

<u>No:</u>	BH2018/00700	<u>Ward:</u>	East Brighton Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Peter Pan's Adventure Golf Madeira Drive Brighton BN2 1EN		
<u>Proposal:</u>	Erection of 16 metre high rope climbing course above existing golf course.		
<u>Officer:</u>	Maria Seale, tel: 292175	<u>Valid Date:</u>	09.03.2018
<u>Con Area:</u>	East Cliff	<u>Expiry Date:</u>	04.05.2018
<u>Listed Building Grade:</u>		<u>EOT:</u>	23.07.2018
<u>Agent:</u>	Absolute Town Planning Ltd Gemini House 136-140 Old Shoreham Road Hove BN3 7BD		
<u>Applicant:</u>	Jungle Rumble Ltd Afton House Kennedy Gardens St Andrews KY16 9DJ		

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
Other	EXISTING SITE SURVEY 17/550/01	Rev B	5 March 2018
Other	PROPOSED LAYOUT _ELEVN 17/550/02	Rev E	5 March 2018
Sections Proposed	17/550/03	Rev A	5 March 2018
Location Plan	17/550/00	Rev B	5 March 2018
Location Plan	TQRQM18115110842297		26 April 2018

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 climbing frame and all associated structures hereby permitted shall be removed and the use shall cease and the land restored to its former condition before 1st October 2024.
Reason: The structures hereby approved are not considered suitable as a permanent form of development as their design, scale, height, siting and site coverage would cause harm to the special historic character and appearance of

the East Cliff Conservation Area and the setting of adjacent listed Madeira Terraces, Shelter Hall and Lift, to comply with policies HE3 and HE6 of the Brighton and Hove Local Plan and policies CP12, CP15 and SA1 of the Brighton and Hove City Plan Part One. Temporary permission has been granted exceptionally as at this particular time it is considered the public benefits would outweigh the harm caused. Permanent permission is not considered appropriate because this area of the seafront is identified in the long term for comprehensive coordinated regeneration with permanent development which is sympathetic to its special setting.

4. Within 3 months of the date the development hereby permitted is first brought into use, a Travel Plan shall be submitted to the Local Planning Authority for approval. The Travel Plan shall set out a package of measures and commitments tailored to the needs of the development, which is aimed at promoting safe, active and sustainable travel choices by its users (visitors and staff), and shall include the following measures:
 - a) A travel survey of employees and visitors;
 - b) Details of publicity and ticketing initiatives including advanced booking. This shall include evidence that sustainable transport information has been provided on the operators website and booking information/tickets, including information regarding public transport links and walking and cycling routes to the site;
 - c) Details of a monitoring framework based on an annual survey, to enable the Travel Plan to be reviewed and updated as appropriate;
 - d) Nomination of a member of staff as Travel Plan Co-ordinator.

The approved Travel Plan shall thereafter be fully implemented throughout the duration of the use of the development.

Reason: To ensure the travel demand created is satisfactorily met and to prevent undue traffic generation and promote sustainable modes of transport, to comply with policies TR4 of the Brighton and Hove Local Plan and CP9 of the Brighton and Hove City Plan Part One.

5. The use hereby permitted shall not be open to customers except between the hours of 09.00 - 21.00 hours each day. No other activity associated with the approved use shall take place within the site except between the hours of 08.00 and 22.00 hours each day.

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

6. The development hereby permitted shall not be first brought into use until a Lighting Scheme has been submitted to and approved in writing by the Local Planning Authority. The Scheme shall:
 - (i) include details of external lighting, levels of luminance, hours of use, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation and details of maintenance; and
 - (ii) include evidence to demonstrate that the predicted agreed illuminance

levels have been achieved as tested by a competent person. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part (i).

The external lighting shall be installed, operated and maintained in accordance with the approved details and thereafter retained for the duration of the use of the development.

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

7. The materials and external appearance of the balustrade and floor of the bridge structure leading to the climbing course from the cafe roof should match that of the first floor of the café.

Reason: In the interests of visual amenity, to comply with policies HE3 and HE6 of the Brighton and Hove Local Plan and CP12 and CP15 of the Brighton and Hove City Plan Part One.

