madeira Drive, Brighton BN2 1TB which we believe fronts the public highway opposite to the location of the proposed 'Brighton wheel'.

Please be aware that Brighton Seafront Regeneration Limited (as a frontager with an interest) does not consent to the proposed structure, closure and execution of works to the highway. If you intend to permit the structure or carry out the works and closure without our consent please will you provide us with the legal reasons for doing this including references to the relevant acts and statutes that permits such an action before allowing any of the described activities including allowing us an adequate time for us to respond.

Yours sincerely

A handwritten signature in cursive script that reads "Brighton Seafront Regeneration Ltd." The signature is written in dark ink and is positioned above the printed name of the company.

Brighton Seafront Regeneration Ltd

**BRIGHTON
SEAFRONT
REGENERATION
LIMITED**

148

-

**150
ST
JOHN
STREET
LONDON
EC1V
4UD**

020

7025

6063

8th

August

2011

David Fisher

Brighton and Hove City Council

Room 500

Hove Town Hall

Norton Road

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BN3 3BQ

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Yours sincerely

Brighton Seafront Regeneration Ltd

C.A.HEAL & SONS (AMUSEMENTS) LTD.

Board of Directors

C.A.A. Heal
A.J. Heal

Head Office

REGENCY LEISURE
63/64 WEST STREET
BRIGHTON
EAST SUSSEX BN1 2RA
EST. 1881

Telephone

01273 729734

Members of the Showman's Guild of Great Britain



Mr D Fisher - For the Head of City Infrastructure
Highway Enforcement
Brighton & Hove City Council
Room 500 Hove Town Hall
Norton Road
Hove BN3 3BQ

04 August 2011

Dear Sir,

**Re: Paramount Entertainments Limited – Highway Licence at Madeira Drive
for Wheel and associated queuing area**

With regard to the above we would like to make known our concerns in connection with the proposed queuing system.

To avoid congestion we feel that a system which operates two queues would be preferable, with one queue running east and the other running west. This would enable the Wheel to be loaded from both sides. Two small ticket offices could be sited at both ends instead of having just one main ticket office.

We feel sure that if only one main queue was used this would cause the public to congregate in front of Volks Railway which would then cause congestion and would be very hazardous to those using the cycle lane.

We have no objection to the site of the Wheel as such, but do feel that the way in which the queuing system is organised would make a big difference to the safety of the general public using Madeira Drive as well as those using the cycle lane.

Yours faithfully,

W.R. Marshall
Company Secretary

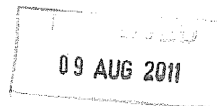
Registered Office: 4 King Square, Bridgwater, Somerset TA6 3YF
Company Registration No. 3019965 (England & Wales)
VAT No. 656 4944 96

City Regulation & Infrastructure
Hove Town Hall Norton Road
Hove BN 3BQ
For the Attention of David Fisher

David.Fisher@brighton-hove.gov.uk

7th August 2011

Dear Mr Fisher



Re Proposed ' Brighton Wheel In Madeira Drive

I would Object to the Placing of this Wheel on the Public Highway including Daltons Bastion under the Highway Act 1980 my reasons are that under Section 130 of the Highway Act 1980 it states

' Protection of public rights

- (1) It is the DUTY of the highway authority Brighton & Hove City Council to assert and protect the rights of the public to use and enjoyment of any highway which they are the highway authority including any roadside waste which forms part of it.**

I therefore Charge Brighton & Hove City Council to carry out their Duty and protect my Rights to walk this area and enjoy the unique views.

In support of my request I would confirm that I have walked this part of the sea front for many years and enjoyed its unique views.no matter the season and or weather even the snow but most of all the moonlight nights.reflected in the sea and not forgetting the storms.at sea.

I would also Object under Section 115E of the Highways Act 1980 as I believe that the Council has not followed the statutory process in this section and first obtainthe consent of the frontagers with an interest I would also Object therefore under (2)(a) *for a purpose which will result in the production of income* because this is the sole reason why the Wheel is to be placed there but this is also the most ccongested part of the sea front because of the unique view.

I would like to attend the Council meeting for this application to speak and to expand on my above reasons.

I would ask you not to give permission under the Highway Act for my above reasons.

