

<u>No:</u>	BH2023/02835	<u>Ward:</u>	West Hill & North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Royal Pavilion Gardens Pavilion Buildings Brighton BN1 1EE		
<u>Proposal:</u>	Landscaping works to include the restoration and reinstatement of historic walls, metal railings and gates, restoration of existing 19C historic and existing modern replica lamp posts. Enhancement of planting, lawns, groundworks and removal of modern trees and hedging to the Western lawn and East/North East compartments to reinstate the Nash views. Alterations to existing paths, planting beds and fencing, improvements to drainage and irrigation systems. Remodelling of existing public WC block and installation of outdoor learning space with adjacent storage and hand wash area and any other associated ancillary development, including provision of public realm and landscaping improvements.		
<u>Officer:</u>	Steven Dover	<u>Valid Date:</u>	06.11.2023
<u>Con Area:</u>	Valley Gardens	<u>Expiry Date:</u>	05.02.2024
<u>Listed Building Grade:</u>		<u>EOT:</u>	15.03.2024
<u>Agent:</u>	Allen Scott Landscape Architects 44 Newton Road Tunbridge Wells TN1 1RU		
<u>Applicant:</u>	Brighton & Hove Museums	Royal Pavilion	Pavilion Buildings Brighton BN1 1EE

1. RECOMMENDATION

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

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Report/Statement	Preliminary Ecological Assessment	J21177 _REV B	23 October 2023
Report/Statement	Arboricultural Impact Assessment	J21177 _Arb_B	17 April 2024
Report/Statement	DEVELOPMENT STAGE DESIGN REPORT	725-501A	15 April 2024
Proposed Drawing	725-104	A	15 April 2024
Proposed Drawing	725-101	A	15 April 2024
Proposed Drawing	725-102	A	15 April 2024

Proposed Drawing	725-103	A	15 April 2024
Proposed Drawing	725-100	A	15 April 2024
Proposed Drawing	725-105	A	15 April 2024
Proposed Drawing	725-202		23 October 2023
Proposed Drawing	725-205		23 October 2023
Proposed Drawing	725-204		23 October 2023
Proposed Drawing	725-207		23 October 2023
Proposed Drawing	725-350		23 October 2023
Proposed Drawing	725-213		23 October 2023
Proposed Drawing	725-211		23 October 2023
Proposed Drawing	725-214		23 October 2023
Proposed Drawing	725-212		23 October 2023
Proposed Drawing	725-354		23 October 2023
Proposed Drawing	725-209		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2000 P1		23 October 2023
Proposed Drawing	725-357	A	15 April 2024
Proposed Drawing	725-210		23 October 2023
Proposed Drawing	725-367	B	18 March 2024
Proposed Drawing	725-358		23 October 2023
Proposed Drawing	725-351		23 October 2023
Proposed Drawing	725-359		23 October 2023
Proposed Drawing	725-352		23 October 2023
Proposed Drawing	725-360		23 October 2023
Proposed Drawing	725-353		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2001 P1		23 October 2023
Proposed Drawing	725-361		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2004 P1		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2100 P1		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2200 P1		23 October 2023
Proposed Drawing	P1154-RHP-TB-XX-DR-A-4000 P1		23 October 2023
Location Plan	725-001		23 October 2023
Location Plan			23 October 2023

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. All ecological measures and/or works shall be carried out in accordance with the details contained in the Preliminary Ecological Appraisal (Greenspace Ecological Solutions, October 2023, ref. J21177_RevB) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.

Reason: To ensure that the measures considered necessary as part of the ecological impact assessment are carried out as specified, and as required by paragraphs 180 and 186 of the National Planning Policy Framework 2023, Section 40 of the Natural Environment and Rural Communities Act 2006, as amended, Policy CP10 of the Brighton and Hove City Plan Part One and Policy DM37 of the City Plan Part Two.