8. The development hereby permitted shall not be first brought into use until a Crime Prevention Scheme has first been submitted to and approved in writing by the Local Planning Authority.

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

9. Noise associated with the development hereby permitted 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. Rating Level and existing background noise levels to be determined as per the guidance provided in BS4142:2014. In addition, there should be no significant low frequency tones present.

Reason: To protect amenity of occupiers of nearby properties and users of the seafront to comply with policies QD27 and SU10 of the Brighton and 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. With regard to the lighting condition above, the applicant is advised that unwanted artificial light can be classed as a statutory nuisance under the provisions of the Environmental Protection Act 1990. External lighting for the development should be designed and positioned to:
 - Be the minimum required to perform the relevant lighting task.
 - Minimise light spillage and pollution.

- Include landscaping/screening measures to screen illuminated areas in environmentally sensitive areas.
- Avoid dazzle or distraction to drivers on nearby highways.

Any external lighting designs must have reference to both horizontal and vertical illuminance to account for the varied sensitive receptors on and around the site. The lighting installation shall comply with the recommendations of the Institution of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light (2011,) for zone E, or similar guidance recognised by the council. A report and certification should be submitted on completion, from a competent person to show the lighting installation complies with the guidance. A certificate of compliance signed by a competent person (such as a member of the Institution of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1 The site is located on the seafront between Madeira Drive and the beach (and Volks Railway line). The site comprises a crazy golf course with an adjacent café that is shared with an adjoining childrens playground. The site is located within the East Cliff Conservation Area and within the setting of listed buildings (incl Madeira Terraces, Shelter Hall, Lift and Banjo Groyne).
- 2.2 The proposal is for the erection of 16.224 metre high rope climbing course above approximately a third of the existing crazy golf course. The operation of the golf course would not be affected by the proposal. The proposal comprises 7 post structures in a hexagon shape with decked/podium areas at different levels linked by cables/ropes and activities (the latter not shown on elevation). A metal staircase forms part of the scheme and the main access to the structure is via a bridge from the roof of the adjacent cafe.
- 2.3 Floodlighting is proposed (no details submitted) and the proposed hours of use are 10am-9pm daily.
- 2.4 The main change between the scheme refused last year and this, is the removal of the stair balustrade. The overall height, siting and site coverage remains the same.

3. RELEVANT HISTORY

BH2017/01748 Erection of 16 metre high rope climbing course above existing golf course. Refused 2/8/17 on grounds of adverse impact to setting of conservation area and listed buildings.

BH2014/03148 Demolition of existing cafe and erection of new single storey cafe with roof terrace (A3) in relocated position. Approved 23/3/15

BH2013/03181 Remodelling of existing adventure golf course to provide 2 x 18 hole courses including a raised level with 4 holes. Approved 11/12/13.

4. REPRESENTATIONS

4.1 Five (5) letters have been received objecting to the proposed development for the following reasons:

- a 16m high structure is not in keeping with seafront, is unattractive
- such an attraction more suited to be inland
- adverse impact to historic Georgian character and would be a blight to streetscape of the area
- anything above height of middle level would interfere with views of Madeira Terraces
- will spoil view of passers by and residents in Marine Parade
- height should be below street level
- will add to noise levels
- floodlighting will add to pollution, especially if until 9pm
- plans do not show what structure will actually look like as doesn't show ropes or people climbing
- No significant difference between this and previously refused application

4.2 Two (2) letters of comment have been received stating the proposal is out of keeping with history and ambience of Georgian architecture but do not object in principle or to height. Potential for noise and lighting nuisance. Whilst there is a need to regenerate area is sad commercial development is a council priority rather than maintenance of historic features. A scaffold with screaming children on it will blend in with general decay and shabby chic of the area.

4.3 Twenty-two (22) letters have been received supporting the scheme. Some state the following reasons (others give no reason):

- brilliant idea, inspiring for children
- is aesthetically pleasing and would be a great family addition to Madeira Drive
- it fits in with beach environment, would make this area more appealing
- effective use of golf course site
- increases healthy living
- would be amazing for local economy, would create jobs and increase tourists to the area
- such imagination and fresh attractions are definitely needed
- would complement golf course, which is a popular and well run attraction, and the Volks halfway station
- will aid regeneration of the beautiful arches by drawing trade to the area

4.4 Kingscliffe Society Objection on grounds that appearance would severely and conspicuously detract from the surrounding listed structures and would be entirely detrimental to the setting of the character of the East Cliff Conservation Area. The height and nature of the proposed apparatus would adversely affect the character along the Marine Parade promenade and moreover it is wholly inappropriate to place it on top of a golf course.

