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| <u>No:</u> | BH2022/02443 | <u>Ward:</u> | Regency |
| <u>App Type:</u> | Full Planning | | |
| <u>Address:</u> | The Hippodrome, 51 And 52 - 58 Middle Street, Brighton | | |
| <u>Proposal:</u> | Restoration, renovation, part-demolition works and extensions to The Hippodrome to create a new mixed use development including multi-format performance space (Sui Generis), and apart-hotel (C1), restaurant/café (E) with rooftop bar and terrace (Sui Generis) including; erection of new apart-hotel building fronting Ship Street of 3 to 7 storeys with retail (E) at ground floor, conversion of existing Hippodrome Fly Tower to create additional rehearsal/performance space, conversion of Hippodrome House to provide bar, members club with external terrace and apart-hotel, and other associated works. | | |
| <u>Officer:</u> | Matthew Gest tel. 292525 | <u>Valid Date:</u> | 12.08.2022 |
| <u>Con Area:</u> | Old Town Conservation Area | <u>Expiry Date:</u> | 16.01.2024 |
| <u>Listed Building Grade:</u> | Grade II* | <u>EOT:</u> | 30.04.2023 |
| <u>Agent:</u> | Lomax Design, 44 New Road, Shoreham By Sea, BN43 6RA | | |
| <u>Applicant:</u> | 52-58 Middle Street Brighton Ltd, Sussex House, Crowhurst Road, Hollingbury, BN1 8AF | | |

1. EXECUTIVE SUMMARY

- 1.1. The application relates to the Hippodrome, 51 and 52-58 Middle Street. The buildings are Grade II* Listed and appears on the Historic England at risk register. The building has a varied history which is detailed in the report but was most recently used for Bingo and has been vacant since this use ceased.
- 1.2. The application proposes to create a mixed-use development including a multi format performance space and an apart hotel fronting Ship Street. Various alterations are proposed to both the Hippodrome and Hippodrome House internally and externally. Section 5 of the report outlines the alterations in full.
- 1.3. Amended plans and additional information has been sought and received during the application to address concerns raised during the consultation of the application and include amendments to the height of the apart hotel as it fronts Ship Street.
- 1.4. As originally submitted objections were received from a number of consultees including the Heritage team, Historic England and National Highways. The holding objections of Historic England and National Highways have been withdrawn following the submission of additional information. Conditions are recommended that secure additional information to ensure the alterations and proposals do not cause further loss of the historic building and both respect the heritage assets of the listed building and surrounding Conservation Area.

- 1.5. The considerations of the application are discussed in section 10 of the report. The application is recommended for approval. 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”.
- 1.6. The proposed development is considered to sustain and enhance both the architectural and historic significance of the buildings and the use proposed is considered to be suitably viable and consistent with the history of the site and the ongoing conservation of this at risk Grade II* Listed Building. The proposed development would contribute to the re-generation and vitality of this part of the Old Town Conservation Area and would also improve the public realm and make a positive contribution to local character and distinctiveness.
- 1.7. The report does recognise that there will be some harm resulting from the development, in particular, impact on amenity to a number of residential occupiers in the vicinity of the site and heritage harms to Hippodrome House and modest harm to the Conservation Area.
- 1.8. Whilst the harm of the proposals are acknowledged, it is recognised that the proposals do bring forward the restoration of the Grade II* Listed Building, which has fallen into disrepair. Therefore on balance, subject to the conditions and obligations identified, the harm outlined in the report is considered to be outweighed by the public benefits of the proposal.

2. RECOMMENDATION

- 2.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to:
 - A) Completion of a s106 Agreement and secure the Heads of Term as set out below:
 - Employment and Training Strategy
 - Contribution of £70,800 for Employment and Skills Training
 - Contribution for monitoring obligations (Events Management Plan)
 - Contribution for monitoring obligations (Delivery and Servicing Management Plan)
 - Contribution for monitoring obligations (Travel Plan)
 - B) The Conditions & Informatives set out at Appendix B

SAVE THAT should the s106 agreement not be completed on or before 3rd August 2024 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in Appendix C of this report:

3. SITE LOCATION

- 3.1. The application relates to the Grade II* Listed Brighton Hippodrome (52-58 Middle Street) a late 19th Century venue. The building was originally constructed as an ice rink in 1896/97 and has undergone many iterations of use in its time. Most recently the building was used as a Bingo Hall and has been vacant since 2006. The building is included on Historic England's register of "buildings at risk" due to being in a substantial and ongoing state of deterioration. The building together with the associated and adjoining Hippodrome House (51 Middle Street) occupies a substantial site between Middle Street and Ship Street in the heart of the Old Town Conservation Area of the city with the principal entrance onto Middle Street and a rear yard with access from Ship Street. The site also lies within an Archaeological Notification Area.

4. RELEVANT HISTORY

- 4.1. **BH2022/02444** - Restoration, renovation, part-demolition works and extensions to The Hippodrome to create a new mixed use development including multi-format performance space (Sui Generis), and apart-hotel (C1), restaurant/café (E) with rooftop bar and terrace (Sui Generis) including; erection of new apart-hotel building fronting Ship Street of 3 to 7 storeys with retail (E) at ground floor, conversion of existing Hippodrome Fly Tower to create additional rehearsal/performance space, conversion of Hippodrome House to provide bar, members club with external terrace and apart-hotel, and other associated works. (Listed Building Consent)
Under Consideration
- 4.2. **BH2023/02483** - Certificate of lawfulness for the proposed re-use of the building for live public performance entertainment (with ancillary provision of food and beverage).
Refused 7th November 2023
- 4.3. **BH2022/00648** - Clearance and treatment of dry rot infested areas including removal of non structural timbers and bingo hall installed fixtures and fittings.
Approved 26th May 2022
- 4.4. **PRE2021/00110** - Repair and refurbishment of existing Grade II listed building for use as an entertainment venue, also including conversion of part of the existing building to an 18 room apartment hotel, another part to office use, and a newbuild extension at the rear to create 60 additional apartment hotel rooms and a small retail unit fronting onto Ship Street. Alterations to the Listed Building will be both internal and external on all floors.
Advice issued 24th August 2021
- 4.5. **BH2021/01080** - Erection of new roof structure to the domed roof, and the demolition of several roof structures that penetrate through the existing roof fabric. (Listed Building Consent)
Approved 5th October 2021

- 4.6. **BH2021/01079** - Erection of new roof structure to the domed roof, and the demolition of several roof structures that penetrate through the existing roof fabric.
Approved 5th October 2021
- 4.7. **BH2013/04348** - Internal and external alterations to Brighton Hippodrome and Hippodrome House to form an eight screen cinema (D2) and four associated café/restaurants units (A3) to include the following works: demolition of the fly tower and other later additions and construction of replacement rear extensions; excavation works to extend existing basements; construction of two storey extension to northern elevation; reinstatement of original Hippodrome entrance on Middle Street; demolition of 11 Dukes Lane to create a new pedestrian route; new bay window to western elevation of 10 Dukes Lane, new windows to 47 Middle Street; new windows and entrance way to Hippodrome House; reconfiguration of existing service yards and parking areas; improvements to pedestrian and disabled access to Middle Street and Dukes Lane; construction of new three storey plus basement unit on land adjacent to 18-19 Ship Street (referenced as 19A Ship Street in supporting documents and plans) comprising A1/A2/A3 use on the ground floor and B1 use on the upper floors; and other associated works.
Approved 28th November 2014
- 4.8. **BH2013/04351** - Internal and external alterations, restoration and repair to Brighton Hippodrome and Hippodrome House to facilitate conversion to cinema (D2) and associated café/restaurant units (A3) to include the following works: demolition of the rear fly tower and other later additions and construction of replacement rear extensions; construction of two storey extension to northern elevation to provide new access way into the Hippodrome; excavation works to stalls and orchestra pit; installation of mezzanine floor; reinstatement of original Hippodrome entrance on Middle Street; new windows and entrance way to Hippodrome House; and other associated works.
Approved 28th November 2014

5. APPLICATION DESCRIPTION

- 5.1. The application proposes a new mixed use development across site including;
- Restoration, renovation, part-demolition and extensions to The Hippodrome to provide a multi-format performance/event space (Sui Generis) with restaurant/café (E)
 - Conversion and alterations to Hippodrome House to provide bar, members club and apart-hotel (Sui Generis), and other associated works.
 - Erection at the rear of a new 3-7 storey apart-hotel (Sui Generis) fronting Ship Street with retail (E) at ground floor

The Hippodrome

- 5.2. The proposal is to restore and bring the auditorium back into use as a performance venue/events space in a “Theatre of Varieties” concept. This is to utilise the auditorium as a flexible performance and events space capable

of hosting both musical and theatrical performances as well as providing a venue for conferences, exhibitions, banquets as well as other uses such as event cinema, lectures and weddings. The circle is to be retained with fixed raked seating (400 seats) whilst the main auditorium floor would be remodelled as a flat floor event space. The decorative plasterwork within the auditorium would be repaired and restored with the retention and preservation of a number of other historic elements, fixtures and fittings. The ground floor of the venue would also enclose a kitchen in the south eastern corner and ancillary bar areas set within the auditorium.

- 5.3. At mezzanine level (03) the area at the rear of the stage within the fly tower would be converted to a rehearsal/practice performance space with additional Apart Hotel bedrooms on the floor above.
- 5.4. From circle level there is also proposed access to an enclosed “roof top” bar (level 03) with a capacity of 32 covers that faces north and in turn leads onto an external roof terrace fronting Middle Street for 44 covers.
- 5.5. The ground floor lobby of the auditorium would be converted to a bar/restaurant with a frontage onto Middle Street catering for 60 covers internally and 44 externally on the public highway (pavement) and would re-utilise the box booths between the foyer and auditorium.
- 5.6. The ground floor would also be remodelled with the provision of washroom and toilet facilities as well as a re-designed back of house at the rear of the stage to provide dressing rooms, changing rooms and green rooms, stage lobbies and other performance facilities and storage.
- 5.7. The stage get in and get out would be in the same overall location as the current elephant/equestrian ramp providing a direct and ramped access to the stage side and rear. A late night exit for patrons is sited adjacent to this in the northern side of the auditorium.
- 5.8. Servicing and delivery of the auditorium would take place through the existing vehicle access on the northern side of Hippodrome House.
- 5.9. External alterations are proposed to the Middle Street frontage and these relate largely to matters of detailing and infilling and installation of doors and windows.

Hippodrome House

- 5.10. The ground floor of the northern part of Hippodrome House would be remodelled for use as a private members club with bar and lounge areas. The bar at ground level would have a capacity of 59 opening out on an outside terrace in the Elephant’s Yard of 32 covers.
- 5.11. At mezzanine level is a proposed Member’s dining room, with a 24 person capacity served by its own kitchen. The northern upper parts of Hippodrome House would be remodelled and facilitate 16 Apart Hotel rooms.

- 5.12. The southern section of Hippodrome House adjoining the Hippodrome auditorium would be entirely remodelled as the Apart Hotel entrance lobby providing access via the stair core to rooms above to the street frontage with the rear remodelled for WC facilities and access to the auditorium.

The Apart Hotel

- 5.13. The application proposes the erection of an extension at the rear and side of the auditorium and infilling of the rear car park with a new 3-7 storey apart-hotel building proposed at 21.4m in height, providing 62 hotel rooms fronting onto Ship Street with a new retail unit (Class E) at ground floor. The extension would be set down at its eastern end and would appear largely as a three storey building with accommodation in the roof from Ship Street. The extension steps up with the 5th and 6th storey 9m back from the street front with a metal clad mansard roof addition above. The elevations propose differing treatments of brickwork detailing punctuated by set ins and set backs along with windows and canted bays serving the Apart Hotel rooms on the northern and southern sides.
- 5.14. Additional alterations are proposed to the Hippodrome fly tower and roof. The roof spaces would feature a number of rooflights, PV panels, plant equipment and acoustic louvres. New window openings are proposed to the fly tower on the south eastern side.

Amendments

- 5.15. Amended plans and further information have been provided during the course of the application. Principally the amendments have reduced the height of the rear Apart Hotel building and removed a proposed use of the fly tower for separate office use (E) from the application and in its place is the proposed rehearsal/studio space.

Condition of the Hippodrome

- 5.16. The building has been vacant since 2006 and during this time has fallen into considerable disrepair in this time. Water ingress and an infestation of dry rot have been somewhat remedied by recent planning and listed building consents to renew the auditorium roof and remove non-structural dry rot. These consents have been implemented by the applicant.
- 5.17. It is also of note that the applicant has commenced some works which would require listed building consent but are not yet approved, most notably the restoration of the auditorium plaster work with some of this work already considerably underway. These proposed part-retrospective works form part of this consent and the associated listed building application BH2022/02444.

6. REPRESENTATIONS

- 6.1. Overall and in total **Fifty one (51)** public representations from **forty four (44)** individuals have been received in regards to the application during the course of the application. These are broken down in the following paragraphs.

Original consultation

6.2. **Thirteen (13)** representations were received from individuals and the following groups, **Brighton and Hove Heritage Commission, The Ship Street, Middle Street and Ship Street Gardens Residents Association** objecting to the proposed development for the following reasons:

- Adverse impact on listed building
- Adversely affects Conservation Area
- Apart Hotel would harm character of the street
- Apart Hotel would be overly dominant, oppressive / excessive bulk
- Additional traffic and concerns on road capacity
- Detrimental impact on property value
- Inappropriate Height of Development
- Overdevelopment
- Overshadowing
- Loss of outlook
- Overbearing
- Poor design
- Impact on Brighton skyline
- Would create enclosing impact
- Hotel too close to residential properties
- Impacts on security from crowds
- Noise, disturbance and vibration from venue
- Out of keeping
- Loss of privacy from hotel windows
- Roof-terrace to Apart Hotel too close to boundary
- Concerns of noise from rooftop bar
- Rooftop bars should close 9pm weekday and 10pm on weekends
- Loss of privacy from offices / fly tower conversion
- Disruptive and detrimental to peaceful enjoyment of Quakers Meeting House and Gardens
- Would block light to gardens of Quakers Meeting house
- Harm to trees of Quakers Meeting House
- Loss of area at rear would prevent large scale theatre
- No sufficient space for deliveries and performance equipment
- Rear yard should be retained
- Early morning deliveries should be restricted
- Concerns of noise from crowds
- Concerns of dust and noise from construction
- Would set dangerous precedent for future development in the Conservation Area
- Severe loss of light to residential properties
- Inappropriate siting of refuse storage for Apart Hotel
- Restriction of view
- Impact on parking in area
- Concern on table and chairs on Middle St
- Potential for anti-social behaviour
- Lack of historic detail
- Poor management of the site currently

- Poor quality of workmanship of current repairs
 - Inaccuracies in Heritage Statement
 - Urgent works not completed
 - Would harm views from outside the site
 - Hotel façade is inappropriate design
 - Fly tower must be retained and operational
 - Concerns that the site will be subdivided without benefits being achieved
- 6.3. **Five (5)** representations were received from individuals and the following group, **Hove Civic Society**, supporting the proposed development for the following reasons:
- In keeping with Listed Building
 - Respects and protects the Heritage asset
 - Flexibility beneficial for the venue
 - Cultural benefits from restoration for the public use
 - Brighton needs venue to attract high class acts
 - Variety and higher quality performances in new space
 - Quality venue needed to provide quality entertainment
 - Assist in regeneration
 - Beneficial to the city
 - Would be a great asset culturally
 - Beneficial to local business
 - High end venue is what the city needs
- 6.4. **Four (4)** representations were received commenting on the proposed development:
- More toilets required
 - Support principle but concerns expressed on height and mass of Apart Hotel and offices
 - Should improve disability access provisions
 - Should increase back of house areas and dressing rooms
 - Would like to see Palm Court restored also
- Following amendments to the scheme and a re-consultation in April 2023:
- 6.5. **Twenty two (22)** representations were received objecting to the proposed development for the reasons stated above.
- 6.6. **Five (5)** representations were received supporting the proposed development
- 6.7. **Two (2)** representations were received commenting on the proposed development for the reasons as stated above.
- 6.8. **Two (2)** representations have been received from **Caroline Lucas (MP)** on 24th October 2022 and 25th April 2023 supporting the proposals.
- 6.9. A representation has been received from the **Brighton Hippodrome CIC** (Community Interest Company) on 7th October 2022 objecting to the proposals for the following reasons;

- The plans contain insufficient detail and evidence of an overall strategy and business plan.
- Liquor licensing in the cumulative impact zone (CIZ) may limit the potential of the scheme.
- Issues of noise transfer and neighbourhood disturbance are not addressed.
- The impacts of regular 1,800-person concerts are not discussed.
- This proposal is similar to one that failed for a major music operator 10 years ago.
- The scheme is not reversible for future theatre use, as required of previous schemes.