4. No development shall take place until an Ecological Design, Management and Monitoring Strategy (EDMMS) for the provision of a minimum 10% biodiversity net gain within a 30 year period, to include the measures in the Preliminary Ecological Appraisal (Greenspace Ecological Solutions, October 2023, ref. J21177_Rev B) has been submitted to and approved in writing by the local planning authority. The EDMMS shall include the following parts:
- a) Description and evaluation of habitat/features proposed (to include full updated Metric (using most current version) and details of condition assessments);
 - b) Identification of adequate baseline conditions (for management and monitoring purposes) prior to the start of works (to include full updated Metric (using most current version) and details of condition assessments);
 - c) Aims and objectives for the proposed works;
 - d) Site specific and wider ecological trends and constraints that might influence works;
 - e) Details of the body/organisation/person/s responsible for undertaking the works and lines of communication;
 - f) Details of the legal and funding mechanism(s) by which the implementation of the EDMMS will be secured by the developer with those responsible for its delivery;
 - g) Detailed design(s) and/or working method(s) to achieve stated objectives including type/source of materials, disposal of any wastes arising from works and appropriate scale plans showing location/area of proposed works;
 - h) Works Schedule aligned with any proposed phasing and including an annual work plan capable of being rolled forward over a five-year period;
 - i) Prescriptions for initial aftercare and long-term management that will ensure the aims/objectives are met; j) Details for on-going monitoring of BNG habitats in years 2, 5, 10, 15, 20, 25 and 30, and any other biodiversity features (where present), including:
 - o Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the work can be measured;
 - o Methods for data gathering and analysis;
 - o Location, timing and duration of monitoring;
 - o Review, and where appropriate, publication of results and outcomes, including when monitoring reports will be submitted to the local planning authority;
 - o How contingencies and/or remedial action will be identified, agreed with the local planning authority and implemented so that the original aims/objectives of the approved scheme are met.

The EDMMS shall be implemented in accordance with the approved details and all habitats/features shall be retained in that manner thereafter.

Reason: In the interests of ensuring measurable net gains to biodiversity and in accordance with Section 40 of the Natural Environment and Rural Communities Act 2006, as amended, paragraphs 180 and 186 of the National Planning Policy Framework 2023, Policies CP10 of the Brighton and Hove City Plan Part One and DM37 of the Brighton and Hove City Plan Part Two, and BHCC's Interim Technical Advice Note on Biodiversity Net Gain (October 2022)

5. No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

The archaeological work shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is agreed in writing with the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework and in accordance with Policy DM31 of the City Plan Part 2.

6. Notwithstanding the approved plans, submitted Arboricultural reports and statements no works shall take place to the tree annotated T42 on the approved proposed masterplan (ref:725-100 A received on the 15th April 2024), without written confirmation from the LPA prior to any works commencing.

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM22 and DM30 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

7. No tree shown as retained on the approved drawings shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

8. Prior to commencement of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after first use of the approved buildings. The scheme shall include the following:

- a) details of all hard and soft surfacing to include the type, position, design, dimensions and materials and any sustainable drainage system used;
- b) a schedule detailing sizes and numbers/densities of all proposed trees/plants including food-bearing plants, and details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c) details of all boundary treatments to include type, position, design, dimensions and materials;
- d) details of all mitigation/replacement trees for those removed.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

9. Notwithstanding the approved plans, prior to first use of the renovated toilet building, details of secure cycle parking facilities for the users of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first use of the approved buildings and shall thereafter be retained for use at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

10. Notwithstanding the plans hereby permitted, the applicant is required to enter into a Section 278 agreement with the council as the Local Highway Authority and therefore no development shall commence until the scheme of all works on the public highway has been submitted to and approved in writing by the local planning authority. The works on Palace Place will include:

- New vehicular access and associated crossover
- Redesign of the footway

This scheme of works shall then form the basis for the detailed design to be included within the Section 278 agreement.