- 4.5 Conservation Advisory Group Objection** The Group note that the previous application it commented upon (and objected to) was refused. The Group repeats its view made previously, that the impact of the proposed development on existing heritage assets nearby will be adverse. In particular the proximity of the structure proposed to be over the top of the golf course, and the proposed height would also not enhance the character of the conservation area from Marine Parade.

5. CONSULTATIONS

External:

- 5.1 Historic England:** Do not wish to comment.
- 5.2 Sussex Police:** No objection Detailed suggestions are provided to improve the security and operation of the development in the interests of crime prevention in this fairly isolated location.

Internal:

- 5.3 Environmental Health:** Comment There is potential for light nuisance and this should be designed out prior to opening. Details of this can be conditioned. Also hours of opening should be restricted by condition to 10am-9pm.
- 5.4 Heritage:** Comment - Refuse for permanent permission.

Statement of Significance:

This site is in the East Cliff Conservation Area and adjacent to the grade II listed Banjo Groyne, Madeira Terraces, Lift and associated buildings, with the terraces of listed buildings along Marine Parade more distant at the higher level beyond. The impact of any development of this site would be greatest on the listed assets in close proximity to it and on the character of the conservation area, which are considered to have high historical, aesthetic and communal significance (as set out in Historic England's document 'Conservation Principles, Policies and Guidance':

Historical value derives from the ways in which past people, events and aspects of life can be connected through a place to the present. It tends to be illustrative or associative. Aesthetic value derives from the ways in which people draw sensory and intellectual stimulation from a place. Communal value derives from the meanings of a place for the people who relate to it, or for whom it figures in their collective experience or memory. Communal values are closely bound up with historical (particularly associative) and aesthetic values, but tend to have additional and specific aspects.

The Madeira Terrace is of international significance as it is thought to be the longest cast iron structure in the world spanning some 850 metres and comprising of 151 arches. The green wall which predates the Terrace and sits behind, is one of the oldest, longest and most important green walls in the country. It is the backdrop for many iconic British films including Brighton Rock, Quadrophenia and Genevieve. It is the finishing point for the London to Brighton Veteran Car Run. The lift tower is very much centre point of this composition, and its height in comparison with the linear nature of the arches structure and

the openness of the beach provides an important punctuation point to this part of the seafront.

The East Cliff Conservation Area is significant for its clear association with the growth of Brighton as a Regency and Victorian seaside resort. It retains its historic street pattern, with terraces developed in relatively uniform building styles. The seafront is the grand face of East Cliff and the southern side of Marine Parade remains a broad promenade overlooking the Madeira Terrace, Madeira Drive and the wide shingle beaches with the only significant built development being the Aquarium Terraces at the far western end, although small scale leisure related buildings are present in the vicinity of the application site.

The East Cliff Conservation Area Study and Enhancement Plan dates from 2002 and states:

The expanse of open beaches is an integral element of the setting of the buildings and the seafront amusements at Peter Pan's Playground partly detract from it. This clutter of structures is also a discordant element when viewed from above but the Volks Railway line at least provides a logical, and historic, southern boundary.

Regarding future developments here it states:

Single storey buildings only will be appropriate, with careful attention paid to the design and material of the roofs, and no amusement or ride should exceed the pavement height of Marine Parade, including when in use.

Since this time the Yellowwave beach volleyball facility has been developed, the playground updated and the crazy golf course built.

The site is currently part of the crazy golf course, set between open beach to the south and the more formal setting of Madeira Drive and Terraces to the North.

The Proposal and Potential Impacts

The existing business is part of a localized enclave of formal leisure activities. This proposal is for an additional visitor attraction to be provided at high level above the existing crazy golf course and as such a new venture to attract a slightly different customer group is not considered out of place.