7. CONSULTATIONS

Internal:

7.1. **City Clean:** Comment

No issues to note if refuse and recycling storage are kept off public highway

7.2. **Economic Development:** Support

Where possible the preferred option would be de-construction and the reuse of materials used in the existing building.

7.3. **Employment and skills:** Comment

Based on the information provided in the application, a contribution is requested of £70,800 via S106 Agreement towards the Local Employment Scheme, and an Employment and Training strategy should be secured.

7.4. **Environmental Health (noise/acoustic assessment):** No objection subject to conditions

Further acoustic design assessment required by condition, post completion testing required, limits recommended to plant and equipment and further informative recommended.

7.5. **Environmental Health (Land contamination):** No objection

Conditions recommended for desk study, site investigation, a method statement for risk/remediation and verification. Asbestos informative suggested.

7.6. **Heritage:** 22nd February 2024 (final comments):

Approve subject to conditions

The addendum submitted in December 2023 provides more information on the back of house provision, operational management, and servicing of the site. This helps to clarify the type and scale of activity that could take place at this venue and how it will operate and be managed.

7.7. The latest information provided has not addressed fully the concerns of the previous Heritage comments and this would align with Historic England's latest comments who have particular concerns regarding (but not exclusively) the Palm Court interiors:

We consider that harm to heritage significance could be reduced by the retention and re-use of some of the historic Palm Court interiors for additional bar and front of house areas to serve the entertainment use.

- 7.8. Where works are proposed which would lead to harm, local planning authorities are required to follow the National Planning Policy Framework (NPPF) that any harm or loss of significance would require clear and convincing justification. Paragraphs 203, 205, 206, 207 and 211 are all relevant however 208 is most worthy of note:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset (in this case a listed building), this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

NPPF paragraph 208

- 7.9. These benefits are defined in the Planning Policy Guidance (PPG) as ‘anything that delivers economic, social or environmental objectives’, and which are ‘of a nature or scale to benefit the public at large and not just be a private benefit’. The Hippodrome would offer public benefits in the form of renovating a at risk listed building and bringing it back into use. The building has been vacant for a long time and is in a poor condition. It has deteriorated over this period and is on Historic England’s ‘buildings at risk’ register. It is also on the Theatres Trust’s register of theatres at risk. The public would also have the benefit of seeing and experiencing this historic performance space as well as having an additional venue in the city. There will also be additional employment opportunities. However, the heritage impacts would need to be minimised by the imposition of conditions to avoid loss to historic fabric such as plasterwork and original fixtures and fittings in The Hippodrome and Hippodrome House and to ensure all works carried out are appropriate to the heritage asset. Whilst the Apart-hotel is considered acceptable, further details are required by condition to ensure that it does not affect the significance of the historic building as well as preserving and enhancing the Old Town Conservation Area. The imposition of conditions and compliance with the conditions are critical to ensuring the public benefit tests are met and that the alterations preserve the special character of the building.
- 7.10. Historic England outlines a staged approach to decision making in their Advice Note 12. Previous Heritage comments would indicate that the Heritage Impact Statement hasn’t satisfactorily addressed these. The proposals as currently submitted will lead to less than substantial harm, but to a high degree if clear conditions are not set out for each individual part of the development to ensure that the loss of original fabric is minimised. The viable option *likely to cause the least harm to the significance of the asset* would also require clear conditions to be set.
- 7.11. Conditions are recommended for; methodology and details of how the historic features would be restored and protected during works, a detailed phasing plan, further details on the historic floor layers, details for the internal sound wall, updated information on the fibrous plaster works undertaken, the porch

canopy to Hippodrome House, details of the treatment for the basement of Hippodrome House, details of the restoration of the Middle Street canopy, details of the Juliette balconies fronting Middle Street, further information on the retention of the circle seating and a proposed colour scheme for the interior plasterwork.

28th April 2023: Seek Amendments/Seek Further Information

- 7.12. There is still therefore a need for a clearer understanding, with appropriate specialist input, of how the multi-format venue would viably operate as currently designed and laid out. There also remains the need for a clear phasing plan to provide confidence that the listed building will be fully restored. More details of the alterations to the Hippodrome are still required in order to be confident that the works would conserve the significance of the building and that the package of heritage benefits is sufficiently great as to outweigh the harmful aspects of the proposals.
- 7.13. The new building elements, including the apart hotel and the infill addition to Hippodrome House, are now considered to be broadly acceptable in terms of minimising their harm, but further design amendments are recommended to achieve a suitable development in heritage terms.

30th September 2022: Seek Amendments/Seek Further Information

- 7.14. Whilst the principle of these applications is supported, there are significant concerns that as submitted the applications; lack justification and detail for the proposed alterations and restoration works, lack clarity around how the multi-use venue would viably operate and how it would comfortably co-exist with other proposed uses, lack details of how acoustic separation would be provided and how that may impact on the interior and features of the auditorium etc, lack a phasing plan, may not allow for future reversibility and for flexibility of use(s), involve substantial alterations to Hippodrome House and large scale new development.
- 7.15. **Planning Policy: No objection**
The proposed mix of uses appears broadly policy compliant, subject to detailed assessment in terms of design, heritage and amenity impacts.
- 7.16. **Sustainability: No objection subject to conditions**
Conditions recommended to secure BREEAM Excellent rating, a Biodiversity Net Gain assessment and the layout of roof-mounted solar panels.
- 7.17. **Sustainable Drainage: No objection subject to pre-commencement conditions**
Site is low flood risk. Insufficient information provided within the application and full details of the proposed surface water and foul water drainage strategy and a demonstration of their effectiveness will be required by pre-commencement condition.
- 7.18. **Sustainable Transport: No objection subject to conditions, Section 106 to secure event plans and contribution and informatives**
September 2023

- 12th May 2023 –Objection- seek further information
- 7.19. Further information required in regards to; trip generation, assignment and distribution information, servicing and delivery and local modes of transport.
- 23rd February 2023 –Objection- seek further information
- 7.20. Further information required in regards to; trip generation, assignment and distribution information, servicing and delivery and local modes of transport.
- 14th October 2022 – Objection- seek further information
- 7.21. Further information to be provided by the applicant in regards to; revised transport assessment, revised trip generation, assignment and distribution information, servicing and delivery, cycle parking and local modes of transport.
- 7.22. **Urban Design: Comment (seek amendments)**
Design of the retail and Apart-Hotel frontage should be improved and consideration given to reducing the number of storeys and height to lessen impact on the conservation area, review or clarify Apart-hotel in terms of accessibility from Middle Street and arrangements during the night when the hippodrome is closed. Reduce scale of infill development and review material composition to create a development that is distinctive and harmonious.
- External
- 7.23. **Brighton and Hove Archaeological Society: Comment**
Proposed development lies in the archaeologically sensitive centre of Old Brighton. Palaeolithic deposits may remain or vestiges of the medieval or Reformation periods.
- 7.24. **Conservation and Advisory Group: Support**
Noted concerns on height of Apart Hotel building, request a Section 106 obligation to ensure hotel is prevented from trading until Hippodrome completed.
- 7.25. **County Archaeologist: Support**
Information provided is satisfactory and identifies that there is a risk that archaeological remains will be damaged. Risk of damage to archaeology is recommended to be mitigated by the application of planning conditions.
- 7.26. **Health and Safety Executive: No comment**
- 7.27. **Historic Buildings and Places (Ancient Monuments Society): Objection**
Concerns that information provided within the HIA (Heritage Impact Assessment) is inadequate for Grade II* Listed Building, decorative elements of Hippodrome House (Palm Court interiors) should be retained, concerns on Apart Hotel height and design. Suggests further information and advice is obtained.
- 7.28. **Historic England: 30th January 2024: Comment**

It will be for the Council to decide whether this scheme is deliverable and viable in the Brighton entertainment market and would therefore secure a long-term sustainable use for this important heritage asset.

7.29. We consider that harm to heritage significance could be reduced by the retention and re-use of some of the historic Palm Court interiors for additional bar and front of house areas to serve the entertainment use, and through a reduction in height of the apart- hotel development.

7.30. Should you decide the proposals are acceptable, we would encourage you to consider the recommended conditions which would further reduce harm.

27th April 2023: Seek Amendments/Seek Further Information/Objection

7.31. Welcome the further information and amendments but consider that they do not go far enough to address previous concerns. This is because they still do not provide sufficient evidence to demonstrate: the deliverability of the scheme; that the potential harm has been minimised and that the public benefits can be delivered to outweigh the harm and be legally secured.

7.32. Importantly, we consider it is crucial that the applicant demonstrates that the proposed multi-format performance use is deliverable within the re-designed spaces, including its servicing and back of house arrangements, and is viable and sustainable within the Brighton entertainment market. If adequate information and amendments as described are provided, we think that we might be able to support the proposed re-use of this important historic building.

13th October 2022: Seek Amendments/Seek Further Information/Objection

7.33. This scheme has the potential to retain and restore important aspects of the building's significance, which counts in its favour, although other aspects of the scheme would result in harm to significance and we have some overarching questions about its overall deliverability.

7.34. We think that we could support the proposed scheme if persuaded that the harm had been minimised and that heritage benefits capable of outweighing the harm could be legally secured. However, to be confident of all these matters, we would need further information that demonstrates that the proposed multi-format performance use, including its servicing, is viable and sustainable and would work within the re-designed spaces. In addition, we would need to be persuaded that an historically accurate restoration of the fibrous plasterwork in the auditorium can be achieved, while minimising loss of historic fabric. We also consider that amendments to the design and height of the apart-hotel development are required in order to reduce harm to the conservation area. We therefore advise you to seek this further information and amendments before the application is determined.

7.35. **National Highways: No objection**

Sufficient information submitted (August 2023) to demonstrate that the proposals, if consented, would not have an unacceptable impact on the safety, reliability and/ or operational efficiency of the SRN (strategic road network).

6th June 2023, 21st April 2023, 6th March 2023, 6th January 2023, 9th December 2022 – Holding objection

7.36. Further information required on trip generation, distribution assignment and assessment.

5th September 2022 – Holding objection

7.37. Further information to be provided by the applicant in order that an informed decision can be made in relation to the potential impacts of the development on the SRN (strategic road network). Further information required on trip generation, distribution assignment and assessment.

7.38. **Theatres Trust:** 10th January 2024: Objection

Additional information provides some reassurance on particular aspects of the application such as the ability to accept large vehicles and that operational matters are being considered to some degree, overall it does not fundamentally address the primary objections and concerns that we have raised previously. Therefore our existing recommendations and position remains unchanged.

21st April 2023: Objection

7.39. Welcome that revisions have been made to the proposed plans which go some way towards addressing previous concerns and objections. In terms of internal layout and function to back of house areas and within the fly tower there is some improvement. In particular, the removal of serviced offices from the fly tower has given much needed additional space and facilities over to the event/performance function, including the addition of an indicative rehearsal space. Operationally there is now less complication and scope for potential conflict around the Elephant Yard which improves function and safety, partly through having one less use (the serviced offices) and partly through the apparent removal of external seating for the Members Bar. There is now a slightly more straightforward access route to the stage for get-ins (delivery and removal of equipment, props and sets for shows). Externally, the massing of the serviced apartments to the rear yard has been reduced and we consider this now sits more comfortably with the existing building so has reduced impact on its setting.

7.40. Nonetheless, we still have significant concerns regarding the operability and viability of the scheme as a venue for live music, comedy, cabaret, conferencing and other such functions and events. This is based on our own expert advice informed through engagement and consultation with established venues and operators offering similar provision at a similar scale and capacity. These matters will need to be addressed if the flexible, multi-purpose use for Hippodrome is to be a success and the loss and harm to heritage of such a significant asset is to be justified.

7th October 2022: Objection

7.41. Priority is to see a viable, sustainable and long-term future for the Hippodrome as a live performance venue. At this stage consider there to be a number of flaws with the design and proposed operation of this venue which prevent that, requiring significant amendment. There is also a general lack of evidence and

detail within the submission that would ordinarily be required of any proposal to support the granting of planning permission or listed building consent and to justify heritage loss and harm (both substantial and less than substantial) as well as conflict with policy and departure from optimum viable use.

7.42. Whilst no objection to the overall principle of change of use (again subject to further evidence), until the revisions and further information come forward, position will be to object to the granting of planning permission and listed building consent.

7.43. **Sussex Police:** Comment

No concerns on design and layout, concerns on protecting residential amenity due to number of external covers, suggests conditions for reasonable trading hours, condition that alcohol is ancillary to food, external terraces should be safe to avoid items being dropped/thrown, appropriate security measures should be incorporated across the venue for safe and secure access.

7.44. **UK Power Networks:** Comment

The applicant is advised to adhere to guidance with regard to safe construction practice close to cables/apparatus.

7.45. **Victoria Society:** Objection

- Concerns that information provided within the HIA (Heritage Impact Assessment) is not sufficient.
- Concerns that harms are caused to the significance of the Listed Building and Conservation Area and would set a dangerous precedent due to the scale of Apart Hotel.
- Further historic restoration detailing should be achieved

7.46. **Visit Brighton:** Support

In order to sustain and grow visitor economy it is essential we continue to innovate and develop the portfolio of product in the City which appeals to both residents and tourists.

8. MATERIAL CONSIDERATIONS

8.1. 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.

8.2. 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).

9. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

SS1 Presumption in Favour of Sustainable Development
 SA2 Central Brighton
 CP2 Sustainable economic development
 CP4 Retail provision
 CP5 Culture and tourism
 CP6 Visitor accommodation
 CP7 Infrastructure and developer contributions
 CP8 Sustainable buildings
 CP9 Sustainable transport
 CP10 Biodiversity
 CP11 Flood risk
 CP12 Urban design
 CP13 Public streets and spaces
 CP15 Heritage
 CP18 Healthy city

Brighton & Hove City Plan Part Two:

DM18 High quality design and places
 DM20 Protection of Amenity
 DM21 Extensions and alterations
 DM22 Landscape Design and Trees
 DM23 Shopfronts
 DM26 Conservation Areas
 DM27 Listed Buildings
 DM33 Safe, sustainable and active travel
 DM35 Travel Plans and Transport Assessments
 DM36 Parking and servicing
 DM37 Green Infrastructure and Nature Conservation
 DM43 Sustainable Drainage
 DM44 Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste
 SPD06 Trees & Development Sites
 SPD09 Architectural Features
 SPD11 Nature Conservation & Development
 SPD12 Design Guide for Extensions and Alterations
 SPD14 Parking Standards
 SPD17 Urban Design Framework

10. CONSIDERATIONS & ASSESSMENT

- 10.1. The main considerations in the determination of this application relate to the principal of the proposed use, the impact upon the significance of the Grade II* Listed Buildings, impacts on neighbouring and local public amenity, design and appearance and impacts upon the Conservation Area and other nearby listed buildings, highways and transport impacts, energy efficiency and sustainability of the development proposed.
- 10.2. 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 and appearance of the area.
- 10.3. 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”.
- 10.4. Significance of the Hippodrome (*History of the site and historic significance*)
Numbers 52-58 Middle Street is the Hippodrome, which with the associated building at number 51 known as Hippodrome House, is a Grade II* Listed Building and occupies a substantial site in the heart of the Old Town conservation area of the city.
- 10.5. The Hippodrome has both special architectural and historic interest and the surviving Matcham auditorium interior is of greatest note.
- 10.6. The site has a long history as an entertainment venue, having been built originally to serve Brighton’s burgeoning tourist market during the rapid expansion of the city in the late 19th century.
- 10.7. The building’s vast circular auditorium is largely concealed within the tight urban grain of the Old Town’s lanes and twittens behind an unassuming frontage on Middle Street. The various phases of the building’s history remain legible in a series of external and internal features including the equestrian ramp associated with the circus use in the Middle Street yard. The plain brick fly tower is a later addition to the building which along with the yard and car park to the east presents an uncharacteristically utilitarian outlook when seen from Ship Street.
- 10.8. The building has been reinvented a number of times. Originally built as an indoor ice rink by Lewis Kerslake in 1896/97 the building was converted to a circus four years later by renowned theatre architect Frank Matcham. After a year the eminent theatre architect, Bertie Crewe, altered it again to create a variety theatre for theatre magnate Tom Barrasford by removing the circus

ring, creating an orchestra pit with stage, adding a pair of boxes and re-seating the ground floor.

- 10.9. Major alterations were then carried out in 1915/16 by another theatre architect J. Emblin Walker. Further alterations followed in the 1930s, 1940s and 1950s and the Hippodrome was used as a variety entertainment venue playing host to many of the most famous performers of the 20th Century until 1964. Following a brief conversion of the building to a film and TV studio in 1966, the building reopened as a bingo hall in 1969.
- 10.10. The building was occupied by Mecca Bingo from 1969 until it closed and fell into disuse in 2006. In the 18 years since, the building has been in a substantial and ongoing state of deterioration with sufficient water ingress, dry rot and general decay and disrepair occurring for the building to be longstanding on Historic England's and the Theatres Trusts registers of "buildings at risk".
- 10.11. Notwithstanding the overall state of disrepair, the building retains a great deal of interior detailing with much of the plaster work throughout the Hippodrome auditorium and Hippodrome house surviving. The building retains a number of unusual fixtures and fittings and much of the foyer, with mahogany panelling and it's decorative ceiling, remains in good condition.
- 10.12. It is from Matcham's designs that the main aesthetic interest of the Hippodrome as we know it today internally and externally is derived. The historic significance of the building is largely attributed to the interiors flamboyant rococo plasterwork created by Matcham, surviving decorative detailing and to the large auditorium itself as a single open volume capable of maintaining a performance function in view of the buildings rich and varied performance history.
- 10.13. The application site also includes the adjoining 'Hippodrome House', originally two mid-nineteenth century dwellings, in which Tom Barrasford lived until his death in 1910. The house is in an altered condition and includes within it a miscellany of colourful theatre set pieces likely dating from its 1930s and later use as a lounge bar. The basement, however, is relatively unaltered and retains a fine, large kitchen range, original storage shelving and extensive brick vaults, all reflecting the status of the original house and its owner.

Principle of the Development:

Policy background

- 10.14. Of key relevance to this application are paragraphs 201, 203, 205, 206, 207, 208 and 211 of the National Planning Policy Framework (NPPF). In particular:
Paragraph 203: *In determining applications, local planning authorities should take account of:*
 - a) *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
 - b) *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*

- c) *the desirability of new development making a positive contribution to local character and distinctiveness.*

Paragraph 205: *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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

Paragraph 206: *Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:*

- a) *grade II listed buildings, or grade II registered parks or gardens, should be exceptional;*
- b) *assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*

Paragraph 208: *Where a development proposal 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, where appropriate, securing its optimum viable use.*

- 10.15. Public benefits are defined in the Planning Practice Guidance as 'anything that delivers economic, social or environmental objectives', and which are 'of a nature or scale to benefit the public at large and not just be a private benefit'.
- 10.16. The guidance also states; *"It is important that any use is viable, not just for the owner, but also for the future conservation of the asset: a series of failed ventures could result in a number of unnecessary harmful changes being made to the asset.*
If there is only one viable use, that use is the optimum viable use. If there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. The optimum viable use may not necessarily be the most economically viable one. Nor need it be the original use. However, if from a conservation point of view there is no real difference between alternative economically viable uses, then the choice of use is a decision for the owner, subject of course to obtaining any necessary consent.
- 10.17. The application proposes the re-use of the Hippodrome as a flexible performance and events space, a new retail unit fronting Ship Street, a new members club and Apart Hotel. In addition to the above policy framework and guidance, local policies SA2, CP4, CP5, CP6, CP13 and CP15 of the Brighton and Hove City Plan Part One as well as DM18, DM26 and DM27 of the Brighton and Hove City Plan Part Two are also relevant to establishing the acceptability of the principal of the proposals.

Policy assessment of the proposal

- 10.18. Strategic policy SA2 seeks to reinforce and improve central Brighton as the city's vibrant, thriving, regional centre for shopping, leisure, tourism, cultural, office and commercial uses. The policy, amongst other elements, recognises the role of independent retail offerings, promotes a balance of evening and night-time economy uses which appeal to a wide range of age and social groups and promotes active ground floor uses.
- 10.19. Policy CP4 (retail provision) seeks to support new retail development within the defined shopping centres. CP5 (Culture and Tourism) seeks to maintain and enhance the cultural offer of the city for residents and visitors with a range of high quality facilities and event spaces. The policy supports the provision of performance and rehearsal space within major mixed use schemes and seeks to protect existing arts and performance facilities. CP6 (Visitor Accommodation) supports the provision of wide-ranging visitor accommodation and directs proposals for new hotel accommodation firstly, to within area SA2.
- 10.20. Policy CP15 (Heritage) promotes the conservation, preservation and enhancement of the city's historic environment and prioritises positive action for heritage assets at risk through neglect, decay and vacancy.
- 10.21. Policy DM18 (High Quality Design and Spaces) of the Brighton and Hove City Plan Part Two requires proposals to demonstrate a high standard of design and make a positive contribution to a sense of space and visual quality ensuring new proposals respond positively to the urban grain, scale and shape of buildings.
- 10.22. Policy DM26 (Conservation Areas) requires new development to preserve or enhance the distinctive character and appearance of the area. New development within a conservation area should be of the highest design quality and should take the opportunity to enhance the special interest of the area wherever possible, having regard to any adopted management plan.
- 10.23. Policy DM27 (Listed Buildings) requires listed buildings to be retained in viable use and good repair. Proposals involving the alteration, extension, or change of use of a listed building will be permitted where they would not harm the special architectural or historic interest of the building, where vacancy is an on-going concern, consent will be granted for a new viable use that is consistent with the conservation of the building's special interest, provided that this would not unacceptably conflict with other policies or material considerations. In applying other policies the council will have special regard to the benefits of bringing the listed building back into use.
- 10.24. Both DM26 and DM27 require that where either substantial harm or less than substantial harm is identified, the council will expect the applicant to fully meet the requirements set out in the NPPF, having regard to the significance of the heritage assets affected.

The renovation and re-use of the Hippodrome

- 10.25. The renovation of the Hippodrome (Grade II* listed building) and its restoration as a flexible events and entertainment venue would be strongly welcomed and would broadly support key objectives of policy SA2 for central Brighton and Policy CP5 in terms of enhancing the city's culture and tourism offer. A detailed justification for the various proposed uses is provided in the applicant's Design & Access Statement, including issues relating to the design of the buildings and interaction of uses, as well as viability. The acceptability of the principal of the proposed re-use of the Hippodrome as a flexible events and performance space also requires an assessment against policies DM26 and DM27, the NPPF and PPG guidance relating to the impact of development proposals upon Heritage assets and putting them to viable uses consistent with their conservation (paragraph 203 of the NPPF). This is explored further in the sections below.

The provision of the Apart Hotel

- 10.26. The site is located within the Hotel Core Zone and within the "Central Brighton" area covered by strategic allocation policy SA2 and policy CP6 (Visitor Accommodation) which directs new visitor accommodation to the Central Brighton area.
- 10.27. The applicant has submitted a Visitor Accommodation Impact Statement which provides evidence that there is longer term market potential for further hotel provision and a relative under-supply of 'apart-hotel' accommodation in the city. This is also highlighted in the Brighton & Hove Visitor Economy Strategy 2018-2023. As such, the proposed Apart-Hotel would strengthen and diversify the city's visitor accommodation offer and meet the requirements of Policy CP6.

The provision of the Members Club, Foyer and other bars

- 10.28. The proposals include several bar/catering facilities within the development of which some would operate independently of the live event space and others in direct conjunction with. Strategic policy SA2.4 states that the "*Council will promote a balanced range of complementary evening and night-time economy uses which appeal to a wide range of age and social groups, avoid a spread of large bars/pubs and night clubs and address public safety concerns.*"
- 10.29. The application site is situated within the Cumulative Impact Zone (CIZ) and it is noted that a premises licence has been granted for the re-development and re-use of the Hippodrome on 3rd October 2022 which remains subject to a number of licence conditions. This is a separate process to that of the planning system. Subject to an assessment of the wider amenity impacts, which is discussed in detail below, the proposed internal bars, foyer bar and members club are considered as broadly in accordance with the policy objectives of SA2.

The provision of the Ship Street retail unit (Class E)

- 10.30. The application includes a small retail unit fronting Ship Street, outside but adjacent to the boundaries of the Regional Centre defined in Policy CP4. This provision would contribute positively to the street scene and generate activity providing an active frontage in accordance with Policies SA2 and CP13.

Optimal Viable Use

- 10.31. National and local policy require new uses and development to be viable and consistent with the conservation of a building's special interest. Where harm is identified this needs to be weighed against the public benefits of a proposal including, where appropriate, securing the optimal viable use.
- 10.32. The application includes the submission of the "Colliers Optimal Viable Use" report (OVU) which analyses and assesses potential uses of the Hippodrome and whether these would represent *the optimal viable use* of the site. The report includes a report dated 2022 with an addendum from December 2023. The report also draws much from an earlier report and assessment conducted by Colliers in 2015 on behalf of the Theatres Trust and a range of other stakeholders. A copy of this report was also submitted with the application.
- 10.33. The reports include and references the feasibility study undertaken in 2015 examining the potential for three proposed uses of the Hippodrome;
- the use as a lyric theatre,
 - the use as a flat floor flexible performance space,
 - and non-events use.
- 10.34. The OVU report concludes that use of the auditorium as a flexible multiple-purpose event venue would be optimal. The strategy underlying what is described as the "Theatre of Varieties" concept is outlined to:
- Make the building as flexible as possible, able to stage performances of many types in layouts of many types.
 - Make it possible for the building to operate as a venue that has people using it on a continuous basis by day and evening rather than one which only opens for performances and events.
 - Make it easy and attractive for people to spend money on food and drink, which would be a main source of entertainment and of revenue.
- 10.35. In regard to financial viability, the report does not include specific financial modelling for the scheme proposed however financial modelling was undertaken for the 2015 study. The report concludes that the modelling indicated such a use as that proposed in this application, could make a reasonable operating profit but that this was unlikely to be enough to deliver the project on a purely commercial basis and that cross-subsidy would be required from grant and/or development of the rest of the site. The report notes that development costs are likely to have significantly increased since the original financial assessments were undertaken and that the funding and grant environment is even more challenging now.
- 10.36. The Colliers OVU report accompanying the application provides an assurance that the use of the building as proposed would have the potential to create a niche in the Brighton market and that such a use could be viable and attractive to operators. The application has not been submitted with specific financial modelling for the proposed use or proposed re-development and is not therefore considered to be true "enabling development". However, the development would provide a cross subsidy of the renovation and restoration

of the Hippodrome auditorium through the Apart Hotel development proposed in the rear car park and the re-development of Hippodrome House. The uses proposed for these areas of the site are considered to be compatible with the use of the auditorium as a flexible performance and events space and are not considered likely to disrupt or be detrimental to the safe and efficient operation of the Hippodrome as an events venue subject to sufficient internal sound proofing. The report concludes that the “Theatre of Varieties” concept is the Optimum Viable Use for the site.

