

<b><u>No:</u></b>	<b>BH2023/01025</b>	<b><u>Ward:</u></b>	<b>Regency Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Brighton I360 Kings Road Arches Brighton BN1 2LN</b>		
<b><u>Proposal:</u></b>	<b>Installation of 3no prefabricated converted shipping containers as external covered events space for a temporary period from 5th June 2023 until 30th September 2025.</b>		
<b><u>Officer:</u></b>	<b>Sonia Gillam, tel: 292265</b>	<b><u>Valid Date:</u></b>	<b>20.04.2023</b>
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	<b>15.06.2023</b>
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	<b>Marks Barfield Architects 24 Warwick Avenue Clapham Common London SW4 0BG</b>		
<b><u>Applicant:</u></b>	<b>Brighton I360 Ltd 50 Bromells Road Clapham Common London SW4 0BG</b>		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	608 35A P		20 April 2023
Block Plan	608 35/P		5 April 2023
Proposed Drawing	608 40A P		18 April 2023

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 containers hereby permitted shall be permanently removed from the site and the land restored to its condition immediately prior to the development commencing, on or before 30th September 2025.

**Reason:** The containers are not considered suitable as a permanent form of development, to safeguard the setting of the nearby listed heritage assets, to protect the character and appearance of the Regency Conservation Area and to comply with policies CP15 of the City Plan Part One, DM26 and DM29 of the City Plan Part Two.

4. The development hereby permitted shall not be occupied until details of all materials, including windows and cladding, to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. The materials shall be provided in full accordance with the approved details prior to first occupation of the development and shall thereafter be retained at all times.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies DM26 and DM29 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

5. No shutters, window covering or similar security measure shall be fixed to the containers hereby approved.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies DM26 and DM29 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

Informatives:

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

## 2. SITE LOCATION

- 2.1. The application relates to a section of land on the lower esplanade to the east of and adjacent to the i360 site, a tourist destination on Brighton seafront which opened in August 2016 as an observation tower supported by ancillary event spaces, restaurant, retail and exhibition space.
- 2.2. The site is adjacent to the ruin of the Grade I listed West Pier and is within the setting of the Grade II\* Regency Square development, and within the Regency Square Conservation Area. At beach level the site forms the western end of a large open paved space affording informal uses and broad views of the historic arches.

## 3. RELEVANT HISTORY

- 3.1. **BH2021/04408** Variation of condition 60 of planning permission BH2016/00826, to extend the time period from 5 years to 10 years (until 7/7/27) by which the original West Pier kiosk to be used for mixed use (educational/community/exhibition/events/retail uses (F1/F2/E(a) uses)) within the landscape area to the east of the i360 building shall be restored and erected. Approved April 2022
- 3.2. **BH2016/00826** Application for variation of conditions 14, 15, 20, 22, 23, 24, 43, 47, 50, 57 and 59 of application BH2015/02431 (i360 observation tower originally approved under application BH2006/02369) to permit material

amendments including alterations to toll booths, omission of weather screen benches, erection of contemporary seating, new feature spire at top of tower, erection of original West Pier kiosk in eastern landscaped area at beach level (D1/A1 heritage/retail use), relocation of original West Pier columns to front of building, revised security canopy, revised refuse/recycling and queuing arrangements, revised paint colours, revised works to arches, and mixed D2/D1/A3 land use comprising: 1) observation spire and visitor centre (D2 use) with ancillary event and retail spaces (D2/A1 use); 2) flexible exhibition/event spaces (D1/D2 use); and 3) cafe/restaurants (A3 use). Approved July 2017.

- 3.3. **BH2015/02431** Application for removal of conditions 19 and 36 of application BH2014/04167 (i360 observation tower scheme originally approved under application BH2006/02369). Condition 19 to be removed relates to the requirement for rainwater recycling and condition 36 to be removed relates to the requirement for a wind turbine at the head of the tower. Approved February 2016.
- 3.4. **BH2014/04211** LBC Demolition of existing arches at 62-73 Kings Road Arches and replacement with supporting structure to link to rear of the i360 heritage centre approved under BH2006/02369. Approved 20.02.2015
- 3.5. **BH2014/04167** Application for variation of condition 1 of application BH2014/03998 and condition 57 of BH2006/02369, to allow for amendment to the i360 observation tower scheme originally approved under application BH2006/02369 to allow for the demolition of the listed arches at 62-73 Kings Road Arches and replacement with new structure to rear of heritage centre and underneath the highway at Kings Road. Approved June 2015.
- 3.6. **BH2006/02372** Demolition of part of the 'root end' of the Brighton West Pier and removal and demolition of the 'sea wreckage' and all associated structures. Works of alteration to arches 62-73 Kings Road, removal and relocation of two listed lamp standards and alteration and partial removal of listed seafront railings adjacent to site. To accompany full planning application BH2006/02369. Additional information submitted including Revised Listed Building Consent Drawings. Approved 24.10.2006.
- 3.7. **BH2006/02369** Partial demolition of the existing pier structure and construction of an observation spire (approximately 183 metres in height above ordnance datum) and heritage centre (use class D2) with ancillary retail uses at lower promenade level and all works incidental to the development of the site including relocation of two lamp standards and works of alteration to arches 62-73 Kings Road. Approved October 2006.