Yours sincerely

Chris CHRIS ALEXTHOM
17 MARINE PARADE
BRIGHTON
BN2 1TL

cc Simon Kirby MP and Local Green Councillors

M. Seal

14 Royal Crescent
Brighton BN2 1AL
phone: 01273 601696

CLERK'S OFFICE
RECEIVED
26 JUL 2011

25 July 2011

Cllr. Bill Randall
Leader, Brighton & Hove City Council
King's House, Grand Avenue
Hove BN3 2LS

Dear Councillor Randall

Seafront Wheel

To my surprise the Planning Committee recently approved an application to site a Ferris Wheel on the seafront, affecting the southern sea side of Madeira Drive and the site known as Dalton's Bastion, in spite of many clearly stated objections.

In an appropriate place a big wheel can be fun, as well as a tourist attraction – thus, the London Eye makes sense in terms of giving people a chance to see over the capital. A wheel on the seafront will above all enable people to see into the bedrooms of those living immediately opposite (notably the Van Alen Building), so that in this particular case those most likely to enjoy its 'ride' would be *voyeurs*. Be that as it may, there are also a number of more formal reasons why this decision should be rescinded.

In the first place, I have never seen any notice on the proposed site that might have suggested that the space was not freely available to the public. There is a reasonable assumption, therefore, that the area was part of the public highway, a public highway that was, as far as I could see, maintained by the Council. Moreover, given the very long period that I (and many others) have constantly used this area, under the Highways Act 1980 the proposed site can be claimed as a public right of way – one that I have used on innumerable occasions since 1974, when I first moved to the Brighton area.

I also have a more 'qualitative' concern as a long-term resident of this city. Is it right that, yet again, money making should take precedence over the maintenance and improvement of the character of the area? In addition to the effect on directly affected residents, the proposed 'giant wheel' will cheapen the sea front further. Would it not be better if Brighton and Hove City Council became above all concerned with the quality of life and the environment for the residents, rather than (apparently) mostly being led by money-making considerations?

Thank you for your attention to this. I would be grateful for a confirmation of receipt

Yours sincerely


Dr. Emanuel de Kadt

cc. Queen's Park Ward councillors
John Barradell, Chief Executive
Simon Kirby M.P.

From: George Thomas [george.janie@hotmail.co.uk]
Sent: 06 August 2011 16:12
To: David Fisher
Cc: Ben Duncan; Geoffrey Bowden; Stephanie Powell; Simon Kirby
Subject: Seafront Wheel

Follow Up Flag: Follow up
Flag Status: Red
From: 5 Charles Street, Brighton BN2 1TG

Dear David Fisher

Proposed Seafront Wheel, Upper Esplanade, Dalton's Bastion, Madeira Drive.

This e-mail is being sent subsequent to comments we submitted to the Council about highway access, following its 'minded to grant' planning permission in respect of the above. Initially, we made separate submissions - one of us by hard copy letter and the other by e-mail. We now follow up our respective replies from Peter Tolson in this combined response which still, of course, represents the views of two residents. We note that relevant points made in our previous submissions will be taken into account in the current consideration of whether or not to grant highways consent. Thank you for that, but also we would like to comment further. (Before doing so, we would just say that we find it hard to agree with the comment that *'Issues of pedestrian and cycle access around the site were considered in the Planning Committee report.'* Whilst it is true that comment on a Travel Plan is in the report, surely that refers to a Plan dealing with the situation after any wheel structure is in place. We cannot find any recognition of the concerns expressed about loss of current access - and, further, we are somewhat surprised that the applicant's answer of 'No' at question no. 6 on the application form - i.e. as to whether there would be any altered pedestrian access to or from the public highway as a result of the development - was accepted by planning. However, we guess those are not at this stage major points to debate. We are just responding to part of the letters sent to us.)

We have been informed by a neighbour, who has been in telephone contact with you, that in reaching a decision about giving, or not giving,

permission for the developers to place the wheel on the public highway the Council, as Highway Authority will have particular regard to section 115E of the Highways Act 1980. We have had a look at that section where, under sub-section (1) it is stated that a council may, inter alia, grant permission to place structures on, in, or over, a highway *'for a purpose which will result in production of income'* (section 1a). We note that a key word is 'may' grant permission, not 'must'.