- 10.37. In line with the PPG, further matters require consideration in regard to the overall viability of the proposed use and further assessment is required in order to secure against future harmful outcomes. Such matters in this instance relate to whether the building itself can facilitate the use proposed in regard to its structural ability to support modern day live performance equipment, whether there is suitable provision for back of house and support space, and whether the development can be suitably serviced as necessary as well as the balancing of identified heritage harms. Whilst further consideration to some of these specifics is given in other areas of this report, these factors remain critical elements in securing the overall operational viability and sustainability of the proposal.
- 10.38. The application originally proposed a suite of office accommodation within the Hippodrome Fly tower. Whilst the provision of office accommodation was supported in principle and considered to be policy compliant this element of the proposal was removed from the scheme during the consideration of the application. This was due to concerns regarding potential conflicts arising between the proposed uses. Furthermore, to bring forward the office accommodation, this required further interventions and alterations into the fly tower, which were considered to be harmful to the building which was not considered acceptable and could not be justified in the public benefit test.
- 10.39. The office space was replaced in the application by additional performance rehearsal space. This was considered to be a positive alteration to the scheme for two reasons; firstly the additional performance and rehearsal spaces contributes to the cultural offering of the scheme in providing a space in the heart of a performance venue for performance development but also that such a use required less physical intervention into the fly tower. With this in mind should a future use of the fly tower in association with the stage below be proposed - the re-use and reversibility of these proposed works is considered more likely. This additionally contributes to ensuring that the harm to the heritage asset is minimised.
- 10.40. During the course of the application, information was requested to demonstrate that the building was structurally capable to host performances/events and the necessary technical equipment. Whilst internal alterations are not normally something a planning application would consider in detail (this would usually apply to listed building consent in such cases), given the optimal viability assessment required with this application, it is important to consider whether the building can accommodate and support the equipment necessary and facilities without resulting in harm to the building. A

rigging design by Solotech was submitted as part of the application in December 2023. The design indicates attachment points for a hung audio system and lighting system and approximate loadings. Solotech is a global technical support company and there is no reason to dispute that the design would appear to be a workable one providing sufficient audio and lighting system support for a variety of modern entertainment uses. The Design and Access Statement submitted with the application identifies that the proposal would provide a lighting and audio system that would remain in-situ which would involve both less disruption to get in and get out of large amounts of audio/visual equipment and less need for some larger vehicles to support events.

- 10.41. An addendum to the Colliers OVU report was provided (dated December 2023) and this assesses the layout and functionality of the back of house space and considers that the Hippodrome offers a significant, indeed large amount of back of house space sufficient to support the types of entertainment and events proposed. The report provides a comparison of the presented back of house space at the Brighton Hippodrome with two comparable London venues. The conclusion within the report is that the Hippodrome would provide back of house space of approximately 432m² which is substantially more than the compared venues being The Troxy (Limehouse, London) with an audience capacity of 3100 and c.61m² of back of house space and Lafayette (Kings Cross) with an audience capacity of 600 and a back of house space of c.54m². Given that the Hippodrome would have a potential back of house area at 432m² officers are satisfied that such a provision could only be likely positive for the viability of the venue.
- 10.42. Turning to the servicing and delivery of the venue, the specific impacts of the proposal upon the Highway network is considered elsewhere in this report. Nonetheless, an adequate provision of space for vehicles that would support the types of performances and events proposed is necessary for the success and future sustainability of the proposals and therefore its operational viability. Vehicle tracking information has been provided (December 2023) which demonstrates that the Middle Street vehicle access is capable of housing individual coaches, vans and other large delivery vehicles including a 13.7m articulated lorry off the public highway. Opposite the site are a number of street refuse bins, however, even with the presence of these the information shows that vehicles such as a 13.7m Stage Truck, 12m Coach and 12m articulated lorries could access the side service yard, albeit that suitable provision for traffic marshals would be required given they would need to reverse into this area. The tracking information has been assessed by the Highways Team and considered acceptable.
- 10.43. The supporting information submitted during the course of the application has demonstrated that the building is capable of structurally supporting the flying of modern audio and visual equipment and has been demonstrated to have a layout which would both provide sufficient back of house space as well as minimal intervention into the form of the fly tower which are considered to be longer term positive aspects of the proposal. The application has also

sufficiently demonstrated that, in principle, servicing by larger vehicles could be achieved.

Use of the building as a Lyric Theatre (alternative Optimum Viable Use)

- 10.44. It is noted that The Theatres Trust maintain an objection to the proposal and do not agree that the proposed scheme would represent the optimum viable use for the building. A number of other consultees and representations have put forward a similar viewpoint that the use as a “lyric theatre/large scale theatre” would represent the Optimum Viable Use of the site and that such a use would be realistic and viable.
- 10.45. A lyric theatre is a theatre that can accommodate touring productions of musicals and other music-orientated genres like dance and opera. The productions that a theatre like this caters for require, in many cases a large winged stage behind a proscenium arch. They also require a fly tower so that scenery can be raised and lowered. The Theatre Royal (New Road, Brighton) is an example of this, however the Theatre Royal is the smallest theatre owned by the Ambassador Group in the UK and due to its overall size and smaller audience capacity it is unable to accommodate many “West End” touring productions or larger scale productions. The Brighton Dome is not a lyric theatre and whilst it shares similarities with the Hippodrome in regard to its round auditorium the Brighton Dome lacks the presence of a fly tower, stage and proscenium arch.
- 10.46. It is considered that Brighton does not therefore have a theatre capable of accommodating large scale theatrical productions and therefore such a proposed re-use of the Hippodrome as a lyric theatre would likely fill a gap within the theatre provision of the city given that the existing building retains a proscenium arch, winged stage and fly tower.
- 10.47. The Colliers OVU reports also assess the viability of the lyric theatre proposal and concludes a number of advantages and disadvantages. *“There is a reasonable prospect of a theatre of the Hippodrome’s size making an operating profit on an ongoing basis, provided it does not have to pay significant finance costs.”*
- 10.48. Notwithstanding this, the Colliers Report also notes a number of disadvantages of a lyric theatre concept. One disadvantage is that the Hippodrome was not originally designed as a lyric theatre, rather one “in the round” and therefore, in the context of a traditional stage based performance, the audience capacity is affected by sightlines not directed to the stage. The report concludes that the lower expected capacity the Hippodrome could accommodate (1350) for a stage directed performance would remain viable (Theatre Royal has a capacity of 932) but a greater capacity would enable more confidence in the viability. The shape of the auditorium being, in the round, would also not facilitate retractable seating limiting the flexibility of the venue to accommodate other events and performances which would represent another disadvantage.

- 10.49. A further disadvantage of the large scale lyric/theatre use is the servicing, delivery and requirements for large vehicles that deliver sets and equipment facilitating large productions. Historically the Hippodrome was serviced from the northern entrance from Middle Street (Elephant Yard). The rear yard of the Hippodrome was granted consent for use as a car park in 1956.
- 10.50. The preferred delivery vehicles supporting large productions is now commonly a 16.5m articulated lorry. When the Hippodrome was last in use for substantial performances the preferred vehicles were the rigid Luton vans which are significantly smaller (approx. 7m). Whilst the rear yard (Ship Street) of the Hippodrome did not historically provide servicing to the venue it does however present as a space which could, in theory, facilitate these larger vehicles. The rear yard as existing does provide sufficient space to house and park a large lorry or lorries however there is an inherent difficulty in such vehicles accessing this area from Ship Street.
- 10.51. 16.5m artic lorries would be required to reverse into the yard from Ship Street, however, it has been stated within the OVU report that this would only be possible by utilising land adjacent to the Hippodrome rear yard and which is not in the ownership of the applicants. In addition, it has also been demonstrated that such manoeuvres would also have a high likelihood of causing harm and damage to buildings on Ship Street and present profound difficulties. Within the 2015 OVU report it is concluded that the preference for using the rear yard in this way would be by reversing the traffic flow and one-way system of Middle Street and Ship Street. A further consideration is that the regular use of such vehicles may stymie future improvements to the public realm whilst the regular presence of such large vehicles is also likely to be less than desirable in this tight-nit area of the city.
- 10.52. Utilising the rear car park for servicing and delivery of a theatre with large trucks would inevitably require either the retention of an open yard or a development incorporating an under-croft delivery bay. Both cases would result in a development which would not provide an active street frontage to Ship Street or contribute positively to the Conservation Area. An active and attractive street frontage is considered an important benefit and contributes to ensuring the enhancement of the heritage assets. Moreover, use of the area would present significant challenges for access by large vehicles. This is recognised and given consideration in the planning balance of the application.
- 10.53. It should, however, be clearly recognised that the current application proposal includes development across the rear yard/car park and that in doing so the site would not likely facilitate a large scale theatre use in the future. There are therefore clear advantages and disadvantages of the proposals presented within this application as well as clear advantages and disadvantages for the proposal of a large scale lyric theatre to be considered.

Optimal Viable Use Conclusion:

- 10.54. With reference back to the PPG guidance; *“If there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial*

changes, but also as a result of subsequent wear and tear and likely future changes. The optimum viable use may not necessarily be the most economically viable one. Nor need it be the original use. However, if from a conservation point of view there is no real difference between alternative economically viable uses, then the choice of use is a decision for the owner, subject of course to obtaining any necessary consent.”

- 10.55. Historic England have advised the Council in their consultation response; *“It will be for the Council to decide whether this scheme is deliverable and viable in the Brighton entertainment market and would therefore secure a long-term sustainable use for this important heritage asset.”*
- 10.56. The Hippodrome has been vacant for 16 years and is in very poor condition, appearing on the Historic England’s at risk register and the Theatres Trust register of Theatres at Risk. There is particular concern for the long term future of the elaborate Matcham-designed plasterwork to the auditorium. The nature of the building and the significance of its interior (particularly the auditorium and foyer) means that options for its future viable use are comparatively limited. Given the vulnerability of the building, a proposal that seeks to retain the auditorium as a single space and bring it back into use a public venue – together with appropriate development of the unsightly car park area - must in principle be very much welcomed and given considerable weight as benefits.
- 10.57. The submitted OVU report by Colliers as referenced above states that it remains the case that, as concluded in their 2015 report, restoration of the site for a flexible multiple-purpose event venue would be the optimal viable use. It goes on to say that proposals in these applications have close alignment with this.
- 10.58. In consideration of all the above, the OVU reports and submitted evidence there is sufficient information and justification to demonstrate that the proposed use of the site for a flexible performance space can be considered to be the Optimal Viable Use and that this is a significant public benefit. Whilst it is disappointing that a fuller review of the 2015 report (in particular the financial considerations and precise proposal presented here) was not commissioned as part of this application, it is considered that in principle this form of flexible use of the space is the most likely to realistically achieve the preservation and restoration of the listed building and avoid continued vacancy and deterioration.
- 10.59. Whilst alternative proposals and aspirations for the use of the Hippodrome are acknowledged, the development proposed would not require the contribution of public money, grants or funding and is considered to propose a use which aligns with the historic significance of the site through the provision of a flexible performance/events space in reflection of the buildings earlier origins and use. The proposal would also facilitate the re-use of the auditorium as a single volume and the proposals would allow public use and appreciation of the building which is also considered a significant benefit and, again, concurrent with the historic significance of the building. The proposals would not require the use of the large delivery vehicles associated with the lyric theatre/large

scale theatre use and should a singular proposed entertainment/event use fail, the auditorium would remain as a single volume with the flexibility of the proposal allowing for a range of other uses (banquets, event cinema, conferencing) which assist in the future sustainability and viability of the use proposed.

- 10.60. In conclusion, whilst it is recognised that whilst there is no operator on board and the proposals, as a result, are somewhat speculative with regards to the precise operation, officers consider that the application and supporting information contained in the two Colliers OVU reports demonstrate that the proposed use as a flexible performance and events space can be considered to be the optimal viable use of the site.
- 10.61. The OVU report at concludes at page 15 *“Our judgement is that a scheme akin to that proposed by the owners is much more viable than use as a lyric theatre. This, in summary, is because:*
- *It would cost much less.*
 - *It enables a capital contribution from development to the rear towards the cost of restoring the heritage asset.*
 - *It is realistic to achieve funding for it.*
 - *It does not have involve profound difficulties, especially need for access by pantechincons.*
- 10.62. The OVU report concludes that the proposed use would be largely consistent with the preservation of the heritage asset and is deliverable, sustainable and viable within the Brighton market. This is considered to be a significant public benefit in accordance with the NPPF and the principles of relevant local development plan policies DM26 and DM27.

Design, appearance and Heritage Impacts:

- 10.63. The development is sited within the Old Town Conservation Area of the city. There are a significant number of listed buildings within close proximity to the site, in Boyces Street, Middle Street, Ship Street and Ship Street Gardens. These are generally small-scale buildings (residential and/or commercial) dating from the late 18th and early 19th centuries, whose scale and grain contrast with that of the Hippodrome. Slightly further to the south is the grade II* listed Middle Street Synagogue.
- 10.64. The Old Town Conservation Area Management Plan (OTCAMP) includes the following paragraph (7.72) in respect of the Hippodrome site:
“The council will expect any acceptable scheme for the site to fully restore the Hippodrome for a use that retains the auditorium as a single open volume capable of maintaining a performance function, together with the conservation of the other front and back of house spaces (including the foyer and Hippodrome House) that contribute greatly to its significance, and which enable its appropriate reuse. The adjoining land offers the opportunity for new development that would partially fill the gaps on Middle Street and Ship Street and enhance those street scenes through development, for a mix of uses, of sympathetic scale and massing. Such development must not, however, prejudice the appropriate reuse and future servicing of the Hippodrome itself.

The centre of the site adjacent to the fly tower may potentially accommodate greater height than the street frontages but must be mindful of longer views. The view eastwards from Boyce's Street is of particular importance as Hippodrome House terminates this view in an attractive manner. The building frontage to Middle Street should be carefully restored in accordance with the available historic drawings".

- 10.65. The OTCAMP also identifies Middle Street (together with Boyce's Street and South Street) as a priority for future improvement and enhancement in the conservation area, noting the current blight arising from a number of vacant buildings, most notably the Hippodrome site. The proposed mix of uses across the site, the restorative works proposed and the infilling of the Ship Street frontage are similarly beneficial to the character and appearance of the conservation area and are in line with the aspirations of the OTCAMP.
- 10.66. Policies DM26, DM27 and CP15 seek to preserve and enhance existing heritage assets and seek to ensure new development responds and contributes positively to the identified character and appearance of the area. Policy CP12 Urban Design considers that development should, amongst other elements, raise the standard of architecture and design in the city, conserve or enhance the city's built heritage and its settings and protect or enhance strategic views. Paragraph 203 of the NPPF, in summary, states that heritage assets should be sustained, enhanced, put to viable uses consistent with their conservation and that new development should make a positive contribution to local character.

The Hippodrome

- 10.67. The ground floor of the front elevation (Middle Street) would be largely restored and retained. New windows are proposed either side of the central entrance, the doors would be retained and restored where possible and the entrances with decorative moulding flanking the ground floor would be restored. The modern faux traditional entrance canopy which stretches along the front of the venue is proposed to be replaced as part of the restoration. This replacement of the canopy with one more reflective of the original Matcham canopy is a potentially important heritage benefit of the proposals. Any replacement should be sufficiently detailed and researched with a view to balancing a design which reflects the original and adapts to the changes that have occurred to the frontage since the original canopy was in place. Details are proposed to be secured by condition and given the importance of this replacement in the overall benefits of the scheme it should be ensured that the replacement is secured as part of this consent and implemented before any use of the site.
- 10.68. Above ground floor the openings either side of the "Hippodrome" lettering and an opening at the southern end frontage would be infilled. Replacement windows and doors are proposed to the two entrance towers and the installation of two Juliette balconies are also proposed. The detailing proposed to the balconies is not considered appropriate as submitted, but notwithstanding this, further acceptable detail is proposed to be secured by condition for agreement at a later date.