#### **4. APPLICATION DESCRIPTION**

- 4.1. The application seeks temporary planning permission for the siting of three converted shipping containers on the lower esplanade, at the bottom of the stairs east of the i360. They are proposed to provide accommodation for an ancillary entertainment concession on the eastern side of the i360. Permission for the

containers is sought for a temporary period from June 2023 until September 2025.

- 4.2. The containers would be laid side-by-side, with a total width of 7.4m, a length of 12.2m and a height of 2.9m.
- 4.3. Each weatherproof container is proposed to house 'Sixes Social Cricket', an immersive cricket experience with a tech-enabled cricket net, complete with bowling machine, high resolution screen and batting targets, enabling batting to take place within the container itself. Each would also house table space for eating and drinking. It is understood that there would be two further cricket nets provided within the i360's current restaurant space, also with a food and drink offer, though that does not form part of the present application.
- 4.4. The containers would have large areas of glazing and openable sections on the side elevations. The front elevations facing south would also be glazed. The units would be finished in a timber style cladding in a dark shade.

## 5. REPRESENTATIONS

- 5.1. **Twelve (12)** letters have been received objecting to the proposed development for the following reasons:
  - Overdevelopment
  - Poor design not in keeping with area
  - Impact on heritage assets
  - Impact on views
  - Existing events space not utilised
  - Poor insulation and ventilation
  - Increased noise and anti-social behaviour
  - Development may not be temporary
  - Misleading drawings
  - Lift should be fixed
- 5.2. **Five (5)** letters have been received supporting the proposed development for the following reasons:
  - Deliver new sporting activity to seafront
  - Complement nearby sporting uses
  - Raise awareness of cricket
  - Brings new audience to seafront
  - Support local economy

## 6. CONSULTATIONS

### Internal:

- 6.1. **Heritage: Objection** The proposal would not make a positive contribution to a sense of place and the visual quality of the environment or preserve or enhance the distinctive character and appearance of the conservation area.

- 6.2. **Seafront Development:** No objection subject to conditions relating to the treatment of the exterior of the sea containers.

External:

- 6.3. **Conservation Advisory Group:** Objection Detrimental effect on views of surrounding areas and the conservation area, and adverse effect on the Grade I Listed Pier Head base and kiosk.

- 6.4. **Historic England:** No comments offered

- 6.5. **West Pier Trust:** No comments offered

## 7. MATERIAL CONSIDERATIONS

- 7.1. 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.

- 7.2. The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove City Plan Part Two (adopted October 2022);
- 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);
- Shoreham Harbour JAAP (adopted October 2019).

## 8. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Planning Policy Guidance: Use of Conditions

Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
SA1	The Seafront
CP2	Sustainable economic development
CP5	Culture and tourism
CP9	Sustainable transport
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP17	Sports provision
CP18	Healthy city

Brighton & Hove City Plan Part Two:

DM15	Commercial and Leisure Uses on the Seafront
DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM26	Conservation Areas
DM29	The Setting of Heritage Assets
DM33	Safe, sustainable and active travel
DM36	Parking and servicing
DM37	Green Infrastructure and Nature Conservation
DM39	Development on the Seafront

Supplementary Planning Documents:

SPD14	Parking Standards
SPD17	Urban Design Framework

Regency Square Conservation Area Character Statement

**9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the principle of the development, the impact of the proposed containers on the character and appearance of the site and surrounding heritage assets, including the Regency Square Conservation Area, the ruin of the Grade I listed West Pier and the setting of the Grade II\* Regency Square development. Impact on amenity and highways implications are also considered.

**Principle of Development**

- 9.2. Policy CP17 of the CPP1 seeks to facilitate the council's aspiration to increase participation in sports and physical activity noting that new facilities will be encouraged and proposals should seek to improve the variety of provision in the city.
- 9.3. Policy CP5 states that the council will support the retention, upgrading and enhancement of existing visitor facilities to meet changing consumer demands, and Policy SA1 requires that proposals on the Seafront should support the year-round sport, leisure and cultural role of the seafront for residents and visitors.
- 9.4. Additionally, Policy DM15 of the CPP2 states that development should support the role of the seafront as a recreation and tourist destination helping to extend footfall and reduce seasonality.
- 9.5. Tourism is inextricably linked to the cultural life of the city and the historic built environment and contributes to the prosperity of the local economy and region. The tourism industry has been successful in responding to changing markets, tastes and style and the city has seen nearly a decade of steady investment in its tourism product. If the city is to remain competitive as a tourist destination, it needs to develop unique visitor attractions and experiences.