The application follows the refusal of a similar scheme under application BH2017/01748, and pre-application advice was provided to the applicants prior to submission of the current application. As a result some amendments have been made to increase openness by removing some of the features within the structure, such as the stair balustrade however the overall scale and site coverage is unchanged from the previous scheme, and the advice to reduce the bulk of the stair and platform features with the use of slim metal mesh rather than solid timber has not been taken up.

The proposal still involves an extremely high structure that will sit above approximately 1/3 of the area of the golf course. As such it would stand considerably higher than all other beach level developments. The height of the lift tower in comparison with the linear nature of the arches structure and the

openness of the beach adds to its prominence and the presence of another tall structure would be seen by the Heritage Team as a detracting element despite its open character.

Coupled with its extensive site coverage the development would be very prominent not only in views from Madeira Drive and the beach at long and short distances, but also from above in Marine Parade, where this structure would rise above the height of Marine Parade street level and impact on the openness of the sea view from Marine Parade, which is currently uninterrupted by anything other than the historic Madeira Lift Tower and shelter.

It is considered that new structures higher than the middle level of the Madeira Terraces have the potential to harm the setting of the listed buildings and the character of the conservation area, and this has been the guideline used when considering other proposals in this area in recent years and there has been no breach of this parameter with new developments.

The Planning Statement submitted with this application sites historic precedence for tall structures on this site as the former funfair use and mention is also made of the short lived historic 'Daddy Long Legs' attraction however the length of time since these existed is considered to severely limit their relevance to this case.

The proposed attraction is considered suitable for the seafront in terms of its use and would add to the range of family-based leisure attractions already operating in this area in accordance with policy SA1. Increasing footfall along the Eastern Seafront and reducing seasonality would support other businesses and could encourage investment in this area which is seen as desirable where it would support the City Council's aims to restore the historic Madeira Terraces. However this needs to be balanced against identified harm that a tall structure would have on the setting of the listed buildings and the character of the conservation area. Clearly the height of this attraction is fundamental to the proposed use and this is where the conflict lies.

There is conflict also with Local Plan Policy SR18 which states that new recreation facilities which are related to seafront / coastal activities will be permitted on the seafront provided that:

- c. any development does not have a detrimental impact on strategic views along the coastline;*
- d. the development makes a considered response in its design to the visual and environmental character of the stretch of seafront to which it relates, supported by a design statement which addresses that character;*
- g. the development will not have an adverse impact on the setting of important seafront buildings;*

The submitted Heritage Statement claims that 'being below the existing buildings on Marine Parade the impact on the important designated buildings will be lessened' however the Heritage Team disputes that this will reduce the impact on Madeira Terraces, Lift Tower and Banjo Groyne.

The Heritage Team does not agree with the statements that 'The building is subordinate to the listed building in terms of scale and situation and will be distinguishable through its frontal location and contemporary industrial appearance' and 'The subject site does not face any immediate examples of built mass or scale and it is only the context of the Terrace which is of relevance. Yet the width of the intervening road and subsequent distance from one to the other is such that the impact may be said to be less than direct.' and the Heritage Team would note that the distance of the proposed structure from the listed Terrace is little more than the height of the proposal itself. Neither does the Heritage Team agree that 'It would stand in relation to all other beach level developments and pending on the distance of the receptor point would not appear to overwhelm the heritage assets in its context. It would not be dominant in views from Madeira Drive and the beach at long and short distances, nor from above in Marine Parade.' Nor that it 'will help transform the current blank and unbalanced neutrality of the subject site to something that bestows symmetry and is attractive.'

The Heritage statement also claims that 'In order to respect the special character of the street and the architectural significance of many buildings that surround it, the proposed structure has been reduced in height' and 'In response to comments from the Council about the negative impact additional height would have on the street-scene and the setting of the listed buildings, the former scheme has been scaled back' however this application is for a 16m high frame, as was the previous refused scheme. There are other discrepancies in the statement such as the claim that 'Although twice the height of the café, it sits within a shared composition with the Marine buildings, the terrace embankment and the tops of the pavilion buildings on the terrace'. However the structure is actually closer to five times the height of the café.

