

<u>No:</u>	BH2017/02299	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Royal Pavilion Pavilion Buildings Brighton BN1 1EE		
<u>Proposal:</u>	Temporary ice rink on Royal Pavilion Eastern Lawns annually during winter months. Structure to include ancillary buildings for a restaurant, cafe, toilet facilities, skate hire, learner's ice rink and associated plant and lighting. (6 year consent).		
<u>Officer:</u>	Sonia Gillam, tel: 292265	<u>Valid Date:</u>	12.07.2017
<u>Con Area:</u>		<u>Expiry Date:</u>	11.10.2017
<u>Listed Building Grade:</u>		<u>EOT:</u>	18.10.2017
<u>Agent:</u>			
<u>Applicant:</u>	Laine Ltd 31 North Road Brighton BN1 1YB		

1. RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.
Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Floor Plans Proposed	BIR-170615		7 July 2017
Elevations Proposed			12 July 2017
Location Plan	BIR-170510		7 July 2017
Block Plan	BIR-170615		7 July 2017
Method Statement	PROTECTION STONE STEPS		7 July 2017
Site Layout Plan	BHIRRB/03	Tree Protecti on	7 July 2017
Tree Survey	SCHEDULE TREES		7 July 2017
Other	CHILLER TECHNICAL INFORMATION		7 July 2017
Lighting scheme	EXTERIOR LIGHTING SPECIFICATION		7 July 2017

- 2 The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.
- 3 The use hereby permitted shall be permanently discontinued and the land restored to its condition immediately prior to the use commencing, on or before 23rd March 2023.
Reason: The use and buildings hereby approved are not considered suitable as a permanent form of development, to safeguard the setting of the Royal Pavilion and its Estate, to protect the character and appearance of the Valley Gardens conservation area and to comply with policies HE3, HE6 and HE11 of the Brighton & Hove Local Plan.
- 4 The use hereby permitted shall only take place between 31 October in each given year of operation and 17 January the following year. The ice rink and associated buildings/structures hereby permitted shall be removed from the site on or before 23 January in each given year of operation. The land shall be restored to its condition immediately prior to the buildings being situated on the land, within two months of 23 January in each given year of operation.
Reason: The use and buildings hereby approved are not considered suitable as a permanent form of development, to safeguard the setting of the Royal Pavilion and its Estate, to protect the character and appearance of the Valley Gardens conservation area and to comply with policies HE3, HE6 and HE11 of the Brighton & Hove Local Plan.
- 5 The ice rink hereby permitted shall not be open to customers except between the hours of 10.00 and 22.15.
Reason: To safeguard the amenities of the locality and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.
- 6 The café hereby permitted shall not be open to customers except between the hours of 10.00 and 00.30 each day.
Reason: To safeguard the amenities of the locality and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.
- 7 The total number of people on the ice rink at any one time shall not exceed 315.
Reason: To ensure provision of an appropriate amount of ancillary facilities, and to protect the amenity of its users and neighbouring residents in compliance with policies TR7, SU9 and QD27 of the Brighton & Hove Local Plan.
- 8 The main floodlighting illuminating the rink hereby permitted shall be switched off between the hours of 23.00 and 09.00 the following day.
Reason: To safeguard the amenities of the locality and to comply with policies SU9, SU10 and QD27 of the Brighton & Hove Local Plan.
- 9 Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre

from the façade of the nearest existing noise sensitive premises, shall not exceed a level 5dB below the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014.

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

- 10 The development hereby permitted shall not be open to customers in any given year of operation until the measures proposed to protect the steps leading to the eastern elevation of the Royal Pavilion (specified in the Method Statement received on the 7 July 2017) have been fully implemented. The steps shall thereafter be protected at all times for the duration of the development including during removal of the ice rink and buildings from the site.

Reason: To ensure the satisfactory preservation of the listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.

- 11 No development shall commence in any given year of operation until the fences for the protection of the trees during construction and dismantling have been erected in accordance with the submitted drawing Tree Protection Block Plan BHIRRB/03 received on the 7th July 2017. The fences shall be erected in accordance with BS5837 (2012) and shall be retained until completion of the construction period in any given year. The fencing shall be re-erected prior to the commencement of dismantling of the ice rink and related structures and shall be retained for the duration of those works in any given year. No vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction and dismantling works in the interest of the visual amenities of the area and to comply with policies QD16 of the Brighton & Hove Local Plan and CP12 of the City Plan Part One.

- 12 The development hereby permitted shall not be brought into use in any given year of operation until the cycle parking facilities shown on the approved plans have been fully implemented and made available for use. The cycle parking facilities shall thereafter be retained for use by staff and visitors and shall be removed from the site on or before 23 January in each given year of operation.