We are not quite sure why subsection (1) of 115E is the apparent guiding section for the Council in reaching its decision and would appreciate knowing the legal requirement or rationale for that. In respect of decision-making guidance we note that sub-section (2) of 115E sets out restrictions, including **not** having the right to grant permission *'(a) for a purpose which will result in the production of income'* unless the consent of the frontagers with an interest to the placing of the object or structure has first been obtained.

We would appreciate clarification as to what constitutes *'frontagers with an interest'*. Further, what frontagers have been consulted and subsequently consented to the structure? We are aware of at least one apparent (and major) frontager who is very unhappy about the development and would be surprised if consent had been forthcoming from that quarter.

Finally, we take this opportunity of reiterating our experience, shared by countless others, of having walked for very many years (and continuing) across the affected part of the highway. We urge that this right of so many is not taken away and that highways consent is not granted. We shall be pleased to know of any opportunity that may ensue within the council for pressing our case further.

Thank you very much for taking our concerns into account

Yours sincerely

George and Janie Thomas

application no 6 q.

City Regulation & Infrastructure
Hove Town Hall Norton Road
Hove BN 3BQ
For the Attention of David Fisher

David.Fisher@brighton-hove.gov.uk

7th August 2011

Dear Mr Fisher

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I would Object to the Placing of this Wheel on the Public Highway including Daltons Bastion under the Highway Act 1980 my reasons are that under Section 130 of the Highway Act 1980 it states

' Protection of public rights

- (1) It is the DUTY of the highway authority Brighton & Hove City Council to assert and protect the rights of the public to use and enjoyment of any highway which they are the highway authority including any roadside waste which forms part of it.**

I therefore Charge Brighton & Hove City Council to carry out their Duty and protect my Rights to walk this area and enjoy the unique views.

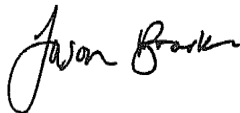
In support of my request I would confirm that I have walked this part of the sea front for many years and enjoyed its unique views.no matter the season and or weather even the snow but most of all the moonlight nights.reflected in the sea and not forgetting the storms.at sea.

I would also Object under Section 115E of the Highways Act 1980 as I believe that the Council has not followed the statutory process in this section and first obtainthe consent of the frontagers with an interest I would also Object therefore under (2)(a) *for a purpose which will result in the production of income* because this is the sole reason why the Wheel is to be placed there but this is also the most ccongested part of the sea front because of the unique view.

I would like to attend the Council meeting for this application to speak and to expand on my above reasons.

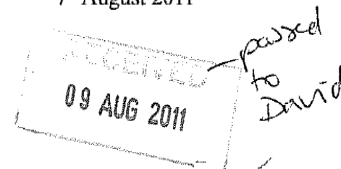
I would ask you not to give permission under the Highway Act for my above reasons.

Yours sincerely



cc Simon Kirby MP and Local Green Councillors

JASON BROOKS
FLAT 9.
17 MARINE PARADE
BRIGHTON
BN2 1TL



City Regulation & Infrastructure
Hove Town Hall Norton Road
Hove BN 3BQ
For the Attention of David Fisher

David.Fisher@brighton-hove.gov.uk

7th August 2011

Dear Mr Fisher



— passed to David
~~maifa~~

Re Proposed ' Brighton Wheel In Madeira Drive

I would Object to the Placing of this Wheel on the Public Highway including Daltons Bastion under the Highway Act 1980 my reasons are that under Section 130 of the Highway Act 1980 it states

' Protection of public rights

- (1) It is the DUTY of the highway authority Brighton & Hove City Council to assert and protect the rights of the public to use and enjoyment of any highway which they are the highway authority including any roadside waste which forms part of it.

I therefore Charge Brighton & Hove City Council to carry out their Duty and protect my Rights to walk this area and enjoy the unique views.

In support of my request I would confirm that I have walked this part of the sea front for many years and enjoyed its unique views.no matter the season and or weather even the snow but most of all the moonlight nights.reflected in the sea and not forgetting the storms.at sea.

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I would like to attend the Council meeting for this application to speak and to expand on my above reasons.

I would ask you not to give permission under the Highway Act for my above reasons.