The Heritage Team disagrees that 'The proposed development could have no potential for adverse effect on its setting and as such the heritage setting impact would be 'neutral'. The Statement claims that 'The proposed new building will bring improvements to the public realm' however there are no associated proposals beyond the new structure itself and the existing golf course will remain, therefore new proposal is an addition only and will not replace any existing feature with a more appropriate structure.

It is therefore considered that this proposal would have a harmful impact on the openness of Madeira Drive and the beach, the character of the East Cliff Conservation Area and on the setting of the listed structures nearby.

It is considered that the harm that would be caused would be less than substantial, however in accordance with paragraph 134 of the NPPF it is still necessary for any harm to be outweighed by benefits from the scheme. It is not considered that the scheme currently has any heritage benefit to be weighed against the harm identified, although the Heritage Statement claims that 'The conservation benefit of the proposal effectively sees imagination in the design process and how the new relates to historic features in the wider area and to the surrounding context. This aims to minimise conflict and bring greater clarity to a

site at an important point that forms a visual junction in the street and an important part of the setting for the Terrace.'

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the local authority shall have special regard to the desirability of preserving a listed building or its setting when considering an application for Planning Permission, and Section 72 requires that the local authority shall pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. 'Preserving' means doing no harm.

There is therefore a statutory presumption, and a strong one, against granting permission for any development which would cause harm to a conservation area, listed building or its setting. This presumption can be outweighed by material considerations powerful enough to do so. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation of the conservation area, listed building and their settings.

In the absence of heritage benefits the Heritage Team is therefore not able to support this application in its current form.

Mitigation

It is acknowledged that the open nature of the proposed structure differs from any previous application for development of other sites along this stretch of seafront, the likes of which have been successfully limited to single storey structures.

This application has been submitted at a time of flux regarding the future of this part of the seafront. Serious activity is in progress regarding securing the future of the historic terraces and the improvement of the public realm involving refocusing on the area as an important link between activities along the Seafront. A means of contributing to the current campaign to secure the future restoration of the historic Madeira Terraces and improvement of the public realm could be seen as a heritage benefit to weigh against the identified harm, and the case officer may consider that coupled with such measures approval for a temporary period may be appropriate as an exceptional case.

The Heritage Team reiterates that this scheme is not considered appropriate as a permanent development and would be likely to object to the extension of any temporary approval in the future.

- 5.5 Seafront Team:** Support Proposal will complement the surrounding leisure uses such as Yellowwave and Volks Railway. It would provide another offer for families visiting Brighton and local residents and would help drive footfall along Madeira Drive.
- 5.6 Sustainable Transport:** No objection There is no information with regard to potential visitor demand and therefore it is not possible to fully assess the demand for travel. The scheme is however relatively small scale and it is noted that it will be restricted to a temporary consent. Most trips are likely to be linked

trips. It is located on the main seafront pedestrian promenade, and there is cycle parking, and car parking in the vicinity. Bus services are available on Marine Parade above. To promote sustainable modes, a Travel Plan should be submitted for approval, and implemented.

- 5.7 Tourism:** Support in principle. The proposal has much merit and will positively enhance the city's facilities in Madeira Drive both for residents and visitors. The proposal would enhance the leisure offer of the area and would potentially attract and support tourism outside of the main season, which is always encouraged. It would drive visitors onto East Brighton seafront and to the Marina. In the face of current economic uncertainty it is critical that we continually seek to innovate the city's facilities in order for our tourism to remain competitive.

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

The development plan is:

- * Brighton & Hove City Plan Part One (adopted March 2016)
- * Brighton & Hove Local Plan 2005 (retained policies March 2016);
- * East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
- * East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only - site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

- 6.2** 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
- SA1 The Seafront
- CP5 Culture and tourism
- CP9 Sustainable transport
- CP12 Urban design
- CP13 Public streets and spaces
- CP15 Heritage
- CP17 Sports provision
- CP18 Healthy city

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

TR4 Travel plans
TR7 Safe Development
TR14 Cycle access and parking
SU10 Noise Nuisance
QD27 Protection of amenity
HE3 Development affecting the setting of a listed building
HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD14 Parking Standards

Other Planning Documents:

East Cliff Conservation Area Study and Enhancement Plan 2002

8. CONSIDERATIONS & ASSESSMENT

8.1 The main considerations in the determination of this application relate to:

- The principle of locating the use in this location
- The impact to tourism and the economy
- The impact to the setting of the East Cliff Conservation Area and nearby listed buildings
- The impact to amenity
- Sustainable transport

8.2 Planning Policy:

Principle of the use in this location:

Policy SA1 'The Seafront' of City Plan Part One states that the council will encourage regeneration of the seafront and that proposals should support the year round sport, leisure and cultural role of the seafront for residents and visitors whilst complementing its outstanding historic setting and natural landscape value. Proposals should ensure a good marine environment, enhance biodiversity and consider options for small scale renewable energy provision.