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

Informatives:

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

- 2 It is advised that a formal application for connection to the water supply is required in order to service this development. The applicant/developer should enter into a formal agreement with Southern Water to provide the necessary

sewerage infrastructure required to service this development. The applicant/developer should contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The application site relates to the eastern lawns within the grounds of the Royal Pavilion Estate. The site is adjacent to the Grade I Listed Royal Pavilion and is within the Royal Pavilion Estate, which is a registered Garden of Special Historic Interest.
- 2.2 The site is located within the Valley Gardens Conservation Area. Old Steine/Pavilion Parade, the main north-south vehicular route into the city lies immediately to the east of the site. The nearest residential properties are in Palace Place to the south of the site and there are also flats on the opposite side of Pavilion Parade.
- 2.3 Planning permission is sought for a temporary ice rink on Royal Pavilion Eastern Lawns during the winter between 31 October and 23 January for six seasons, commencing in 2017. Included would be ancillary buildings for a restaurant, cafe, toilet facilities, skate hire and associated plant.
- 2.4 The rinkside and roadside structures would have aluminium frames and glass walls. There is no cover for the rink. Other than the toilet block and kitchen, the other areas would have transparent PVC roof sails.
- 2.5 It is proposed that the opening hours of the rink will be 10:00 to 22.15. There would be a maximum of 315 people on the rink at any one time and up to 315 people waiting to go onto the rink. The café will offer seating for up to 130 people and would be open from 09.30am to 12.30am.
- 2.6 The application is virtually identical to the approved 2016 scheme; however there are some minor changes to the scheme:
 - A narrow viewing platform with decking to be located next to the beginners' ice rink so parents can watch their children
 - The café and bar opening hours 9.30am - 12.30am to bring it into line with the licence (previously 10.00-midnight).
 - The maximum number of skaters on the ice at any one time would be reduced to 315 (previously 330).
 - Size of the Ice Machine pad reduced from 6m x 5m (previously 8m x 5m)

3. RELEVANT HISTORY

BH2016/02379 Temporary ice rink on Royal Pavilion Eastern Lawns annually during winter months. Structure to include ancillary buildings for a restaurant, cafe, toilet facilities, skate hire, learner's ice rink and associated plant and lighting. (1 year consent). Approved 09.11.2016.

BH2011/02303 Temporary ice rink on Royal Pavilion Eastern Lawns during winter for a five year period. Structure to include ancillary buildings for a restaurant, cafe, toilet facilities, skate hire and associated plant. Approved 17/10/2011

BH2010/02344 Temporary ice rink on the Royal Pavilion Eastern lawns. Structure to include ancillary buildings for a restaurant, crèche, café, toilet facilities and skate hire. Proposed dates are 26th October 2010 to 23rd January 2011 including set up and break down, with resurfacing to be completed by 23rd February 2011. Approved 03/11/2010.

BH2009/02089 Temporary ice rink on the Royal Pavilion eastern lawns. Structure to include ancillary buildings for a café, toilet facilities and skate hire. Proposed dates are 1st November 2009 to 23rd January 2010 including set up and break down. Approved 11/11/2009. This permission was not implemented.

No other relevant planning history on this site, although there have been many applications over the years affecting the Royal Pavilion Estate.

4. REPRESENTATIONS

4.1 None received.

5. CONSULTATIONS

5.1 **External**

5.2 **Historic England:** No objection. The scheme remains harmful to the setting of the Pavilion however mindful of the temporary nature of the proposal, that harm has been minimised and that it delivers public benefits in the form of the additional income to the Royal Pavilion.

5.3 **Ecology:** No objection

5.4 **Southern Water:** No objection

5.5 **Scottish Gas Networks:** No objection

5.6 **UK Power Networks:** No objection

5.7 **Sussex Police:** No objection

5.8 **County Archaeologist:** No objection

5.9 **Brighton and Hove Archaeology Society:** No objection

5.10 **Sussex Gardens Trust:** No objection

5.11 **Internal:**

- 5.12 **Heritage:** No objection The harm to the setting of the listed buildings, to the character of the registered park and garden itself and to the appearance of the conservation area, has been mitigated as far as possible.
- 5.13 **Environmental Health:** No Comment
- 5.14 **Arboriculture:** Verbal comment: No objection subject to tree protection measures.
- 5.15 **Tourism and Leisure:** No objection The scheme positively enhances the City's leisure facilities throughout the winter months both for residents and tourists.
- 5.16 **Economic Development:** No objection The proposal will provide an added annual attraction for the city and create temporary employment opportunities.
- 5.17 **Sustainability Team:** No objection subject to submission of an energy statement
- 5.18 **Planning Policy:** No objection. Subject to a temporary permission and the full re-instatement of the Pavilion Gardens each year.
- 5.19 **Sustainable Transport:** No objection subject to a condition relating to cycle parking provision.