Yours sincerely

JONATHAN TIBBETT
FREEHOLDER 17 MARINE PARADE
BRIGHTON
BN2 1TL

cc Simon Kirby MP and Local Green Councillors

From: Kate Ashbrook [hq@oss.org.uk]
Sent: 08 August 2011 12:18
To: David Fisher
Subject: Brighton wheel, Highways Act 1980 section 115E

Importance: High
Dear Mr Fisher

Application under section 115E, Highways Act 1980, to erect a 45-metre-high observation wheel on a public highway, Brighton and Hove Council

The Open Spaces Society assumes that this application for consent under section 115E means that the council accepts that Daltons Bastion is a public highway, although it is not shown as such on the definitive map of rights of way nor on the list of streets. We welcome this recognition as clearly Daltons Bastion has been used by the public, without consent or permission, for more than 20 years, and therefore it is a public highway.

We object to the above application for consent to site the ferris wheel on the public highway. We consider that this will conflict with the council's statutory duty, under section 130 of the Highways Act 1980, to assert and protect the public's right to use and enjoy the highway and to keep it clear of obstruction.

This highway is important for use by the public to pass and repass, in particular so that people can gain access to and from the beach and the Volks Railway.

In addition, we do not consider that the council has followed the statutory process in section 115E of the Highways Act 1980, since it appears that the council has not first obtained the consent of the frontagers with an interest, to the placing of the wheel here, the purpose for which it is placed and the proposed grant of permission (section 115E(2)(a)-(b)). It would be ultra vires to grant permission without having obtained those consents.

We therefore urge you not to grant permission under section 115E of the Highways Act 1980.

Yours sincerely

*Kate Ashbrook
General Secretary
The Open Spaces Society
25A Bell Street
Henley-on-Thames RG9 2BA
tel 01491 573535, mob 07771 655694
email: hq@oss.org.uk
website www.oss.org.uk
registered charity 214753*

VISIT OUR WEBSITE AT

www.oss.org.uk
TO SEE NEW FEATURES AND
JOIN OUR MEMBERS' COMMUNITY

City Regulation & Infrastructure
Hove Town Hall Norton Road
Hove BN 3BQ

Page 1 of 2

8th August 2011

For the Attention of David Fisher

Dear Mr Fisher

Re Proposed ' Brighton Wheel In Madeira Drive

The Kingscliffe Society whose membership exceeds 300 Object to the Placing of this Wheel on the Public Highway including Daltons Bastion under the Highway Act 1980 our reasons are that under Section 130 of the Highway Act 1980 it states

' Protection of public rights

- (1) It is the DUTY of the highway authority Brighton & Hove City Council to assert and protect the rights of the public to use and enjoyment of any highway which they are the highway authority including any roadside waste which forms part of it.**

We therefore Charge Brighton & Hove City Council to carry out their Duty and protect the Rights of all our members to walk this area and enjoy the unique views.

In support of our request we confirm that all of our members have walked this part of the sea front for many years, some for over 40 years with their children and now grandchildren and enjoyed its unique views no matter the season and or weather.

We would also Object under Section 115E of the Highways Act 1980 as we believe that the Council has not followed the statutory process in this section and first obtain the consent of the frontagers with an interest We would also Object under (2)(a) which states '*for a purpose which will result in the production of income*' because this is the sole reason why the Wheel is to be placed on our public highway.

We are also concerned about Public Safety as this is the most crowded part of the whole sea front its probably the most congested junction with the coming together of pedestrians and traffic as we have visually seen on our sea front walks. No consideration whatsoever has been given to this issue we would therefore Object on grounds of Public Health and Safety.

Continued on page 2

Page 2

on Saturday the 30th August 2011 this is a common situation throughout the year. No consideration whatsoever has been given to this issue I would therefore Object on grounds of Public Health and Safety

Bearing in mind all of the above this is the wrong site for the ferris wheel there are far better sea front locations further along Madeira Drive that will not cause the problems of loss of Public Right of Way and Health and Safety issues.

I would be please to attend the Council meeting to expand on the details of our Objections.

With respect I urge you NOT to grant permission under the Highway Act 1980

Yours sincerely

Trevor N Scoble
2 Madeira Place
Brighton
BN2 1TN

A handwritten signature in black ink, appearing to read 'Trevor N Scoble', written over the printed name and address.

cc Simon Kirby MP and
Local Green Councillors

5 CHARLES STREET
BRIGHTON BN2 1TG

LEADER'S OFFICE
RECEIVED
17 JUN 2011

15 June 2011

Cllr. Bill Randall
Leader
Brighton & Hove City Council

Hand Delivered to Brighton Town Hall 15/6/11

Dear Councillor Randall

Seafront Wheel

*ack.
Mimi Randall
to respond*

I am writing to claim that the area of seafront which the planning committee recently approved as a site for building a Ferris Wheel is, in fact, a public right of way (reference Highways Act 1980 Part III and Part IX).