The policy sets out priorities for the whole seafront which include enhancement of public realm, provision of adequate facilities for residents and visitors, improvements to beach access and the shoreline and ensuring the seafront is accessible for everyone. Securing high quality architecture which complements the natural heritage of the seafront and historic built environment in identified as a priority.

SA1 identifies specific priorities for the area of the seafront east of Palace Pier to the Marina and states development should:

- Deliver the regeneration of Madeira Drive as a centre for sports and family based activities supported by a landscape and public art strategy which also provides for an improved public realm and conservation and enhancement of the historic and nature conservation features present in this location;
- Safeguard the vibrant and important event space at Madeira Drive as this presents a unique location for a mix of cultural, sport and leisure activity to take place;

- Improve beach access and seafront access for pedestrian and cycle users, linking with access improvements at the Marina/Black Rock.

City Plan policy CP5 is relevant as it relates to culture and tourism. Its key priority is to maintain and enhance the cultural offer of the city to benefit residents and visitors. It aims to support the role the arts, creative industries and sustainable tourism sector has in creating a modern and exciting visitor destination with a range of high quality facilities, spaces, events and experiences. New visitor attractions will be expected to:

- Be of a high environmental standard in terms of design, management and access;
- Complement and build on the city's distinct tourism offer;
- Contribute to a sense of place;
- Reduce seasonality;
- Promote diversity;
- Widen local access;
- Support the regeneration of the city and benefit the city's economy; and be accessible by public transport.

City Plan CP17 states the council's aspiration to increase participation in sports and physical activity, and seeks to safeguard, expand, enhance and promote access to Brighton & Hove's sports services, facilities and spaces. Supporting para 4.193 states that The Open Space, Sport and Recreation Study (which forms part of evidence base of City Plan) suggests that the council should explore the provision of additional adrenaline or less conventional sports facilities, such as climbing/bouldering, ultimate Frisbee and skating.

City Plan Policy CP18 seeks to promote healthier lifestyles.

Policy SR18 of the Brighton and Hove Local Plan is relevant as it relates to seafront recreation. This states that new recreation facilities which are related to seafront/coastal activities will be permitted on the seafront provided that:

- There will be no development onto the beach;
- The importance of the seafront and beach as an open space is not undermined;
- Any development does not have a detrimental impact on strategic views along the coastline;
- The development makes a considered response in its design to the visual and environmental character of the stretch of seafront to which it relates, supported by a design statement which addresses that character;
- The development does not have a harmful impact on the amenity of local residents and the seafront due to noise, disturbance and light pollution;
- The development will not result in the significant generation of car borne journeys, nor additional pressure for car parking;
- The development will not have an adverse impact on the setting of important seafront buildings;
- The development does not have an adverse impact on nature conservation interests; and
- Any development enables the beach and seafront to be accessible to all.

Whilst not currently a material consideration, City Plan Part Two is currently emerging and will be out to consultation this summer. It is anticipated it will provide a step towards a coordinated strategy for future development along this part of the seafront to guide development proposals and prevent harmful ad hoc schemes, in the interests of preserving the special character and appearance of the area.

Given the policy context outlined above, the proposed leisure use is considered acceptable in principle given that it would deliver a family/sports based activity in a location where this is encouraged. In addition, the City Plan identifies a shortage of adrenaline type sports within the city and there is a council aspiration to promote healthier lifestyles. The proposal would make effective use of an existing leisure site and would not compromise the existing use, which is positive in principle. The proposed use would comply with policies CP5 and SR18 in principle as it would add to the overall visitor offer of the seafront and boost the economy. Such a use could complement existing businesses and help draw people towards this relatively underused part of the seafront which is in need of regeneration. The proposal could operate all year round, which reduces the seasonality of the seafront and is positive. The proposal is supported in principle by both the council's Seafront and Sports Facilities Teams. The positive benefits of the scheme are therefore given significant weight.