Reason: To ensure safe pedestrian, cyclist and vehicular access into, out of and passing by the site and road safety for all road users and to comply with CP7, CP9, CP11 and CP18 of the City Plan Part One and DM33 of City Plan Part 2.

11. Prior to the commencement of the development hereby approved, a Delivery & Service Management Plan, which includes details of:

- hours of access (restrictions),
- types of vehicles. This must include a swept path analysis, to ensure that any proposed vehicles can safely manoeuvre and access and egress the site in a forward gear, on
 - Princes Place,
 - Palace Place (including the right turn in and left turn out from Castle Square).

- frequency of use
- how deliveries will take place

shall be submitted to and approved in writing by the Local Planning Authority. All deliveries shall thereafter be carried out in accordance with the approved plan.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policy DM33 and DM36 of the Brighton & Hove City Plan Two.

12. No development shall take place, including any works of demolition, until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
- details of public engagement both prior to and during construction works.

The approved details shall thereafter be implemented in full throughout the construction of the development.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policy DM33 and DM36 of the Brighton & Hove City Plan Two.

13. The development hereby permitted shall not be commenced (including demolition and all preparatory work) until a full construction method statement for all ground works within Root Protection Areas (RPA's) of retained trees, including materials and proposed protection measures in line with the submitted Arboricultural Impact Assessment and Method Statement received on the 17/04/2024 ref:J21177_Arb_B produced by Greenspace Ecological Solutions has been submitted to and agreed in writing. The approved methods shall be fully implemented for all works in the RPA's onsite during the proposed development.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part Two

14. Prior to installation of any railings or gates drawings at a scale of 1:5 with section details of all junctions at 1:1 of all railings and gates with full details of the proposed colour shall be submitted to and approved by the local planning

authority. All railings and gates shall be painted the approved colour within one month of installation and shall be retained as such thereafter.

Reason: To ensure the satisfactory preservation of this listed building and to comply with policies DM27 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

15. Notwithstanding the approved plans, the development hereby permitted shall not be commenced until the following details of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority:
- a) samples/details of brick, render and tiling (including details of the colour of render/paintwork to be used);
 - b) samples/details of all cladding and roof finishes to be used, including details of their treatment to protect against weathering;
 - c) samples/details of all hard surfacing materials;
 - d) samples/details of stone plinth and walls to be used in boundary treatments;
 - e) a schedule of all features to be removed, moved, replaced or reinstated, including photos/drawings/sections recording the features to be replicated along with 1:1 and/or 1:20 scale drawings of existing and proposed items;
 - f) a method statement for the works of repair to the existing lampposts and masonry balustrades;
 - g) full details, including 1:20 scale elevational drawings and sections of the proposed South Gate (India gate) and existing boundary walls and railings between 1-3 Pavilion Buildings and the Royal Pavilion building;
 - h) full details, including 1:20 scale elevational drawings and sections of the proposed bin store structure, materials and finishes;
 - i) full details, including 1:20 scale elevational drawings and sections of the proposed shed structures, materials and finishes;
 - j) full details, including 1:20 scale elevational drawings and sections and 1:2 scale sections of the new internal estate railings detailed as F7 and F8 on the approved plans;

Development shall be carried out in strict accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM27 and DM30 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is required to contact the Council's 'S278 team' initially by e-mail (s278@brighton-hove.gov.uk) for necessary highway approval from the Local Highway Authority prior to any works commencing on the public highway to satisfy the requirements of condition. These works can only be agreed following

submitted documents being accepted and approved as part of the DSMP condition requested.