I have lived in Brighton for well over 20 years - nearer 30 - and during that time have freely accessed the site in question several times a week. Thus I have walked across it innumerable times and have never once been prevented from doing so; nor has any notice ever been seen displayed to indicate that part of the seafront as being different from the rest as a walking areas.

In view of the above, I am astonished that the planning committee have 'minded to grant' the area being built over, thus removing it from public walking access. (The fact that the approved construction is supposed to be temporary does not negate this loss to the public, nor is it reassuring - i.e. look at the number of times 'temporary' planning permission has been repeated in respect of part of the pier).

I ask that the proposed development does not proceed and that this section of the seafront remains a public right of way.

Thank you for your attention to this.

Yours sincerely

Janie Thomas

Dr. Janie Thomas

cc. Queen's Park Ward councillors
John Barradell, Chief Executive
Simon Kirby M.P.

1) Del
2) Martin Randall

329 Dyke Road
Hove
East Sussex
BN36PE

17.06.2011

Re Seafront Wheel

Councillor Bill Randall

Hove Town Hall
Norton Road
Hove

LEADER'S OFFICE
RECEIVED

22 JUN 2011

We are writing to claim that the area of seafront which the planning committee recently approved as a site for building a large Wheel is, in fact, a public right of way (reference Highways Act 1980 Part III and Part IX).

We have walked (and run!) along this route for the last 32 years without any interruptions. Does the siting of this wheel mean that people would have to cross the road on their journey from the Sea life Centre to Dukes Mound?

We are also surprised that the planning committee did not find the wheel overlooked dwelling places.

We struggle to see (Excepting the Royal Pavilion) what attractive sights there would be from this wheel - the top of Morrison's perhaps? And what more can be seen from this wheel than one can see from the end of the pier (for free!)

We ask that the proposed development does not proceed and that this section of the seafront remains a public right of way.

Yours sincerely

P Thomas

Peter Thomas
Lyn Thomas

Peter Thomas

1) Del
2) Martin Randall

329 Dyke Road
Hove
East Sussex
BN36PE

17.06.2011

Re Seafront Wheel

Councillor Bill Randall

Hove Town Hall
Norton Road
Hove

LEADER'S OFFICE
RECEIVED

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We ask that the proposed development does not proceed and that this section of the seafront remains a public right of way.

Yours sincerely

P Thomas

Peter Thomas
Lyn Thomas

Peter Thomas

From: Tom Witcher [tpw1@rocketmail.com]
Sent: 09 August 2011 20:09
To: David Fisher
Subject: Proposed Big Wheel on Madeira Drive - objection.
Dear Mr. Fisher,

I am a director of the Van Alen Building Management Company. On behalf of the 38 property owners in the Van Alen Building I would like to object to the placing of the wheel on the public highway.

We object on the basis of the 1980 Highway Act, section 130 - which states that it is the responsibility of the council to assert and protect the rights of the public to use and enjoy the highway and to keep it clear of obstruction.

In addition the frontagers with an interest have not been solicited for consent, in contravention of section 115E of the same act. This omission in itself should be enough cause to reject the application.

This wheel will significantly and unreasonably obstruct the public right of way along the seafront and will lead to dangerous crowding and potential collisions with cyclists adjacent to the area which is proposed to be removed from public access. Access along the seafront, to and from the beach (including visual access) and to the Volks railway will be seriously compromised, especially to those who use wheelchairs, have mobility problems or who push children's buggies.

I myself have enjoyed walking the seafront in the area for more than 20 years and am firmly opposed to this proposed sacking of the right of way along our historic seafront.