- 10.69. At roof level an acoustic louvre is proposed spanning the auditorium frontage and PV panels are proposed for installation on the roofs southern side.
- 10.70. The north facing elevation to the Hippodrome at the rear adjoining Hippodrome House would be rebuilt at three storeys with a brick finish with coping detail, new windows at doors with glass balustrade at first and second floor with new doors at ground level providing access to the backstage load-in and auditorium access adjacent. The existing rear access stairs and what survives of the existing elephant ramp/animal shelter would be removed.
- 10.71. The enlivening of the Middle Street elevation with various entrances and reviving of the ground floor interest would be a considerable benefit of the proposals, particularly in terms of enhancing the character and appearance of the Old Town conservation area and meeting the aspirations of the OTCAMP. These alterations are not considered to be harmful to the setting of other nearby listed buildings and subject to appropriate details being secured for the new windows, doors, juliette balconies, acoustic louvres, PV panel placement, balustrading and replacement canopy are in accordance with policy CP15 of the Brighton and Hove City Plan Part One and policies DM26 and DM27 of the Brighton and Hove City Plan Part Two.

The Hippodrome Interior

- 10.72. Internally the hippodrome auditorium is proposed to be largely restored with restoration of the decorative plasterwork, restoration of the boxes flanking the stage, new internal bars, new stage, creation of the foyer bar and alterations and restoration of the ground floor booths. New internal partitions, WC areas, stairs and handrails between the auditorium floor levels are also proposed.
- 10.73. The existing flat level floor is to be retained on entry but there would then be a significant drop down in level and it is unclear how this would impact on the various historic floor levels and structures that exist beneath the current flat floor, down to the original ice rink level, including the raked floor of the theatre. It is assumed though, based upon the drawings, that there would be some loss of historic layers and fabric. A recording condition and condition requiring structural details of the new alterations and proposed flooring is recommended to address this.
- 10.74. At first floor circle level the existing seating is proposed to be removed. A condition to secure details of any replacement or restoration and salvage of the removed seating is proposed to ensure re-use or appropriate replacement seating is secured prior to any removal of the existing.
- 10.75. Information on the methodology and approach to the repair and restoration of the auditorium ceiling is submitted within the application and is welcome and broadly sufficient but the recording of the works that have been undertaken needs to be more comprehensive. The record of works undertaken by the applicant to date – and how it compares to the methodology remains required as noted in consultation responses from Historic England and the Heritage Team. Further recording and information to address this is proposed to be

required by condition. Similarly, there is no specific repair and restoration schedule and specification of the auditorium plasterwork, only a general, generic repair approach. There is also a need for a historically-informed approach to the internal colour scheme. The submitted specialist paint research report on the auditorium is acceptable and informative, but no detail has been provided to show how this report has informed any proposed colour scheme. The proposed colour scheme should also include the ceiling to the foyer and this is recommended as part of the suite of conditions.

- 10.76. A schedule of the retention of historic features has been provided and is considered broadly acceptable although there is a general lack of detail on how the existing internal historic features, fixtures and finishes (including joinery and plasterwork) would be retained and restored and how this is to be approached within the overall scheme, as well as the design approach to new interventions, and how this relates to the layers of historic change in the interior. Further details including sections and full detail are required by condition and should be secured prior to any internal removal taking place.
- 10.77. The grand master control lighting panel in the northern part of the stage area is of significant historic interest and should be retained on site, whilst the information in the application confirms that this is to be retained it is suggested that it would be relocated in order that it can be more publicly accessible and appreciated. The area in which it is currently situated would also undergo significant re-development as part of the proposal and therefore a condition is recommended to ensure that this is retained and protected in situ until such time as a suitable location for its relocation is identified and agreed.
- 10.78. As referred to later in this report the submitted Noise Survey and Assessment concludes that *“the assessment results show that in order for in-audibility to be achieved, it would be necessary for significant mitigation measures to the current state of the building to be employed using substantial upgrades to the building envelope (which is currently under repair) and by clever and sensible internal design of the main auditorium with enclosed buffer zones and sound lobbies”*. Such measures are likely to necessitate the creation of sound wall through the interior of the Hippodrome particularly at circle level. Given that this is likely to have an impact on the visual and special qualities of the interior details are therefore required by condition prior to further internal works being undertaken.
- 10.79. The intention to restore the auditorium as a single space and to restore and convert the entrance foyer and boxes to a bar area has the potential to be a great benefit, but for these benefits to be properly realised demonstration of a clearer ‘informed conservation’ approach is needed and such realisation can be secured through conditions. It is potentially likely that once an operator is appointed/on board further alterations may be required and proposed it is therefore essential that such conditions are worded, phased and secured appropriately such that the benefits of the scheme are realised.
- 10.80. Subject to a comprehensive suite of conditions to secure appropriate details of proposed internal fixtures, fittings, doors and installations, methodologies

of proposed restorative work, retention of historic features and overall interior appearance, the internal works can be considered likely to result in a sympathetic and appropriate restoration of this historic space in accordance with the NPPF and policy DM27 of the Brighton and Hove City Plan Part Two.

Hippodrome House

- 10.81. The northern part of the Middle Street frontage is Hippodrome House and this property, whilst physically attached to the Hippodrome, is made up of two surviving 19th Century dwellings. The southern most of these would be almost entirely rebuilt and replaced. An entirely new frontage is proposed with a change in internal floor levels requiring new doors and windows at ground floor providing the Apart Hotel entrance. New windows and cornice detail at first floor level are proposed alongside a new roof-with revised pitch and two front facing dormer windows.
- 10.82. The most northern of the two houses would be largely retained and restored at the street frontages with new windows and a replacement street entrance. The opened up entrance on Middle Street, which originally had a porch, would benefit from a surround that draws inspiration from that porch, as it is somewhat crudely finished in its current form. This is proposed to be secured by condition. The two storey projection on the north facing elevation would be renovated with a new window opening at first floor and ground floor louvre doors that facilitate access to a proposed refuse store.
- 10.83. Replacement windows are proposed along the rest of the northern elevation along with four new openings at first floor.
- 10.84. The area at the rear of Hippodrome House would see substantial re-development with the removal of a number of existing extensions and a complete remodelling of the rear section of the two buildings with an infilling at first and second floor extending approximately 0.6m at the rear with its eastern elevation rationalised with the removal of a number of rear extensions which are all now in poor repair and poor condition. The remodelled section would have two different brick finishes with a flat roof to the infill section to the rear of the roof ridges. This would provide flat roof space for plant which would be largely concealed behind a parapet. A combination of aluminium and timber doors and windows are proposed to the eastern elevation with doors at ground level providing an external access to the ground floor of the Apart Hotel and proposed members club. Externally the new approach to Hippodrome House, with the new infill to the L-shape footprint set back from the existing rear corner, is considered an appropriate approach although the set back is noted as modest.
- 10.85. The basement is the most intact part of Hippodrome House and of considerable interest. It has been clarified that the original wine cellar vaults in the basement of Hippodrome House would be retained. The schedule of features to be retained includes the kitchen range which is welcome and positive. It is also welcome that the adjacent modern partition would be removed to give the kitchen range back something of its historic context. It remains unclear from the information submitted whether the unused vaults are

to be infilled or simply closed off. The latter would be expected (i.e. 'mothballing' them) however, details of this or any scheme for potential use of this area can be secured by condition.

- 10.86. Hippodrome House also contains the "Palm Court" interiors which are of great interest however it is accepted that much of the Palm Court interiors cannot be retained, particularly given their flimsy 'theatre set' construction, dry rot and poor current condition, and that the late 19th century conservatory iron framework is also impractical to retain. Whilst this is regrettable given their existing condition their total retention is not considered to be wholly practicable. Notwithstanding this, it is considered that where possible, features of interest should still be retained even within the re-designed scheme and a further condition is proposed to ensure retention where possible.
- 10.87. Whilst it is acknowledged that Hippodrome House is less significant than the Hippodrome itself, these are nevertheless late Georgian houses that have a strong historic connection with the Hippodrome. The extent of proposed demolition and remodelling Hippodrome House is substantial, both internally and externally. The loss of the L-shaped plan form, the loss of original roofs in favour of a flat roof at the rear, the change to rear elevation materials and windows and the alterations to the facade of the southern house are all of notable concern. Internally the original staircase would also be lost. Notwithstanding that there are significant interventions to Hippodrome House which would undoubtedly affect and cause harm to the significance of this part of the site, given that the re-development of Hippodrome House is proposed in order to achieve the overall benefits of the scheme a number of conditions are proposed in order to ensure that where possible original features and detailing are sufficiently provided and secured and harm minimised.
- 10.88. New metal gates are proposed to the access on the northern side of the building and details of the external doors, windows, cornices and eaves detailing are recommended to be secured by condition.
- 10.89. The external works to Hippodrome House are considered to provide an overall improvement in the visual quality of the site from the public realm preserving and enhancing the Conservation Area and the setting of other nearby listed buildings in accordance with policies DM26, DM27 and CP12 and CP15. The direct works to Hippodrome House would cause some harm and paragraphs 201, 203, 206, 207 and 208 of the NPPF are relevant and a weighting assessment of the harms against the public benefits of the proposal is required. This is considered further below.

The Apart Hotel

- 10.90. At the rear of the Hippodrome a large extension is proposed adjoining the rear fly tower and auditorium, infilling the rear yard/car park and extending to the Ship Street frontage. The new build extension would be 3-7 stories in height with a maximum height of 21.4m. Appearing as a three storey building with accommodation in the roof at the Ship Street frontage the 5th and 6th stories would be set back 9m from the street frontage with the 7th storey being set approximately 14m from the street front appearing as a metal clad mansard

roof extension with dormers on its north, south and eastern sides. The height of the proposed Apart Hotel building would present as a full storey above the height of the existing fly tower.

- 10.91. Above ground floor the northern elevation would feature a number of insets and set backs to provide visual relief and differentiation also facilitated by a number different brick types with lighter bricks on the most northern flank and a darker brick type proposed for the insets and set ins. The set-ins being nearly 3m deep would assist in the visual breaking of the massing. Different window types with brick relief set-ins and their positioning across the northern elevation contribute to the northern elevations visual interest. Additional improvements of window size to solid/void ratio recommended on the north facing elevation (increasing window size) is advised in both the Urban Design and Heritage comments received. However, this has to be balanced against the likely additional amenity impacts that would result from increased perceived and actual overlooking to the properties of 3-11 Dukes Lane. The windows on this elevation is therefore considered to be on balance acceptable subject to the use of quality materials, which further details are conditioned.
- 10.92. The Ship Street elevation would feature a mixed aluminium and timber shop front at street level utilising a brick finish with fascia above. The southern part of the ground floor would also feature a gated access to the rear of the Hippodrome and servicing for the Apart Hotel. At first and second floor a projecting bay would be metal clad at first and second floor level with the rest of the east facing elevation in light brick. At roof level a false pitched roof would be slate clad with three metal clad dormers projecting towards the east. The setback 5th and 6th floors would feature a darker brick type that wraps around the eastern and returning southern elevation and the metal clad mansard extension set back further appearing as the 7th storey with a small external terrace facing east.
- 10.93. The southern elevation would be a mix of two different brick types with a lighter brick for the return of the Ship Street frontage and then a darker brick throughout the south side. The elevation is proposed with canted metal clad window bays, vents and a mix of aluminium and timber windows facing south across the 5th and 6th stories.
- 10.94. A number of new window openings and installation of rooflights are proposed to the red-brick fly tower building with acoustic louvre screening upon the roof.
- 10.95. The infilling of the ground floor with a Class E unit (and entrance to Apart Hotel) is welcome and would provide an active frontage to this part of Ship Street infilling the current unsightly gap and sustaining and enhancing the appearance of the Conservation Area street frontage. The scale and design approach to the Ship Street frontage building is considered to be appropriate as a contemporary but contextual response to the site, subject to detailing and materials being secured. Further detail of the shopfront is required by condition in order to secure an appropriate street level frontage in accordance with policy DM23 (shopfronts) of the Brighton and Hove City Plan Part Two.

- 10.96. The overall scale of the proposed apart hotel would appear without precedent and significant in scale to the mostly small-scale and modest context of the Old Town Conservation Area. This element of the proposal would be considered a “tall building” (being over 18m) under the terms of policy CP12 (Urban Design) and SPD17 and does not lie within one of the tall building zones set out in policy. However, somewhat unusually, due to the tight nature of the Old Town’s urban grain the 6/7 storey element of the Apart Hotel would not be readily visible from much of the surrounding public realm of Middle Street, Duke Street to the north of the site or from the southern ends of Ship Street on the eastern side of the site.
- 10.97. The principal building and upper floors of the apart hotel would however be visible in oblique views directly outside the site on Ship Street, and also visible from the junction of Ship Street and Prince Albert St and from some longer views further down Prince Albert Street. The upper floors of the development would also be visible from the junction of Ship Street and North Street to the north of the site as a skyline backdrop above 30-34 Duke Street. For this reason detailed information on the use of materials for the Apart Hotel upper floors and roof is recommended – the dark cladding is considered to be key here to assimilating the development into the skyline of the Old Town. The development would only be seen in some longer views from higher vantage points in the City as from Dyke Road (near St Nicholas Church) however, here the development would be seen from a significant distance and in the context of other roofscape and other large scale development therefore no further concerns are held in this regard. Further verified modelling provided with the application shows that it would not be visible from the Old Steine given that the land levels would result in its maximum height being below the existing visible skyline in this location.
- 10.98. The limited visibility of the Apart Hotel, despite its scale is a key factor in its acceptability. The minimal visual impact from the public realm mitigates and ensures that it would not have an unacceptable impact on the setting of proximal listed buildings or overall Conservation Area from the public realm.
- 10.99. Policy DM27 of CPP2 covers the reuse of ongoing vacant listed buildings and states that *“in applying other policies the council will have special regard to the benefits of bringing the listed building back into use”*. This does allow for some flexibility with regard to height under CP12.
- 10.100. Overall the harm to the conservation area from the scale of the new build apart hotel is considered to be sufficiently modest that it could be considered to be outweighed by an appropriately designed and detailed scheme to bring the listed building back into performance use together with the other restorative elements of the proposal.

Heritage harms and benefits

- 10.101. Paragraph 207 of the NPPF states that; *“Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve*

substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.*

10.102. Paragraph 208 of the NPPF states; *“Where a development proposal 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, where appropriate, securing its optimum viable use.”*

10.103. It is clear that The Hippodrome re-development would offer public benefits. These are the restoration and re-use of the auditorium as a single volume capable of performance, improvements to the public realm from the overall regeneration of the site, retention and restoration of some historic features across the site including the entrance canopy and bringing a long vacant deteriorating listed building back into a viable use. There are also harms which are considered to be less than substantial although this may be to a high degree if suitable conditions do not secure the positive outcomes and benefits needed. Identified harms in the heritage context would relate to harms to the significance of Hippodrome House, the removal of original fabric and form from the Hippodrome and fly tower and some harm due to the scale of the Apart Hotel.

10.104. Considerable importance and weight is given to the restoration and reuse of the Hippodrome together with the proposed new development which, subject to the necessary conditions and obligations would overall enhance and preserve the character and appearance of the Old Town Conservation Area and nearby listed buildings as well as provide significant public benefits in the restoration of a long deteriorating heritage asset and the ability for the public appreciation and enjoyment of this space.