2. SITE LOCATION

- 2.1. The application relates to the grounds of the Royal Pavilion Estate, a Registered Park and Garden of Special Historic Interest, Grade II. The site contains the Grade I Listed Royal Pavilion and is located within the Valley Gardens Conservation Area.
- 2.2. To the north of the application site is the Grade I Listed Dome Theatre and associated buildings. To the west is the predominantly pedestrianised New Road and the numerous Listed Buildings including the Grade II* Listed Theatre Royal. To the south the site abuts Prince's Place, Pavilion Buildings and Palace Place, which comprise numerous locally and Grade Listed Buildings. The Old Steine/Pavilion Parade, the main north-south vehicular route into the city, lies immediately to the east of the site.
- 2.3. The nearest residential properties are in Prince's Place, Pavilion Buildings and Palace Place to the south fronting North Street, and there are also flats on the opposite side of Pavilion Parade to the east and New Road to the west.

3. RELEVANT HISTORY

- 3.1. **BH2023/02836** Landscaping works to include the restoration and reinstatement of historic walls, metal railings and gates, restoration of existing 19C historic and existing modern replica lamp posts. Enhancement of planting, lawns, groundworks and removal of modern trees and hedging to the Western lawn and East/North East compartments to reinstate the Nash views. Alterations to existing paths, planting beds and fencing, improvements to drainage and irrigation systems. Remodelling of existing public WC block and installation of outdoor learning space with adjacent storage and hand wash area and any other associated ancillary development, including provision of public realm and landscaping improvements. (Listed Building Consent). Pending decision
- 3.2. **BH2023/01822** Temporary ice rink on Royal Pavilion Eastern Lawns annually during winter months. Structure to include ancillary buildings for box office, café/bar/restaurant, toilet facilities, skate exchange, learner's ice rink and associated plant and lighting. (2 year consent). Approved 21.09.2023.
- 3.3. **BH2017/00132** Installation of temporary event space in East/North lawns from 25th May to 5th June inclusive, with approximate two week set up and one week dismantling period. Temporary structures include replica timber street scenes, food and drink outlets, toilet blocks, stage and performance space. Refused 26.04.2017.

- 3.4. **BH2013/01992** Temporary maze on Royal Pavilion Eastern lawns from 4th July to 3rd September 2013, with adjoining ticket office and props within maze (retrospective). Refused 21.08.2013.
- 3.5. **BH2009/01949** Installation of new wrought and cast iron secondary vehicular gates and gate piers with automated electronic control gear and removal of existing central roadway bollard. Re-surfacing of existing tarmac with second-hand yorkstone flags and granite setts. Installation of wrought iron pedestrian gates and rebuilding of boundary wall (LBC). Approved 12.01.2010.
- 3.6. **BH2009/01947** Installation of new wrought and cast iron secondary vehicular gates and gate piers with automated electronic control gear and removal of existing central roadway bollard. Re-surfacing of existing tarmac with second-hand yorkstone flags and granite setts. Installation of wrought iron pedestrian gates and rebuilding of boundary wall(Full Planning). Approved 25.11.2009.
- 3.7. **BH2004/03527/CD/FP** Replacement of existing bow top fencing (50cm high) with proposed bow top style fencing (1.35m high). (Full Planning). Approved 19.01.2005.
- 3.8. **95/0290/CD/FP** Installation of retractable traffic bollards at North Gate entrance and rising arm barrier at New Road exit. (Full Planning). Approved 16.05.1995.
- 3.9. **91/0756/LB** Restoration of the Nash Garden scheme in the Royal Pavilion grounds. (LBC) Approved 02.07.1991.
- 3.10. **91/0574/CD/FP** Restoration of the Nash Garden scheme in the Royal Pavilion grounds. (Full Planning) Approved 02.07.1991.

4. APPLICATION DESCRIPTION

- 4.1. The application seeks approval for works to the Royal Gardens, including the restoration and reinstatement of historic walls, new metal railings internally and on the boundaries of the site, the restoration of historic lamp posts and installation of replicas, and the addition of new gates to the majority of the existing access points. A new vehicular access would also be created off Palace Place.
- 4.2. It is also proposed to enhance existing planting and lawns including the removal of some trees and hedges and replacement planting to facilitate improvement to the existing pathways/facilities, and in some cases to open up historic (Nash) views of the Royal Pavilion and surrounding Listed Buildings. Other alterations are proposed to the existing paths, planting beds and fencing with improvements to drainage and irrigation systems.
- 4.3. Remodelling of the existing public WC block is proposed with a changing places facility to be provided, along with storage areas and a multi-use kiosk. A new outdoor learning space with storage and handwashing facilities is proposed to the side of the Museum entrance.