Many thanks for considering our petition

Yours sincerely

Dr. Thomas Witcher
Director, The Van Alen Management Company Ltd.
Flat 30 The Van Alen Building
Brighton
BN2 1WP

City Regulation & Infrastructure
Hove Town Hall Norton Road
Hove BN 3BQ

Page 1 of 2

8th August 2011

For the Attention of David Fisher

Dear Mr Fisher

Re Proposed ' Brighton Wheel In Madeira Drive

I Object to the Placing of this Wheel on the Public Highway including Daltons Bastion under the Highway Act 1980 our reasons are that under Section 130 of the Highway Act 1980 it states

' Protection of public rights

- (1) It is the DUTY of the highway authority Brighton & Hove City Council to assert and protect the rights of the public to use and enjoyment of any highway which they are the highway authority including any roadside waste which forms part of it.**

I therefore Charge Brighton & Hove City Council to carry out their Duty and protect my Rights to walk this area and enjoy the unique views.

In support of my request I confirm that I have walked this part of the sea front for over 40 years with my children and now grandchildren and enjoyed its unique views no matter the season and or weather.even in snow but most of all the moonlight nights reflecting in the sea and not forgetting the storms at sea.

I would also Object under Section 115E of the Highways Act 1980 as I believe that the Council has not followed the statutory process in this section and first obtain the consent of the frontagers with an interest I would also Object under (2)(a) which states '*for a purpose which will result in the production of income*' because this is the sole reason why the Wheel is to be placed on our public highway.

I am also concerned about Public Safety as this is the most crowded part of the whole sea front its probably the most congested junction with the coming together of pedestrians and traffic as I have visually seen on my sea front walks. Please see in support of this situation photos taken continued on page 2

The Chief Executive John Barradell
Brighton & Hove City Council
Kings House. Grand Avenue. Hove



11th June 2011

Dear Mr Barradell

Re: ' Public Right of Way ' Madeira Drive Brighton

I have walked for over 40 years the south side pavement of Madeira Drive ,between the Brighton Pier and Duke's Mound both East and West, including the area of Dalton's Bastion which I have used on many occasions.

As I have walked this for over 20 years I claim this pavement area as a

' Public Right of Way '
under the Highways Act 1980 Part III 31 (1) (2)
to be supported by
Part IX 130 (1) (2) (3)

Once a Highway always a Highway

For me over many years I have enjoyed the UNIQUE view from this point of the Place Pier, embraced by the ever changing colours of the sea and sky, in the winter storms or the summer tranquillity and most of all the shimmering moon lit nights. I also enjoy the in land view of the Aquarium Terrace and the East Clift Conservation Area. The East side of the Pier to the Mariner has always been the quiet side of our sea front, for those of us who do not want the vibrant area between the piers. 2 or 3 times a day in the summer and once a day in winter even in the snow I have enjoyed walking the south side of Madeira Drive and Daltons Bastion many of these times with my family and friends.

The views from the south side of Madeir Drive and Daltons Bastion are **UNIQUE** no matter the weather summer or winter day or night time, giving enjoyment to all that traverse this sea front location. It should therefore be preserved and not developed with *brash flashing fairground rides* that provide no benefit whatsoever to the quality and tranquillity of this Conservation Area.

I have never been stopped from traversing the south side of Madeira Drive and Daltons Bastion I have never seen any Notice to say ' private ' or ' Trespassers will be Prosecuted ' or any sign to deter its use. I have never been verbally or physically challenged from using Madeira Drive or Daltons Bastion.

To the best of my knowledge the pavements, balustrade plus lighting have always over the 40 years been maintained by the Council.

Bearing in mind all of my evidence in support I claim the south side of Madeira Drive and Daltons Bastion as a **' Public Right of Way '**

yours sincerely

Trevor N Scoble

2 Madeira Place, Brighton. BN2 1TN. The Cosmopolitan Quarter

cc Simon Kirby MP.
cc Councillor Ben Duncan.

City Regulation & Infrastructure
Hove Town Hall Norton Road
Hove BN 3BQ
For the Attention of David Fisher

7th August 2011

Dear Mr Fisher

Re Proposed ' Brighton Wheel In Madeira Drive

I would Object to the Placing of this Wheel on the Public Highway including Daltons Bastion under the Highway Act 1980 my reasons are that under Section 130 of the Highway Act 1980 it states

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I therefore Charge Brighton & Hove City Council to carry out their Duty and protect my Rights to walk this area and enjoy the unique views.

In support of my request I would confirm that I have walked this part of the sea front for many years and enjoyed its unique views.no matter the season and or weather even the snow but most of all the moonlight nights.reflected in the sea and not forgetting the storms.at sea.