Policies CP5 and SA1 do, however, recognise the relationship of the wealth and importance of the city's historic environment with tourism and cultural industries in the city. The NPPF recognises the positive contribution that conservation assets can make to sustainable communities including their economic vitality. The seafront has been, and always will be, the 'shop window' of Brighton & Hove therefore development has to be of the highest quality to be successful. Whilst the proposal complies with certain aspects of policy, it is considered to conflict with others by reason of its appearance, and this is discussed in detail below.

8.3 Design and Appearance:

With regard to design and heritage, policies CP12, CP13 and CP15 of the City Plan Part One and policies HE3 and HE6 of the Brighton & Hove Local Plan are relevant. City Plan policy CP12 expects all new development to be built to a high quality standard and seek to ensure places that are created are safe, and incorporate design features which deter crime and the fear of crime. CP15 states that the city's historic environment will be conserved and enhanced in accordance with its identified significance, giving the greatest weight to designated assets. Local Plan policies HE3, HE6 and HE9 seek to conserve or enhance the setting of Conservation Areas and Listed Buildings.

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

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

of preserving the building or its setting or any features of special architectural or historic interest which it possesses";

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

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

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

The NPPF states that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The character and appearance of this part of the East Cliff Conservation Area is cited in the formally adopted East Cliff Conservation Area Study and Enhancement Plan 2002, and this document is a material consideration.

Paragraph 3.3.4 of the Study states *the southern side of Marine Parade remains a broad promenade overlooking the Madeira Terrace, Madeira Drive and the wide shingle beaches with the only significant built development being the Aquarium Terraces at the far western end. It is generally uncluttered by modern street furniture etc. but the grade II listed 1890s lamp columns on the pavement edge and the late 19th century seafront shelters and early 20th century wooden benches add to its traditional seaside appearance. The expanse of open beaches is an integral element of the setting of the buildings and the [former] seafront amusements at Peter Pan's Playground partly detract from it. This clutter of structures is also a discordant element when viewed from above but the Volks Railway line at least provides a logical, and historic, southern boundary.*

Paragraph 3.3.6 states: *The seafront shelters, Madeira Terrace and Covered Walkway, the Shelter Hall and Lift and below that the wide, straight southern pavement of Madeira Drive all evoke traditional seafront promenading. The continuous line of wide, uncluttered beaches contribute significantly to this*

character. And paragraph 3.3.7 states: ...part of the seafront relates more to the brasher seafront pleasures of the Palace Pier, and includes the Aquarium Terraces and Colonnade and the beaches immediately east of the Pier. Any further intensification of this commercial brashness would, however, be detrimental to the special character of the seafront. It should be noted too that the seafront as a whole has a different character in summer to that of the winter. The influx of summer visitors gives this sub-area a lively character, which contrasts with a more sedate atmosphere during the winter months.

The changes between the current scheme and that previously refused are minimal, and whilst they are an improvement, the fundamental aspects of the scheme, namely its overall scale/height/siting, remain the same. The reasons behind the minimal changes are understood, as it is appreciated that for a climbing attraction to actually work, it does require significant height.

Given the minimal changes, it is considered therefore that previous concerns expressed remain relevant. As can be seen by the comments made by the council's Heritage Team, there are significant concerns regarding the visual impact of the proposal. The overall scale, very tall height and rather cluttered, utilitarian design of the proposal are such that it would appear incongruous and overly dominant and would have a poor relationship with the listed Madeira Terraces adjacent. The structure would appear overbearing in terms of the middle promenade level and detract from its significance, and it would also appear very tall in relation to the upper promenade. Generally, it is considered that any beach level development that rises above the height of the middle promenade level has potential to have a harmful impact. The impact is somewhat lessened by the fact it is a rather lightweight structure and is not a conventional building, however, the excessive height and site coverage mean it would have a harmful impact on the openness of Madeira Drive and the beach, and the character and appearance of the East Cliff Conservation Area in addition to harming the setting of the listed structures nearby. Lighting the proposal would only add to this impact.