- 9.6. In response to a changing market, the applicant is proposing a beachside entertainment hub by bringing new uses to the site ancillary to the main observation attraction. New attractions such as outdoor games and events, games bar, immersive experiences and virtual reality reflect new trends and would draw different audience segments to the site, increasing overall footfall and revenue.
- 9.7. The applicant is initially seeking to launch the immersive cricket experience this summer, and the proposed containers are required to house this ancillary entertainment concession. The proposal is an all-weather leisure facility which would increase the variety of and participation in sport, enhance the existing visitor experience, meet changing consumer demands, extend footfall and reduce seasonality.
- 9.8. Paragraph 014 of Planning Policy Guidance (PPG): Use of Planning Conditions notes that temporary permissions may be appropriate under certain circumstances including where a trial run is needed to assess the effect of the development on the area. In this case, the applicant has confirmed that they wish to 'test the market' for the cricket experience over a temporary period, which is considered acceptable in planning terms so that the impacts can also be tested. At the end of the temporary period, if the applicant wishes to extend the use, a new planning application would be required, at which point the adverse impacts and benefits of the scheme could be weighed up.
- 9.9. For these reasons, the proposal is considered to positively contribute towards meeting the objectives of the City Plan policies above and therefore the principle of the proposed temporary development can be supported, subject to other planning considerations outlined below.

**Design and Appearance:**

- 9.10. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to 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. Moreover, when considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.11. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".
- 9.12. It is noted that the Council's Heritage Officer and the Conservation Advisory Group raise an objection to the scheme by reason that the containers would not appear as positive additions to the public realm and would have a detrimental effect on views of the surroundings including the conservation area and grade I listed pier head base and kiosk.

- 9.13. The proposed containers would be sited on the existing generous open area at the bottom of the steps that descend from Kingsway and it is acknowledged that they would be present in long views from the beach and along the lower promenade from the east, and when viewed from the level of Kings Road and when descending the adjacent steps.
- 9.14. However, it is recognised that they are proposed for only a temporary period of time and Historic England and the West Pier Trust has raised no objections to the scheme. The siting of the containers to the eastern side of the existing contemporary i360 building on the lower level of the concourse would reduce the visibility to a degree. Furthermore, the proposal would be sited well back from the promenade walkway and is not considered to add any significant visual clutter between the i360 building and the existing pier ruin.
- 9.15. The harm identified above would also be mitigated by the areas of glazing and openable side sections which would greatly help reduce the utilitarian appearance of the shipping containers. The proposed timber cladding would provide relevance to the beachfront setting. Details relating to finishes and colour can be secured by condition.

**Impact on Amenity:**

- 9.16. Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause unacceptable loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.17. The site is not in close proximity to any residential properties, the closest being some distance away in Regency Square and the opposite side of Kings Road. Any additional/ activity noise created by the attraction would be in the context with this already lively seafront area. The impact on the adjacent uses has been fully considered in terms of overbearing impact, daylight, sunlight, outlook and privacy and no significant harm has been identified.

**Sustainable Transport:**

- 9.18. It is considered that trips to the proposed attraction would mainly be associated with other trips to the city centre and seafront, and therefore there would be no significant impact on the highway, road network or parking facilities.

**Conclusion and Planning Balance:**

- 9.19. It is acknowledged that there is a statutory presumption against granting permission for any development which would cause harm to a conservation area or heritage assets. It is recognised that the proposals would not enhance the character and appearance of the conservation area for a limited period of time. However, the level of harm is considered less than substantial under the terms of the NPPF and the statutory presumption can be outweighed by material considerations powerful enough to do so.
- 9.20. It is no secret that the i360 has faced challenging financial conditions and it is recognised that if the city is to remain competitive as a tourist destination, it



needs to develop unique visitor attractions and experiences. Development should support the role of the seafront as a recreation and tourist destination.

- 9.21. The proposal is an all-weather leisure facility which would increase the variety of and participation in sport in the city, enhance the existing visitor experience, meet changing consumer demands, extend footfall and reduce seasonality which would support the local economy.
- 9.22. As such, it is considered that the benefits of the scheme are considered to significantly outweigh the temporary negative impacts on the heritage assets. Approval of the application is therefore recommended as the proposal is considered to positively contribute towards meeting the objectives of the City Plan policies.

## **10. EQUALITIES**

- 10.1. The proposed temporary containers would be formed with flatbed level floors. Sloping ramped thresholds would be provided to all entrances to provide fully compliant DDA access for all. There is direct level access from the promenade and lift access from street level.

## **11. CLIMATE CHANGE/BIODIVERSITY**

- 11.1. The temporary development would have a neutral impact on climate change/ biodiversity.