10.105. In light of the above it is essential that appropriate phasing of the development is managed through suitably worded conditions and a Section 106 agreement in order that the public benefits of the scheme are secured and materialise. Such an agreement should ensure that the Hippodrome and auditorium are restored and fitted out ready for purpose prior to the Apart Hotel being occupied.

10.106. Subject to the public benefits of the scheme being realised it is considered that the application is, on balance, in accordance with the NPPF, policy CP15 of the Brighton and Hove City Plan Part One and Brighton and Hove City Plan Part Two policies DM26 and DM27.

Impact on Amenity:

- 10.107. Policy DM20 of the Brighton and Hove City Plan Part Two states that planning permission for development will be granted where it would not cause unacceptable loss of amenity to existing, adjacent or nearby users, residents or occupiers or where it is not liable to be detrimental to human health. Policy DM40 seeks the protection of the Environment and Health through the suitable control of pollution and nuisance.
- 10.108. Consideration of the impacts upon amenity of the proposed development relate to the operational impacts of the uses proposed being; the occupation and operation of the Apart Hotel, members club, rooftop bar, Foyer bar and the reuse of the auditorium as a flexible events and performance space, the impacts of comings and goings associated with the uses (particularly the potential for crowd and audience management) as well as the impact from the physical development proposed upon neighbouring residents amenity in terms of outlook, privacy, overbearing and impacts upon sunlight and daylight.
- 10.109. In general terms the area surrounding the Hippodrome can be considered to be largely commercial in nature at ground floor with a mix of retail, bars, cafes, pubs and other commercial uses such as offices, schools and other public buildings although there is also some residential at ground floor within the area. At first floor and above the surrounding area is characterised with predominantly residential units and flats.
- 10.110. More specifically, to the north of the site are commercial uses with retail units at ground floor leading north into the core shopping areas of the City Centre. Dukes Lane directly north of the site features boutique retail units and other cafes and restaurants at ground floor. The majority of these properties contain residences at first floor level and above however further north from Dukes Lane the uses above ground return to commercial. North west of the site, almost directly opposite the Middle Street yard entrance is Middle Street Primary School.
- 10.111. To the west of the site along Boyces Street is a mix of pubs, restaurants and bars at ground floor with largely residential above. To the direct west and running south along Middle Street there is, again a mix of commercial at ground floor and further residential at first floor. Similarly to the east of the site along Ship Street the ground floors are characterised by a mix of commercial uses including some retail, restaurants and office uses with residential above. South of the site along Ship Street Gardens which runs east to west, many of the buildings are in sole residential use as single dwellings.
- 10.112. Whilst the site is within a City Centre location there is a high amount of residential property surrounding the site, particularly at first floor and above and this is noted and considered in more detail below.

Impacts from proposed bars and external terraces

- 10.113. The application proposes a Foyer Bar with 60 covers internally and external terrace onto Middle Street of 44 covers, a Members Club and bar at Hippodrome House of 59 covers with external area in the Middle Street

yard/Elephant Yard 44 of covers and a Rooftop Bar of 32 covers with an external terrace of 42 covers.

- 10.114. As noted earlier in this report the site is located in a central city location and sited within the “Cumulative Impact Zone”. A premises licence has been granted for the re-development and re-use of the Hippodrome on 3rd October 2022 which remains subject to a number of licence conditions.
- 10.115. Given that the site is situated within a central city location it is considered that the principle of these facilities is acceptable and subject to planning conditions securing hours of operation of the bars and securing closure of the ground floor external terraces at 2300 and the rooftop terrace at 2230 it is considered that the impacts of these bar and restaurant spaces, in principle, can be suitably controlled in planning terms. Planning conditions to exclude performances of any kind and amplified music from the external terraces, closure of the external terraces, doors and windows during performances are considered desirable and necessary in order to protect the amenity of neighbouring residents. Conditions on the premises licence restrict “vertical drinking” to the auditorium during events only with seated alcohol only a condition across the rest of the site whilst other conditions on the licence require thorough management of the bar areas and operations. Together the suggested planning conditions and licensing controls are considered sufficient to mitigate the potential harmful impacts of this element of the proposals.

Impacts from new auditorium use

Event management

- 10.116. The proposal to utilise the venue as a flexible performance and events space would mean that different types of performances and events may occur. The Design and Access statement refers to banquet or cabaret layouts with a capacity of 263. A maximum capacity for a concert is proposed as an audience of approximately 1800 with 400 fixed raked seats at first floor and a standing capacity of 1400. Matters relating to public safety are considered within other Health and Safety legislation such as fire regulations and licensing controls, however in order to manage comings and goings from events at the Hippodrome, a detailed events management plan is recommended to be secured through a Section 106 agreement that secures regular reviews and implementation of a site management strategy relating to the safe and appropriate audience management. A similar Section 106 obligation for Delivery and Servicing is recommended (referred to later in this report) where the event type may require individual management and measures.

Noise breakout / disturbance / plant machinery

- 10.117. Roof top plant and machinery is proposed across the site, upon the roof of Hippodrome House, the Middle Street frontage at roof level and at the rear of the Apart Hotel. Conditions to control the noise levels of plant and machinery are recommended by Environmental Health and subject to compliance no overall concerns are held in this regard given the City Centre and existing background noise levels.

- 10.118. With regards to noise breakout from the Hippodrome auditorium and use for performance and events. Environmental Health have confirmed that the acoustic impacts and noise breakout from the venue can be suitably mitigated and controlled through planning conditions that require a pre-occupation acoustic design and assessment as well as post completion testing and implementation of mitigation as necessary. It is noted that to control the acoustic impacts considerable sound insulation and the creation of an interior “sound wall” may be required. This is likely to be required to the rear of the Circle and it is considered that such measures could be accommodated without undue harm to the Listed Building although more detail is required prior to installation and occupation. The weight of such measures in ensuring the success of the scheme should also be noted and measures should also include interior sound proofing in other areas to ensure the different uses proposed can comfortably operate and co-exist. In the case of post completion and pre-operational acoustic testing both should ensure that a worst case scenario of noise type and audience capacity is considered in the assessments.
- 10.119. Subject to the necessary conditions for pre-occupation acoustic design and assessment as well as post completion testing and implementation of mitigation the noise impacts from the proposed use of the auditorium and ancillary spaces is considered acceptable and in accordance with DM20 and DM40 of the Brighton and Hove City Plan Part Two.

Impacts from physical development

- 10.120. The properties which would experience most impact from the physical development proposed are those directly adjacent to the site. In particular these are 3-11 Dukes Lane and 22 Ship Street to the north of the site, 59 Ship Street directly to the east, 18/19 Ship Street which lies immediately to the south of the site and the properties of Ship Street Gardens further south.
- 10.121. Whilst the properties along and to the west of Middle Street would experience some impact from the development overall, their separation to the Apart Hotel development by approximately 50m over the roofspace of the Hippodrome Auditorium and Hippodrome House would mean the impacts of this aspect of the proposal would not be demonstrably harmful.
- 10.122. The proposed physical alterations would not introduce any significant bulk to the Middle Street elevation over and above the existing to be considered sufficiently harmful. The proposed Apart Hotel use of the upper floors would introduce hotel bedrooms facing west across Middle Street, however, these would face across the street, separated by the road and pavement itself. Given the busy central location no harmful impacts from the uses and consequential overlooking from the first and second floors of Hippodrome House or the balcony bar are expected to occur.

3-11 Dukes Lane

- 10.123. To the north of the Apart Hotel extension and Hippodrome House are 3-11 Dukes Lane, properties with commercial and other units at ground floor and residential above appearing mostly as a small raised south facing terrace of

two storey town houses with raised ground floor front amenity spaces. The dwellings are separated by the existing adjoining car park bordering the site on the northern side. The north elevation of the Apart Hotel closest to the properties would be circa 18m in height and separated from the windows that serve these residential properties by approximately 23m and their front boundaries by approximately 18m. The northern elevation of the Apart Hotel would be to the south and south east of these properties and is proposed with a varying brick and material treatment, however there are also three recesses in the north elevation of near 3m in depth which provides a relief to the massing on this elevation. The depth of these recesses, use of quality materials and separation of 23m (and c.26m within the reliefs) would mean this elevation would not be harmfully overbearing.

- 10.124. The highest part of the apart hotel (faux mansard) would be set away from the northern edge by 3m also, therefore whilst this height would reach 21m, again, there would be sufficient separation to mitigate the impact.
- 10.125. The proposed northern elevation would have windows that serve Apart Hotel bedrooms directly facing 3-11 Dukes Lane. The separation distance to the dwellings of 23m is considered sufficient to mitigate any loss of privacy. These properties also have south facing external amenity areas which would be separated by about 17m from the Apart hotel and some degree of mutual overlooking of these areas already exists between the properties. It is also noted that the residential properties and proposal are situated within a densely populated town centre location where some mutual overlooking can be to some degree, expected.
- 10.126. It is acknowledged that the development would create a very different outlook from these properties, however, the impacts of the bulk of the Apart Hotel are not considered demonstrably harmful in terms of loss of outlook, overbearing or loss of privacy in this instance.

22 Ship Street

- 10.127. 22, 22A and 22B Ship Street is the closest building to the site on the northern and eastern side. Recent planning history shows that this remains in commercial use/s with retail on the GF's and offices at the rear and above. The majority of the windows of this property to the rear face west so would be minimally affected by the proposal. There is a two storey projection at the rear with windows that face south however these are separated from the site by 12m. Three side facing windows on the southern elevation of the main building are separated by the car park and entrance from the Apart Hotel. As the property is in a commercial use no significantly harmful impacts in terms of overbearing, loss of privacy or loss of outlook are expected to occur.

59 Ship Street

- 10.128. 59 Ship Street is a three storey, Grade II Listed Building directly to the east of the Apart Hotel on the junction of Prince Albert Street and Ship Street. The property has a retail/Class E unit on the ground floor and residential in the stories above and is separated from the east facing elevation of the Apart Hotel (class E unit at ground floor with the Apart Hotel above) by the road and

pavements of Ship Street itself. The infilling of the Apart Hotel would create a different outlook for this property as it currently faces the open rear car park at the rear of the auditorium. The proposal, at street frontage would appear as a three storey building with development in the roof-space and although the outlook would reduce in quality from the open aspect currently experienced, the Hippodrome car park historically had two houses open it and the tight nature of development within the Old Town would mean that infilling of this open site is representative of the character of the area. The separation across the street would also mean that no harmful impacts from loss of privacy, outlook or overbearing would be experienced beyond those already present on Ship Street.

10-16 Ship Street Gardens

- 10.129. 10-16 Ship Street Gardens lie directly south of the site and are separated by approximately 25m from the Apart Hotel development which is considered sufficient in regard to alleviate any overbearing impacts or loss of outlook from the proposal. The proposed development would also be seen across the rear flat roof terrace at 18/19 Ship Street. There are rear gardens to these properties along Ship Street Gardens (including those of 16 and 17 Ship Street on the east) and there would be some overlooking and perceived loss of privacy from the Apart Hotel extension given its size and south facing windows, however, there is currently a degree of mutual overlooking of this area from adjacent properties given the tight and compact development in this location. Whilst there would be some impacts to privacy in this location the overall separation distance and mutual overlooking already present is not considered that harm would result to these properties sufficient to warrant refusal of the application.

15-17 Ship Street

- 10.130. 15-17 Ship Street on the south western side of the site have west facing rear windows so whilst the Apart Hotel would be partly visible the views would be more oblique and no concerns of overbearing or loss of outlook would result. These properties also currently experience the bulk of the existing Hippodrome to the rear of the gardens and the alterations proposed would have little impact over and above the existing situation when viewed from within the dwellings. The rear development of the fly tower would include the insertion of new windows to the southern and eastern aspects. Given that these windows would serve the performance rehearsal space on level 03 and Apart Hotel rooms above, a condition to obscure glaze and fix shut these windows to a height of 1.8m from floor level is recommended in order to alleviate privacy concerns of direct views from these windows to the residential properties to the south.

18/19 Ship Street

- 10.131. 18/19 Ship Street is the property arguably most affected by the proposal and lies directly to the south of the Apart Hotel development bordering the site.
- 10.132. The lower ground floor and ground floor of this property is in use as a Hair Salon at the eastern end. Building Control plans from a 2001 development show the rear part of the ground floor developed into a 3no bedroom

residential unit. On the northern side of the ground floor is a bathroom, bedroom and part of a lounge dining area which stretches across the ground floor at the rear of the unit. The separation distance to the southern elevation of the Apart Hotel would be c.2m and given the height proposed this would be detrimental to the outlook from the GF bedroom, bathroom and part of the existing living area, however, given that the glazed roof of the residential unit continues around the western and then southern part of the building an acceptable overall quality of outlook would remain from the unit as a whole.

- 10.133. At first floor 18/19 Ship Street has two flats in the eastern end. The southern most unit would not suffer a detrimental loss of outlook as the existing windows face east onto Ship Street and south away from the site.
- 10.134. The northern first floor front unit has an existing living area with an east facing outlook overlooking Ship Street which would be unaffected, however "bedroom 2" is served solely by an existing north facing window which would, again, be 2m from the southern flank of the Apart Hotel and would lose nearly all outlook as a result of the proposal. The master bedroom has a west facing window which would also be affected and enclosed by the proposed development although the directly west facing and skyward aspect would be similar to existing. Demonstrable harm would result to the outlook from the existing bedrooms of this unit. Whilst this is the case the principal living room, dining area and kitchen would continue to face east and be unaffected. On balance whilst the harm to bedrooms is noted, the overall standard of accommodation retained across the unit is considered acceptable.
- 10.135. At the rear of the first floor there is an additional two bedroom flat which is again served almost solely by the glazed slanted roof wrapping round the north, west and southern sides of the unit providing the light and outlook. The flat layout has a bathroom and kitchen on the northern side and the outlook from these rooms would be enclosed and detrimentally affected, however, the main living area is at the western end and whilst there would be harm to the northern outlook the western and southern aspects would remain largely unaffected and similar to the existing. Given that the southern part of the unit accommodates the bedrooms and a substantial portion of the living area the overall harm, on balance, and remaining living conditions are considered acceptable.
- 10.136. On the second floor of the building is a three bedroom flat. The living room, master bedroom and bedroom 2 are all served by east or southern facing windows where the outlook would remain unaffected. Bedroom 3 to the rear of this unit (on the northern side) has a dual aspect and whilst the northern window to this room would have its outlook detrimentally affected the west facing window would retain an aspect similar to existing but a sense of enclosure would result. It is, however, again noted that the principal living spaces and master bedroom would be unaffected by the proposal. The unit also has a large rear roof terrace extending over the flat roof. The impact from the Apart Hotel building would be significant upon the experience of this terrace and the structure would have an overbearing and somewhat enclosing

impact on the use of this space, however the views southwards would remain open and unaffected.