The harm identified is however considered to be less than substantial, and the NPPF does advise that a judgement can be made as to whether the public benefits of the scheme are sufficient to outweigh the concerns. On balance, it is considered that there are very exceptional circumstances in this instance to do so - but only for a temporary period. This area of the seafront is currently in a state of flux and in some decline, and is identified as being in need of significant regeneration. The regeneration of the Madeira Terraces is at a very early stage. There are no permanent proposals for the former Peter Pan Amusement site to the west of Yellowwave. Black Rock remains undeveloped. The area is clearly in need of a boost and will need to change and adapt to present circumstances.

Serious activity is in progress regarding securing the future of the historic terraces and the improvement of the public realm involving refocusing on the area as an important link between activities along the Seafront. As stated by the Heritage Team, enlivening this area could help towards the current campaign to secure the future restoration of the historic Madeira Terraces and improvement of the public realm, which could weigh against the identified harm. Also, it is

considered that significant weight may be given to the wider benefits of a new visitor attraction here to the overall regeneration of the area, and to tourism and the economy in general. It is therefore considered that whilst some harm would remain, it may be outweighed in this instance on a temporary short-medium term basis, until such time as there is co-ordinated regeneration and the delivery of permanent, quality and sympathetic development for this area of the seafront. The proposal would not be considered acceptable as a permanent form of development given that it would detract visually from the area and thus prove counterproductive to the long-term aspirations for the area. A condition restricting permission to a temporary period of approximately 6 years (6 summer seasons) until October 2024 is considered an appropriate timeframe given the stage which other projects are currently at in the area. It is anticipated this time period should coincide with the completion of last (Phase 3) of the Maderia Terraces regeneration project at the eastern end of the Terraces, and tie in with the review of Part One of the City Plan.

8.4 Impact on Amenity:

Policy QD27 of the Brighton & Hove Local Plan states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.

As this is a seafront location, nearby residential properties are some distance away at the upper promenade level on Marine Parade. There are already several leisure uses in this location which generate activity. Therefore there is no objection in principle to the proposal from an amenity point of view. No details of lighting have been provided but a condition can ensure brightness is not excessive. The suggested opening hours for the leisure use (10am-9pm) would be reasonable in this location. Given that no harm would be caused by a slightly earlier start, a condition is recommended to allow opening from 9am, to give a degree of flexibility as 10am could be unduly restrictive and is not considered necessary from an amenity point of view. A condition can control potential noise from amplified music or PA systems etc. The Environmental Health Team raise no objection, subject to the imposition of conditions restricting opening hours and to secure an appropriate lighting scheme. Loss of view is not a material planning consideration. It is not considered the attraction will unduly affect the use of the naturist beach close by, or compromise users of the climbing structure. It should be noted the Seafront Team raise no objection to the proposal.

8.5 Sustainable Transport:

With regard to transport, City Plan policies CP9 (Sustainable Transport) and Local Plan Policies TR4 (Travel Plans), TR7 (Safe Development), TR14 (Cycle access and parking), TR15 (Cycle network), TR18 (Parking for people with a mobility related disability) are relevant. These seek to ensure development is safe, meets the demand for travel it creates and maximises use of sustainable modes. TR15 states that development that affects proposed or existing cycle routes should protect and enhance their alignment, and identifies the seafront

National Cycle Route 2 as a key route. SPD14 sets out maximum parking standards for development and minimum standards for disabled parking.

Given the location of the site on the seafront and next to other facilities, it is considered that the majority of trips to the proposal would be linked trips and not new trips in their own right. The site is well located to take advantage of cycle routes and walking networks, and there are bus routes on Marine Parade. There is also car parking adjacent. A Travel Plan is recommended by condition to promote sustainable modes of travel to the site. The proposal would therefore comply with relevant transport policies. The Sustainable Transport Team raise no objection to the proposal.

8.6 Other Considerations:

The site is relatively isolated in terms of location and therefore crime prevention will be important. There is an existing fence at the site, however, given the comments of Sussex Police, a condition is recommended to secure additional security measures as part of the proposal.

9. EQUALITIES

9.1 Given the nature of the leisure use proposed there would be no disabled access.