- 4.4. The existing gardeners' compound would be replaced with new timber sheds, and the existing bin store would be reduced in size with a new access point and design.
- 4.5. Seating that lies within the site but faces onto New Road would be removed to facilitate new railing along the boundary.
- 4.6. Since submission of the application changes to the proposal have been made with regards to the proposed gardeners' shed in order to address concerns regarding the appropriateness of materials, with timber now proposed instead of metal. In addition one of the mature trees (T42, a lime) identified for removal, will now be retained as the loss was not considered justified purely on the basis of opening up views of the Pavilion.

5. REPRESENTATIONS

- 5.1. **Objections** from **eighteen (18)** individuals have been received and from the following groups, **North Laine Community Association, The Brighton Society, Living Streets Group and The Regency Society**, raising the following issues:
 - Adverse impact on listed building
 - Adversely affects Conservation Area
 - Additional traffic and less convenient due to closure of gates
 - Inappropriate height of development (railings and gates)
 - Overdevelopment
 - Overshadowing
 - Overbearing
 - Poor design
 - Disabled access not increased - gates too narrow
 - No cycle storage details
 - Railings and enclosure of site, with potential closure of public access unacceptable
 - Lockable gates unacceptable
 - Reduction in site permeability
 - Restriction of views
 - Cost and maintenance of railings and gates
 - Narrowing of path and potential loss for areas of seating in front of the cafe
 - Placement of bins nearer to Café
 - Intention to close gardens more often for private events
 - Loss of mature trees
- 5.2. **Support** from **thirty four (34)** individuals has been received raising the following issues:
 - In keeping with Listed Building
 - Respects and protects the Heritage assets for the future
 - Cultural and tourism benefits from the enhancement of gardens

- Protection of the heritage assets will result, due to the proposed railings and gates.
- Beneficial to the wider city
- Enhancement of disabled access with changing place facilities and improved pathways
- Good design
- Gates and railings will reduce crime in the area, particularly at night when locked
- Enhancement and protection of the gardens will create a 'Jewel in the Crown' for Brighton and Hove
- A forward thinking city must embrace world class attractions in its centre
- Similar gardens in London close at night and appropriate for the Royal Pavilion Gardens
- Council has an obligation to ensure the garden is safe for users when it is open to the public, the development would help achieve this
- Educational spaces would enhance the garden offering
- Enhanced and revised toilet facilities
- Development would create a more attractive garden and improve the neighbourhood

5.3. **Comment** from **two (2)** individuals was received, raising the following issues:

- Renewed toilet provision is welcome
- Protection and replanting of areas welcome
- Cooperation between BHCC and the Trust welcome
- Security vs 24/7 access - how is this resolved?
- Extension of lawn to encompass areas that serve the café - not the ideal solution
- Loss of mature trees
- Should ensure accessibility at all hours and for disabled access

5.4. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

Internal:

6.1. **Arboricultural:** Support subject to conditions 17th April 2024 (Final Comment)
BHCC Arboriculture object in principle to the removal of healthy trees to improve sightlines / views, however we are pleased to now note the retention of T42 Tilia X europaea [lime], which is of good shape and form and highly prominent. The other proposed removals, although regretted, are either for sound arboricultural reasons or to improve current landscaping. BHCC Arboriculture raise no objection to those works.

6.2. BHCC Arboriculture seek conditions securing a full construction method statement for all ground works within RPA's of retained trees, including materials and proposed protection measures in line with the submitted arboricultural specification, this to be agreed in writing by the local authority prior to

commencement. We would also wish to see the standard landscaping condition attached to consent.