6. MATERIAL CONSIDERATIONS

- 6.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 6.2 The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- 6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

7. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development
CP2 Sustainable economic development
CP5 Culture and tourism
CP9 Sustainable transport
CP10 Biodiversity
CP11 Flood risk
CP12 Urban design
CP15 Heritage
CP16 Open space
CP17 Sports provision
CP18 Healthy city

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

TR7 Safe Development
TR14 Cycle access and parking
SU9 Pollution and nuisance control
SU10 Noise Nuisance
QD16 Trees and hedgerows
QD18 Species protection
QD25 External lighting
QD26 Floodlighting
QD27 Protection of amenity
HE1 Listed buildings
HE3 Development affecting the setting of a listed building
HE6 Development within or affecting the setting of conservation areas
HE11 Historic parks & gardens

Supplementary Planning Documents:

SPD06 Trees & Development Sites
SPD09 Architectural Features
SPD11 Nature Conservation & Development
SPD14 Parking Standards

8. CONSIDERATIONS & ASSESSMENT

8.1 Principle of development

The City has a long history of ice skating facilities. From 1935 to 1965 the Sports Stadium Brighton in West Street had a full size ice rink which was open to the public and held regular Ice Spectaculars. It was also the home of The Brighton Tigers, one of Europe's leading ice hockey teams at the time. It was demolished to make way for the Top Rank Centre which had a much smaller rink and proved to have inadequate provisions. It closed after only five years. Another small rink was created in Queen Square, however this closed in 2003. Regrettably, at the present time the City has no permanent ice rink. Therefore the skating facilities in the City are not as well-provided as they were previously.

8.2 Policy CP17 promotes the increased participation in sports and physical activity; the aim is to safeguard, expand, enhance and promote access to Brighton & Hove's sports services. The proposal would enhance both sporting and

recreation facilities within the City. The site is centrally located and has good pedestrian and cycle links. It is well served by public transport.

8.3 The principle of a temporary ice rink in the Royal Pavilion grounds was established in 2010, again in 2011 for 5 years, and for one season in 2016 with some updates to the previous scheme based on the benefit of the previous years' experience. The operation took place for the temporary period permitted and no significant concerns were raised. This application is again for a temporary seasonal ice rink for a period of six years.

8.4 **Design and appearance**

Principal of the design

The setting of a listed building is often an essential part of the building's character, especially if the gardens or grounds have been laid out to complement its design. The Royal Pavilion grounds are Grade II listed and a designated Registered Park of Special Historic Interest. The Royal Pavilion is a Grade I listed building. The site lies within the Valley Gardens Conservation Area.

8.5 It has been established from previous years that the structures block clear views of the Royal Pavilion's eastern elevation and that the public are restricted from walking on the Eastern Lawns. The development substantially obscures a large part of the east elevation which greatly compromises the setting of the grade I listed building and the enjoyment of the many visitors who come to Brighton specifically to see it.

8.6 The particular architectural and historic importance of the Royal Pavilion, its extensive setting and that the significance of views of the main east elevation should not be underestimated. However, given the height and scale of the Pavilion compared to the proposed structures, and the fact that existing views of the Pavilion are already affected by trees and bus shelters (from the south-east) it has been previously considered that the overall sense of scale and visual dominance of the Pavilion would remain, particularly in regards to its distinctive onion domes and roofline. Regard was also given to the fact that the period of operation of the ice rink would be the shortest days of the year.

8.7 Siting an ice rink and ancillary buildings in this location does inevitably block some views of the Royal Pavilion. However, it is considered that the general design of the proposed development, with the open rink, glass walls, and siting of the ancillary structures minimises, as far as possible, the impact on the views of the Grade 1 listed Royal Pavilion and its grounds.

8.8 *Heritage Concerns*

The 2016 application was approved for one year only as the scale of the ice rink operation had increased from previous years, with a larger main rink and a separate, additional beginners' rink, as well as a larger skate exchange building, together with increased height of lighting trusses.

8.9 There was concern over the combined physical and visual impact of the proposal, arising from its increased scale and extent. The one year consent

enabled this impact to be assessed in situ and in operation. Arising from this assessment, the main issue of concern was considered to be the increased length of the skate exchange structure, which extended 2.5m further to the east than the previous permission. This means it is no longer in line with the café structure on the eastern boundary making this structure, with its gable roof end, more visually intrusive.