I would also Object under Section 115E of the Highways Act 1980 as I believe that the Council has not followed the statutory process in this section and first obtainthe consent of the frontagers with an interest I would also Object therefore under (2)(a) *for a purpose which will result in the production of income* because this is the sole reason why the Wheel is to be placed there but this is also the most ccongested part of the sea front because of the unique view.

I would like to attend the Council meeting for this application to speak and to expand on my above reasons.

I would ask you not to give permission under the Highway Act for my above reasons.

Yours sincerely  ST JPMC New & Bc
26 St JPMC St
cc Simon Kirby MP and Local Green Councillors Brighton
BN2 1RP

From: Sue Russell [sue.russell97@ntlworld.com]
Sent: 08 August 2011 16:33
To: David Fisher
Subject: OBJECTION TO BRIGHTON WHEEL

Follow Up Flag: Follow up

Flag Status: Red

Dear Mr Fisher,

Further to your Notice on the seafront asking for objections to the erection of the Brighton Wheel alongside the Palace Pier site under the Highways Act 1980 with reasons under Section 130 which states:

Protection of public rights

(1) it is the duty of the Highway Authority of Brighton & Hove City Council to assert and protect the rights of the public to use and enjoy any highway of which they are the Highway Authority, including any roadside waste which forms part of it.

I therefore charge Brighton & Hove City Council to carry out their duty and protect my Rights to walk this area, which I've walked daily for the last six years, and enjoyed it's unique views.

I also object under PartVIII(2) which states the Council may not grant if (a) for the purpose which will result in the production of income and which income is the sole reason for the Wheel being place there.

This is qualified under (3) A Council may NOT grant such planning permission unless they have first obtained the consent of the frontagers and interested parties.

There is plenty of space further along the seafront towards the Marina where it could be placed without causing nuisance or offence to anyone.

The Peter Pan area has been neglected for many years and would benefit from a tourist attraction such as this.

Yours sincerely,

Sue Russell

1A Steine Street, BN2 1TE

Tel: 01273 261785



The Griffin

14 Madeira Place
Brighton BN2 1TN
East Sussex

Tel. 01273 69 12 57
www.griffinbrighton.co.uk
info@griffinbrighton.co.uk

Brighton and Hove City Council

Regulation and Infrastructure

F.A.O. Mr David Fisher

Re: Proposed Wheel Sited on Public Footpath on Seafront at Daltons Bastion

Monday, 08 August 2011

Dear Mr Fisher

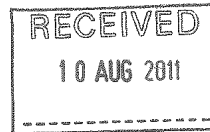
As a resident and business owner living and working in the immediate vicinity of the proposed "Wheel" I wish to record my objection to the installation of the wheel on a public footpath that I use on a daily basis.

This footpath is used by my family and myself when walking our dog, or just when out exercising. It is immediately at the bottom of our street and is where we most enjoy the views of the shore and sea, unencumbered by distracting, giant, lit up attractions.

I ask that you "assert and protect my rights to use and enjoy the public highway, and to keep it clear of obstruction" under section 30 of the Highways Act 1980

Regards

Kieran Brennan



the Kelvin Guesthouse

9 Madeira Place, Kemptown, Brighton, BN2 1TN
Tel: +44 (0) 1273 603735 www.thekelvin.co.uk

City Regulation & Infrastructure
Hove Town Hall
Norton Road
Hove
BN3 3BQ

8th August 2011

Dear Mr Fisher

Re: Proposed Wheel in Madeira Drive

I would like to object to the placing of this wheel on the Public Highway, including Daltons Bastion, under the Highway Act 1980.

I object under Section 130 of the Highways Act 1980.

I therefore charge Brighton and Hove City Council to carry out their Duty and protect my Rights to walk this area and enjoy the unique views it currently offers.

I would also **object under Section 115E of the Highways Act 1980** as I believe that the Council has not followed the statutory process in this section and first obtain the consent of the Seafront property owners/leasee with an interest. I would also **object under (2)(a) for a purpose which will result in the production of income** as this is the sole reason why the wheel is to be placed there.

Therefore, I would like you to refuse permission under **The Highways Act 1980** for the reasons stated above.

Regards

Mr PD Smyth
Resident and Guesthouse owner.

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