- 10.137. In general terms the proposal would have a detrimental and significant impact upon three of the residential units at 18/19 Ship Street in terms of being overbearing and creating a loss of outlook for a number of the north facing windows. Such an impact is clearly regrettable, however, whilst the proposal would undoubtedly affect the views to the north of this building, those to the south, west and east would remain mostly unaffected. The dual aspects of these units therefore plays a considerable role in ensuring that the harms are not sufficiently detrimental to warrant refusal of the application. It is also noted that the windows most affected are side facing windows. Side facing windows within a tight city centre location are considered somewhat likely to experience impacts from adjacent development.
- 10.138. The south elevation Apart Hotel bedroom windows are proposed within canted bays which assist in breaking up the massing but are also designed to alleviate concerns of loss of privacy to neighbouring occupiers. Whilst the canted bays do alleviate this in part, in general there would be some clear harms to the occupiers of the 18/19 Ship Street and the volume and mass of windows in this elevation would be considerable. A suitable mitigation to this would be for their obscure glazing. It is considered that a condition to require that the hotel windows are obscure glazed to 1.7m from floor level would help to mitigate some harms from the development of the Apart Hotel and would resolve matters from direct overlooking in close proximity. Such a condition would allow skyward views from within the Apart Hotel rooms and given the transience of this accommodation such an impact is considered acceptable whilst, in part, addressing some of the harm caused to the directly neighbouring residencies.
- 10.139. On balance of these overall harms and subject to the recommended conditions it is considered that the living conditions for the residential occupiers of these units in regards to outlook, loss of privacy and overbearing would remain overall acceptable and in accordance with DM20 of the Brighton and Hove City Plan Part Two.

Daylight, Sunlight and Overshadowing

- 10.140. The applicant has submitted a Daylight, Sunlight and Overshadowing report from XDA dated May 2023 with the subsequent findings.

Vertical Sky Component

- 10.141. The amount of skylight that reaches windows is assessed by determining the Vertical Sky Component (VSC). The vertical sky component is the ratio of direct sky light that reaches a vertical plane (wall or window) to the amount of sky light that reaches the horizontal plane (the ground). This ratio is expressed as a percentage. The maximum VSC that could be achieved for a completely unobstructed window/wall is almost 40%.

Annual Probable Sunlight Hours

- 10.142. When considering the impact of a development on an existing dwelling, the sunlight to a “living space” received is considered to be adversely affected if:
- It receives less than 25% of annual probable sunlight hours and less than 0.8 times its former value or less than 5% of annual probable sunlight hours between 21st September and 21st March and less than 0.8 times its former value during that period.
 - And also has a reduction in sunlight received over the whole year greater than 4% of annual probable sunlight hours
- 10.143. When assessing the impact of a new development on existing buildings the BRE Guidance document “BR209: Site Layout Planning for Daylight and Sunlight, a Guide to Good Practice, 2022” suggests that if with a new development, an existing window has a VSC greater than 27% it should still receive sufficient skylight. If the VSC is reduced below 27% and less than 0.8 times its former value, then the occupants are likely to notice the loss of skylight.
- 10.144. The results demonstrate that of the 103 windows assessed of properties along Dukes Lane, Ship Street, Ship Street Gardens and Middle Street 10 windows will be materially impacted. All remaining properties would experience a negligible impact and the results of these impacts are considered to be within BRE guidelines.
- 10.145. 13a Ship Street Gardens is sited to the south west of the development and another property which is close enough to the development (aside from 18/19 Ship Street) to directly experience an impact in these terms. There are four ground floor windows to this property which serve a kitchen, two of which face directly north. The report states that all of these windows currently have a VSC less than the recommended 27%. The two ground floor windows of the rear projection directly facing north would have their VSC reduced to 0.73 and 0.78 their former value. This is considered to be a minor adverse impact and given the separation from the site and existing situation these impacts are considered acceptable.
- 10.146. 59 Ship Street is the three storey listed building directly to the east of the proposal. No recent planning or Building Control history appears relevant to this site from which floor plans can be assessed, however, the XDA report notes that four of the six windows on the first and second floors facing west serve habitable rooms. The report notes that the VSC to these windows will be reduced beyond the 0.8 threshold recommended by the BRE. In this case it is considered that a moderate adverse impact would occur. Whilst this is noted the most eastern section of the Apart Hotel has been designed in such a way that this projecting section closest to Ship Street would be three stories with development in the roof. This section of the Apart Hotel is commensurate with the scale of other development along Ship Street and as above, whilst this building has had a open westerly aspect in recent times, it would be somewhat reasonable to expect development and infilling to occur at some stage in the development of the Old Town. The upper floors of the Apart Hotel (stories 5, 6 and 7) would be some 9m back from the street frontage.

Notwithstanding this a moderate adverse impact would still occur above the existing situation.

- 10.147. In regards to ASPH the first floor more northern windows are reported in the XDA assessment to experience a reduction in sunlight to 20%. It is assessed that the winter APSH would remain unchanged and the report concludes that this property would consequently experience a minor adverse impact from loss of sunlight to the four windows directly assessed.
- 10.148. 18/19 Ship Street is immediately adjacent to the Apart Hotel development to the south as referred to in the sections above. The XDA report notes that the first floor north facing window to bedroom 2 would have almost all light to this bedroom blocked by the new development. The submitted report incorrectly assumes that the second floor northerly windows of this building are in office use, although, as referred to earlier these windows do serve a kitchen and then a rear facing bedroom with a dual aspect. Notwithstanding this the north facing windows on the northern elevation remain referenced and evaluated within the XDA report. The proposed development would have a major adverse impact upon the VSC to these side facing windows blocking nearly all light.
- 10.149. In the case of APSH to 18/19 Ship Street the XDA report only assesses one singular window (which appears to serve a bedroom on the first floor) and receives only 11% of APSH and no winter probable sunlight hours. This assessed window would be reduced by more than 4%, would not meet the BRE recommendations and would cause a moderate adverse impact. Whilst not specifically evaluated within the XDA it is considered to be likely given that the other windows facing north within the building would also experience a moderate adverse impact in regards to the APSH to a similar degree. Whilst these windows would serve two kitchens and bedrooms the principal living room spaces would remain unaffected.

Overshadowing

- 10.150. The BRE guidance states that the sunlight to a garden would be adversely affected if the area of garden that can receive 2 or more hours of direct sunlight on 21st March is reduced to below 50% of the total area and also if the total area of garden to receive 2 or more hours of direct sunlight on 21st March is reduced by 20% or more of the existing value as a result of a proposed development. The amenity spaces most affected by the development in this respect are those of 3A-8A Dukes Lane. The assessment concludes that 4A, 5A and 6A Dukes Lane would experience a change to direct sunlight to the amenity spaces of an hour less to 50% of the amenity space. In area terms all three would experience a reduction of sunlight to approximately 1m² less than the existing situation as a result of the proposal. Whilst therefore some degree of overshadowing of these amenity spaces would result the impact would be in accordance with the BRE guidance and acceptable in this case.
- 10.151. The remaining properties across Ship Street, Ship Street Gardens, Middle Street and Dukes Lane would experience impacts from the proposals in

regards to changes to daylight and sunlight which are considered to be within BRE guidelines. Some overlooking from the proposed Apart Hotel and from its built form is also expected to occur to these properties however, these properties are considered to be sufficiently separated from the site to alleviate concerns of a severely detrimental impact sufficient to warrant refusal of the application.

Overall considerations/conclusions on amenity impacts

- 10.152. The above analysis concludes that the properties most affected by the proposal would be:
13a Ship Street Gardens where a minor adverse impact is expected, however the ground floor kitchen is served by four windows and two of these would experience an impact in respect to loss of the VSC. No other substantial impacts are expected to occur to this property given the location and orientation of the site subject to the conditions proposed.
- 10.153. 59 Ship Street is considered to have a moderate adverse impact from the proposals with regards to daylight and sunlight. Whilst the outlook and privacy would be altered from the existing, given the central location this is not considered to be sufficiently harmful in these respects to warrant refusal of the application.
- 10.154. 18/19 Ship Street is arguably most affected by the development. The flats with north facing windows would experience considerable impacts to some bedrooms and kitchens particularly, upon their light and outlook and a degree of overlooking and enclosure would also result. The loss of light and outlook to the north facing/placed windows is noted and would cause harm to the rooms in which they serve however as noted above, side facing windows in a central city location are more likely to be sensitive to adjacent development. Due to the dual aspects existing within these units, together with the minimal impacts upon core living and dining areas, the impacts are considered, on balance, to still result in acceptable living conditions overall.
- 10.155. Paragraph 214 of the NPPF states that
Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.
- 10.156. It is of note that the proposal of the Apart Hotel is not true “enabling development” as the application did not include any specific financial modelling and the proposal is more one of cross subsidy.
- 10.157. DM27 of the Brighton and Hove City Plan Part Two also states that; *“Where vacancy is an on-going concern, consent will be granted for a new viable use that is consistent with the conservation of the building’s special interest, provided that this would not unacceptably conflict with other policies or material considerations. In applying other policies the council will have special regard to the benefits of bringing the listed building back into use.”*

10.158. The development of the Apart Hotel would overall cause some harm to the amenities of adjacent occupiers which would be contrary to policy DM20 of the Brighton and Hove City Plan Part Two. Notwithstanding this in consideration of the special regards given to bringing the listed building back into use in DM27 and the weighting applied to the public benefits of the proposal, subject to ensuring appropriate phasing of the scheme the development can be, on balance, considered to result in public benefits which may outweigh the harms noted above when considered in the overall planning balance.

Sustainable Transport:

10.159. During the course of the application further information and details have been provided in order to address concerns held by both National Highways and the Local Highways Authority. The application site is bounded by Middle Street, to the west, and Ship Street to the east, which form the public highway and is managed and maintained by the Council.

10.160. Middle Street is a one-way street, which operates in a northbound direction from its priority junction with the A259 Kings Road until it becomes Duke Street at its most northern end. Ship Street is situated to the east of the site and starts at the north where Duke Street becomes Ship Street and operates as a one-way southbound road until its priority junction with the A259 Kings Road at the southern end. Signalised junctions are located on the A259 Kings Road to the west of Middle Street and to the east of Ship Street.

10.161. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

10.162. City Plan Policy CP9 reflects the NPPF and states that the council will work with partners, stakeholders and communities to provide an integrated, safe and sustainable transport system that will accommodate new development; support the city's role as a sub-regional service and employment hub; and improve accessibility. The policy seeks to ensure developments promote and provide measures that will help to manage and improve mobility and lead to a transfer of people and freight onto sustainable forms of transport to reduce the impact of traffic and congestion, increase physical activity and therefore improve people's health, safety and quality of life. Policies DM33, DM35 and DM36 of the Brighton and Hove City Plan Part Two are also relevant to the application.

10.163. Policy DM33 requires that new developments are designed in a way that is safe and accessible for all users, and encourages the greatest possible use of sustainable and active forms of travel. DM35 sets out the standard and scale of information required in assessing Highways impacts. DM36 sets standards for parking and servicing of new development.

- 10.164. The existing site is not currently operational and has not been so for some time, therefore the development proposal is considered to result in an increase in new trips generated by or attracted to the site.
- 10.165. The proposal seeks to bring Brighton Hippodrome back into use, as a modern, flexible, entertainment and events venue. The following is proposed in relation to capacity, seats, suits and floor areas:
- A new live events space will have a maximum person capacity of 1,800 people* (standing).
 - A new use of the auditorium would have a seated capacity for 263 seat theatre with 400 seats in the circle
 - Circa 2,000 sqm of restaurant/ bar uses.
 - 77 aparthotel suites.
- 10.166. Following review and feedback from the LHA the applicant submitted a Transport Addendum (July 2023) which advises that large touring shows are not anticipated to occur on-site with the likely ongoing use being more the scale of cabaret-style shows, events or concerts. Given the limited space on-site and on-street, the addendum notes that that it is likely the site will not attract large global headlining acts, and the Transport Addendum points to more appropriate venues that could support the delivery and servicing needs for acts of this size within the City.
- 10.167. The application proposes the use of the northern existing vehicle access and yard on Middle Street for the delivery and servicing of the Hippodrome. No other parking provision would be provided on site. As referred to above the prospective operator is not known or yet secured and therefore the anticipated schedule of events and therefore associated Highways activity may vary depending both upon the eventual end user and the nature of the event. The LHA considers that sufficient information has, however been provided to demonstrate that the proposal would not have an unacceptable impact on highway safety, or that residual cumulative impacts on the road network would be severe in accordance with the NPPF.

Trip Generation

- 10.168. Whilst there are several unknowns in respect of the operation/ operators of the site, the trip generation and distribution assumptions are broadly accepted in principle. The majority of trips generated by the event space are forecasted to originate from local locations already within the City centre and are expected to be walking trips. The Transport Addendum (July 2023) forecasts how event patrons may attend a future event at the Hippodrome using data obtained from nearby Brighton venues and considers the likely distribution of car/taxi trips (car parks, drop off areas etc) which are expected to disperse the trips across the surrounding and wider road network. The information provided is considered acceptable by the LHA and National Highways and satisfies concerns on road capacity and trip generation.
- 10.169. Whilst the applicant has demonstrated that trips generated by the site will be dispersed across the surrounding network and car parks, a Travel Plan for the mixed-use events space is nonetheless recommended to be secured and

should seek to reduce the number of car and taxi trips, where possible, for event-attendees and also include mitigation measures to reduce the level of impact a maximum person capacity event could have on the surrounding road and transport network(s). The Event Space Travel Plan is recommended to be secured as the plan will require ongoing review, data collection (surveys), adjustments to targets and monitoring through engagement with the Council, to ensure the Travel Plan is flexible and responsive to trends in mobility and active travel as well as the different event types/styles and the subsequent changes to the demands associated with the events space.

- 10.170. It is also recommended by the LHA that Travel plan measures should be also secured for the Apart Hotel development and should provide the prospective communication strategy for encouraging and promoting active and sustainable travel modes over single occupancy car trips and taxi or private hire car trips where possible.

Operational Impacts

- 10.171. Whilst there remains some uncertainty on the exact use proposed but also to provide assurance and control of any ongoing use of the Hippodrome, an Event Management Plan is recommended to be secured. The plan should be subject to ongoing monitoring and review to ensure its flexibility to respond to the evolving needs of the Old Town, pedestrians, cyclists and vehicles that use Middle Street and its adjoining street network. It is recommended that the Event Management Plan will also be required to include details on how queueing (arriving) or dispersing (departing) pedestrians will be managed on Middle Street in the interests of highway and pedestrian safety.
- 10.172. The submitted transport information describes methods of staggering and managing the peak arrival and departure flows of patrons within the Transport Addendum (July 2023), i.e. “soft close strategy at end of events can be used to minimise the rush to leave the venue”, which is a welcomed measure and strategies to manage the movement of all event-generated trips should be set out in the live Event Management Plan, which will be required to be responsive, flexible and therefore subject to change to prioritise pedestrian safety.