- 8.10 The applicant has made clear that, to maintain the proposed capacity, the skate exchange structure could only be reduced in length by putting in place separate structures to house either the box office or the toilets. Both of these options would result in a greater overall footprint of development and greater visual clutter. The applicant has also made clear that a decrease in capacity would not be viable for the continuing operation of the rink.
- 8.11 Options to reduce the visual impact of the skate exchange structure have therefore been explored by the applicant, such as reducing its roof form at the east end, which houses the toilets. These options included a lower, 'pagoda' style structure at the east end; an extension of the flat-roofed cellar store at the east end; a single bespoke flat roof module at the east end; or flat roofed toilet trailers at the east end. It is accepted that none of these options have proved practical or feasible for various reasons.
- 8.12 The only other option would be to move the entire skate exchange structure 2.5m further westwards, but this would take it inside the 5m gap left between the structures and the Royal Pavilion that is considered necessary to enable safe working at high level and avoid the risk of damage to the Pavilion during set-up and de-rig.
- 8.13 *Mitigation*
The entrance to the Pavilion and views of its western elevation would be unaffected by the proposal. The western gardens are used far more intensively than the eastern lawns. The scheme proposes the provision of complimentary public access to the Pavilion's eastern lawns and to the ice rink's viewing platforms and café terrace so that any visitor to Brighton can enjoy a largely unobstructed view of the Pavilion. Therefore although there will be an impact on people who are visiting the City for a chance to view the Royal Pavilion, it is considered that this is far outweighed by the number of people enjoying skating with views of the Pavilion.
- 8.14 The proposed temporary ice rink will generate income both directly through the hire fee and ticket sales and indirectly by increased visitors to the Pavilion which will be of financial benefit to the Royal Pavilion and Gardens and help with upkeep and maintenance of the Pavilion Estate. In addition, the cost of the reinstatement and repair of the eastern lawns will also be provided by the operator. The presence of the ice rink's on-site security also helps to prevent vandalism to the Royal Pavilion during this period when there are longer hours of darkness.
- 8.15 The structure is temporary during the winter period and there will be no physical harm to the listed building. An acceptable method statement has been

submitted in regards to protecting the Pavilion steps to the eastern elevation which is the closest part of the listed building to the rink. A condition can be applied so that the trees and shrubs are protected.

8.16 Overall it is considered that the harm to the setting of the listed buildings, to the character of the registered park and garden itself and to the appearance of the conservation area, has been mitigated as far as possible. Given the above and that the facility will create jobs and attract many visitors and residents to the area over the Christmas period, it is considered that the positive effects of the development outweigh the temporary negative impact upon some views of the listed building.

8.17 Impact upon neighbouring amenity

With regards to lighting, there will be 6 no. 4.5 metre towers around the rink with floodlights and LED lights attached. There will also be 1 x 5m scaffold tube on which LED colour lights can be fixed to illuminate the beginners' rink. Other lighting will include LEDs/ Floods to trees/ walkways/ entrance and plant.

8.18 The rink is proposed in a noisy, brightly lit city centre location. The Pavilion is already floodlit each night. The rink, lighting structures and plant would be approximately 25 metres from the nearest residential properties.

8.19 The Council's Environmental Health team has no objections to the scheme. The proposal is therefore considered acceptable in terms of impact upon residential amenity, subject to conditions regarding noise.

8.20 Transport & Access

The application site is currently within the City's controlled parking zone (CPZ). The proposal does not propose any car parking facilities, however the site is very close to public transport links.

8.21 Given the nature of the proposals and that it is a temporary facility, the Council's Highways team anticipate that the majority of additional person trips will be linked journeys associated with visits to Brighton city centre. As such the proposed development would not result in substantial impact on highway and transportation networks in this instance.

8.22 Temporary cycle parking stands are being provided to the north of the rink which is considered adequate to meet any additional cycle parking demand.

8.23 With regard to emergency vehicle access, the Pavilion has existing procedures in place. Vehicles can access the site via the William IV Gate to the north of the site, the Indian Gate to the south, and North Road to the west. Emergency workers can also access the site via the Palace Place gate to the south of the rink.

8.24 Visitors and staff will enter the site to the north of the Pavilion. The applicant has stated that the entrance will be clearly signposted. Pedestrian trackway will be laid along the entire entrance path to minimise wear and tear on the grass.

8.25 Arboriculture

It is important that vegetation within the Pavilion Gardens, which form a key part of the setting of the Royal Pavilion, is protected during the ice rink use and reinstated afterwards. It is clear that the ice rink is to be sited in a position to minimise impact upon trees. Details of tree protection measures have been provided with the application. The Council's Arboriculture Officer has no objection to the scheme provided all relevant trees are protected particularly during the set up and de-rigging of the structures.

9. EQUALITIES

- 9.1 Wheelchair access will be provided via ramps at the entrance/ exit and users and the whole site would be fully wheelchair accessible; all doors will be at least 2 metres in width. A disabled toilet and baby change facilities are also being provided.