Delivery and Servicing

- 10.173. The tight grain and limited Highway widths of the surrounding streets is worthy of note and the majority of public houses, bars and restaurants in the surrounding area are serviced using the existing on-street provision.
- 10.174. The proposals indicate that events and performances would be serviced directly from the Middle Street service yard. The Apart Hotel and Hippodrome kitchen is indicated to be serviced from Ship Street utilising the rear/side access.
- 10.175. The applicant has provided swept path analysis which shows that larger vehicles (up to 13.7m/12m) could access and utilise the Middle Street access. However, given that these large vehicles are proposed to reverse into the site off Middle Street (the public highway), the recommended Delivery & Servicing

Management Plan (to be secured by s106) should detail planned management measures, including the use of traffic marshals to ensure safe access to the site for reversing vehicles and manage pedestrian and cycle movement in the interest of highway safety.

On street impacts

- 10.176. As part of the re-development and creation of the Foyer Bar area on Middle Street 44 covers are proposed externally proposing to place tables and chairs on Middle Street, resulting in a reduction of available footway width on the public highway for pedestrians and risks pedestrians stepping into the carriageway (risking collision with vehicles) to pass the proposed development's tables and chairs.
- 10.177. No specific dimensions of the proposal to utilise the footpath has been provided to demonstrate Highway Safety and therefore the LHA cannot ascertain whether the provision of tables and chairs would be impactful for pedestrian comfort or safety. The Transport Addendum (July 2023), however, acknowledges the perceived benefit of providing tables and chairs on the footway and states the following, "*Sussex Police have welcomed the inclusion of the seating because an active frontage will reduce anti-social behaviour, which is a problem in this part of Middle Street.*"
- 10.178. A licence for tables and chairs on the highway would be required before such an external use of this area could commence. The licencing process is separate to the planning process and planning consent will not guarantee a licence will be granted. An informative is recommended to be attached to the consent in the event of an approval.

Construction Impacts

- 10.179. Given the nature of both the existing highways within the Old Town with minimal road and pavement widths and the scale of development proposed a Construction and Environmental Management Plan is recommended to be secured by condition in order to address concerns raised within representations and ensure impacts upon the Highways network are suitably mitigated and managed during the construction phase.

Cycle Parking and Sustainable Transport

- 10.180. Cycle parking of 16 spaces was originally proposed to be provided within the rear of the Middle Street service yard. Following amendments and negotiation this element of the scheme was removed in order to better provide a suitable area for technical get-in and get-out of the performance venue and also to provide sufficient space for exiting patrons. Whilst the scheme therefore no longer proposes policy-compliant cycle parking, the LHA recommends a sustainable transport contribution is secured to increase cycle parking provisions (Sheffield stands) in the surrounding area, in the interests of promoting and encouraging active and sustainable transport, in line with Policy DM33 of City Plan Part 2. The provision of increased cycle parking options is considered a vital active travel measure to increase parking options nearby and reduce the need to travel to and from the site by vehicle where possible, which will work hand in hand with the recommended Travel Plan(s).

Highways Conclusion

10.181. The applicant has sufficiently demonstrated that the proposal would not result in a severe impact upon the highways network nor highways safety. Subject to the recommended travel, event and servicing management plans it is considered that the uses proposed can be appropriately managed and would be acceptable in Highways terms in accordance with CP9 of the Brighton and Hove City Plan Part One, DM33, DM35, DM36 of the Brighton and Hove City Plan Part Two and the requirements of the NPPF.

Sustainable Drainage:

10.182. It has been confirmed within the application that the existing combined foul and storm water sewer system should be able to accommodate this development with appropriate attenuation of flows if necessary to match existing run off rates.

10.183. Based on public flood risk mapping produced by the Environment Agency, the site is understood to be at a low risk of flooding from surface water unlikely flooding from ground water and at very low risk of flood from sea and rivers.

10.184. Limited information pertaining specifically to drainage has been submitted within this application. The information provided includes a planning statement and general plans of the proposed development. It is understood that the existing drainage systems at the site for the Hippodrome and Hippodrome House are to be used and it is believed the drainage to the south of the site is shared with an adjacent property. Also based on the limited information provided to date, it is understood that surface water and foul water will be discharged to adjacent public sewers. No increase in hard- standing areas is however proposed within the application.

10.185. Whilst the above are noted, full details of the proposed surface water and foul water drainage strategy and a demonstration of their effectiveness will be required for the new Apart Hotel development and the applicant will be advised to ensure liaison with Southern Water in regard to the existing infrastructure. The Sustainable Drainage team have confirmed that further information would be require as a part of a pre-commencement condition. The information required would include;

10.186. A drainage layout plan identifying elements and showing their locations.

- Surface runoff rates and calculations to support these.
- Demonstration that no flooding will occur in a 1 in 100yr +40%CC storm because of the development.
- A maintenance and management plan identifying tasks, frequencies and parties responsible for all drainage elements.
- Confirmation that post-development, surface water runoff rates will at least match, or preferably, be a betterment over pre-development conditions.
- Anticipated foul water peak discharge rates.
- Evidence of consultation with Southern Water, and approval for foul water connections.

- Confirmation as to which existing/new connections to the sewer are proposed, and proof (I.e., CCTV survey) that they are appropriate.
- Demonstration that the opportunity to incorporate SuDS into the Apart Hotel development has been fully considered and implemented as far as possible. (For example, attenuation measures or the absence of such measures should be fully justified).

10.187. Further to the adoption of City Plan Part 2 and policy DM43, either the inclusion of sustainable drainage, or sufficient justification for its exclusion is a requirement but given the existing structures and previous use of the site it is considered that the Hippodrome and Hippodrome House could utilise the existing infrastructure but that the new build Apart Hotel development requires further detail secured by condition. Subject to compliance with the recommended conditions compliance of the scheme against policy DM43 is considered to be acceptable.

Sustainability:

10.188. Adopted Brighton & Hove City Plan Part One Policy CP8 Sustainable Buildings requires that all developments incorporate sustainable design features to avoid expansion of the city's ecological footprint and mitigate against and adapt to climate change.

10.189. Policy CP8 sets out minimum energy and water efficiency standards required to be met for all developments:

- Energy efficiency standards of 19% reduction in CO2 emissions over Part L Building Regulations
- BREEAM 'Excellent' certification for major non-residential developments

10.190. The retention and restoration of the Hippodrome is an inherently sustainable use for this site while improving the energy and carbon performance of the existing buildings and replacing all services. The proposed Apart Hotel would maximise the use of a brownfield site. The Design and Access and energy statement provides information in these regards but overall limited specific detail has been provided within the application. The Hippodrome by nature of being an existing Grade II* Listed Building will somewhat restrict the design of mechanical and electrical services, ventilation and energy efficiency measures.

10.191. Information provided for the historic building elements advise a fabric-first approach to maximise air-tightness and include "super-high" insulation of the facades, dome and fly-tower but no detail is provided, however it is noted that the traditional construction of the building will provide good thermal performance.

10.192. The auditorium itself would be heated, ventilated and cooled by a ducted air system fed from a roof mounted air handling unit. The ventilation system will be controlled by a number of air quality and temperature sensors to reduce energy consumption. Heat recovery will be bypassed automatically to prevent energy wastage, during certain conditions. Solar PV panels are proposed for the roof and although the extent of area available is limited this is welcomed.

- 10.193. Across the development low energy (LED) lighting with occupancy sensors, water efficient fittings and improved insulation of all central heating and hot water piping and cylinders are proposed. The application also proposes that the development will generally utilise air source heat pumps for heating and cooling where possible and utilise high efficiency gas boilers for some water and heating requirements.
- 10.194. The Apart Hotel rooms would be air conditioned using ducted heat pumps with controls to ensure these are only in use when the room is occupied, with fresh air via vents in glazing systems proposed. No assessment of overheating has been submitted but it will be necessary to meet the requirements of Building Regulations 2021 Part O with regard to overheating.
- 10.195. In terms of the overall building management this features air conditioning, heating and ventilation systems with comprehensive controls and monitoring to ensure energy consumption is minimised whilst comfort levels are maintained.
- 10.196. The proposal for most of the heating to be provided by air source heat pumps is considered acceptable. Installing new gas boilers would, however, mean that the building will not be future-proofed against upgraded building regulations expected to be introduced in 2025.
- 10.197. BREEAM is not mentioned or assessed in the documents submitted and as this is a major development, a BREEAM rating of 'Excellent' is required by policy CP8 to apply to the Apart Hotel development and this is recommended to be secured by condition.
- 10.198. In regard to Carbon Emissions the information presented in regard to reduction and management is on a general level and no estimate of carbon emissions or potential savings is provided nor targeted EPC ratings.
- 10.199. Notwithstanding the lack of detailed information it is considered that planning conditions could secure appropriate measures are incorporated in the proposal across the different phases of development in order to meet sustainability policy objectives in accordance with policies CP8 of the City Plan Part One and DM44 of the Brighton and Hove City Plan Part Two.

Landscaping, ecology and biodiversity

- 10.200. The development site is a brownfield site located within the City Centre with no significant ecology or biodiversity on site. It is noted that the site is not within any areas designated for natural protection and there are no green corridors within the site or the surrounding area. The application submission pre-dates the adoption of City Plan Part Two Policy DM37 and Biodiversity Net Gain for major developments and no urban greening or landscaping is proposed.
- 10.201. The application is accompanied by a preliminary bat roost assessment which concludes no evidence of bats, droppings or bat roosts within and around the

existing buildings. An informative is recommended to ensure that the applicant is aware of responsibilities of species protection in the event that any discovery of bats is made during further works.

- 10.202. In order to improve the biodiversity outcomes of the development conditions are recommended for bee-brick and swift boxes to be installed. The development would otherwise not impact upon any green infrastructure or natural features over and above the existing condition of the site.

Accessibility

- 10.203. Access to the auditorium use would be from the existing northern and southern principal entrances fronting onto Middle Street. The northern most entrance is suitable for wheelchair access. The design and access statement also notes that the two ground floor entrances to the Hippodrome within the Middle Street yard would also be wheelchair accessible. The rear doors to the Members Club area are shown to be step free from the submitted drawings also.
- 10.204. A number of internal lifts are proposed within the rear of the auditorium, including an evacuation lift and a further lift is proposed within the Apart Hotel frontage onto Ship Street. The Apart Hotel entrance and Ship Street shopfront both indicate a level and step free access.
- 10.205. Horizontal movement, with the exception of Hippodrome House, is through corridors designed to allow wheelchair turning spaces and all doors are proposed to have minimum clear opening widths compliant with the Building Regulations Approved Document M.
- 10.206. The Transport Addendum (July 2023) states, *“Wheelchair access to all areas will be controlled under Building Regulations requirements. Chair lifts, similar to those employed by the City Council at Prince Regent Swimming Pool for instance, will be used within the Hippodrome.”*
- 10.207. The applicant’s approach is accepted, and it is acknowledged that accessibility will be reviewed again post planning consent (if permission is granted) and required to comply with current Building Regulations.

Other Considerations:

Property value

- 10.208. A number of representations have raised the impact of the development upon property value which is not a material consideration in planning terms.

Quakers Meeting House

- 10.209. A number of representations have raised the impact of the development upon the Quakers Meeting House gardens and trees. The Quakers Meeting House is sited on the junction of Ship Street and Prince Albert Street running to the south east. The closest part of the boundary of the property to the Apart Hotel proposal is c.25m. Due to the orientation of the site the development would not have any material impact on this area until the later part of the day with the impacts being as existing otherwise. No harm to the use of this space is

considered to result sufficient to warrant refusal of this application due to the separation distance and orientation of the site.

Phasing

- 10.210. Referred to in the sections above the applicant has provided a phasing plan and phasing intention for the development. The applicant has provided the following intentions and describes them as follows;
- 10.211. Phase One relates to the Hippodrome Auditorium, Hippodrome House and the rear fly tower and is proposed to include.
- Demolition works: Strip out remaining “Mecca” related fit out works from auditorium including all redundant services. Demolition of any elements approved by a Listed Building Consent. The majority of this is to the rear of Hippodrome House. Inspection, testing, repairs and renewal of drainage system.
 - Construction of newly approved structures mainly in the fly tower area, to the rear of Hippodrome House and on the remaining roof areas around the perimeter of the auditorium.
 - Installation of M & E services whilst structure is open, following previous artex removal. After first fix service installation, the fit out works to approved drawings will commence.
- 10.212. Phase Two relates to the new build extension facilitating the Apart Hotel.
- For a majority of the work in Phase 1 the Ship Street car park will be required for site vehicles, deliveries and materials handling.
 - Towards the start of the internal fit-out works it is anticipated that arrangements will have been made to cover the archaeological inspection in a phased way to the car park area.
 - It is not anticipated that construction work will commence on the Part Hotel until the Hippodrome has opened although this will depend on negotiations with the potential occupiers. They may have a requirement for the foundation works to be complete before opening of the venue due to the potential impact.
- 10.213. It is considered key to the success and realisation of the benefits of this proposal that a phasing plan is appropriately secured. Planning conditions and obligations are recommended to be worded in such a way that the auditorium is fully restored, completed and fitted out for purpose and that heritage benefits and features are appropriately restored and in place prior to the operation of other parts of the proposal, such as occupation of the new build Apart Hotel, to ensure that the public benefits are secured across the scheme as a whole.

11. CONCLUSIONS:

- 11.1. In addition to the paragraphs cited earlier in this report paragraph 203 of the NPPF states;
- In determining applications, local planning authorities should take account of:*
- a) *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*

- b) *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) *the desirability of new development making a positive contribution to local character and distinctiveness.*

- 11.2. In this case the proposed development is considered to sustain and enhance both the architectural and historic significance of the buildings and the use proposed is considered to be suitably viable and consistent with the history of the site and the ongoing conservation of this at risk Grade II* Listed Building securing what can be considered as the Optimal Viable Use. The proposed development would contribute to the re-generation and vitality of this part of the Old Town Conservation Area and would also improve the public realm and make a positive contribution to local character and distinctiveness.
- 11.3. There would be some harm from the development proposed. These harms are acknowledged as being some harm to residential amenity, harm to the Conservation Area and some heritage harm to the adjoining Hippodrome House. These harms are considered, in the planning balance, to be outweighed by the public benefits of the proposal which would amount to the restoration and appropriate re-use of the Grade II * Listed Building with the public able to again appreciate and experience a restored Hippodrome Auditorium as a single volume providing a programme of performances and events and is considered viable and sustainable.
- 11.4. Subject to an appropriate phasing agreement and suitable planning conditions it is considered that the public benefits of the proposal would be secured and realised.
- 11.5. Matters relating to Highways impacts, sustainability and archaeology are considered acceptable and can be suitably controlled through appropriately worded conditions.
- 11.6. On balance the development proposal is considered to be in accordance with the NPPF, national and local guidance and locally adopted planning policies of the Brighton and Hove City Plan Part One and Part Two.

12. EQUALITIES

- 12.1. During the determination of this application due regard has been given to the impact of this scheme in relation to the Equality Act 2010 in terms of the implications for those with protected characteristics namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There is no indication that those with any of these protected characteristics would be disadvantaged by this development.

13. COMMUNITY INFRASTRUCTURE LEVY

- 13.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