- 6.3. Arboricultural Impact Assessment Drawing remains hard to interpret due to similarity of keys for the various protection measures and needs to be clearer.

12th December 2023: Objection in principle

- 6.4. Object due to the removal of healthy trees solely to improve site lines/views of the listed buildings, in particular T42. Arboricultural Impact Assessment Drawing is hard to interpret due to similarity of keys for the various protection measures and needs to be clearer. Appreciate mitigation planting is provided within the landscaping - but this will take decades to address loss of canopy and amenity.

- 6.5. **Heritage:** No objection subject to conditions 19th April 2024 (Final Comments)
Further plans have been provided in respect of the sheds; appropriate conditions should be secured in relation to the heritage matters prior to commencement of works.

30th November 2023: No objection in principle, subject to amendments and conditions

- 6.6. Gardeners' compound suitable - but amendments to gardeners' shed details required. No objection to the majority of the proposed railings and gates, but amendments needed in respect of certain railings (F7/F8). Details of works to lampposts to be provided. Method statements for works to the masonry required and can be conditioned.

- 6.7. Design of toilet block acceptable. The addition and removal of trees is not extensive and should not significantly alter views of the historic building, but acceptability should be considered by the tree officer.

- 6.8. **Planning Policy:** No comment
Assuming that Heritage Officers provide comment.

- 6.9. **Sustainability:** No objection
The proposal to renovate the public toilets are welcomed improving efficiency and heating, meeting the councils aspirations for a circular economy.

- 6.10. A BREEAM assessment is not required.

- 6.11. Provision of an external electrical supply should be considered from this building for outdoor events/use, to avoid the need for diesel generators

- 6.12. **Sustainable Transport:** No objection subject to conditions 17th April 2024 (Final Comments)

Please see below our comments regarding the outstanding matters for the Royal Pavilion gardens application as per our discussion:

- New Road benches - We have been advised by the council's Project Manager of the proposed scheme that these works will not be undertaken by the applicant. It has also been confirmed that alternatives benches shall be provided by BHCC (date and funding to be confirmed).

- Bollards amendments - We have received the amended plans (15/04/2024) and these indicate acceptable location for the bollards as required and are within the site boundary.

6.13. As the LPA does not wish to request a Section 106 obligation on this occasion, it is agreed that it is still necessary to secure a S278 agreement and via a condition is acceptable.

8th April 2024 - 2nd response Unable to support due to outstanding information and amendments needed

6.14. The LHA is unable to support this application as further information and amendments are needed prior to determination in relation to the following:

- Confirmation of arrangements to provide new benches in New Road;
- Amendments are required to the Site Key Plan and Site Plans to confirm changes to positions of bollards and gates associated with Pavilion Buildings, New Road, Palace Place and Prince's Place.

9th February 2024 - 1st response:

6.15. The LHA is unable to support this application as further information and amendments are needed prior to determination

6.16. **Economic Development:** No Comment to make on the application

External:

6.17. **Conservation Advisory Group:** 2nd April 2024 Recommend Approval

6.18. **County Ecologist:** 24th January 2024 No objection subject to conditions

The proposed development is unlikely to have significant impacts on biodiversity and/or any risks can be mitigated to acceptable levels by the application of planning conditions. It is considered likely that the biodiversity objective of at least 10% biodiversity net gain will be met.

6.19. Conditions requested in respect of compliance with the submitted biodiversity method statement, and a pre commencement condition for an Ecological Design, Management and Monitoring Strategy (EDMMS) to be submitted and approved by the LPA.

6.20. **County Archaeologist:** 5th February 2024: No objection subject to conditions

The information provided is now satisfactory and identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions in relation to a written scheme of investigation to be submitted to the LPA prior to commencement of development for approval, and then to be implemented in accordance with. A written record of all works undertaken shall be submitted to the LPA with 3 months of completion.

19th December 2023

6.21. Object due to insufficient information

6.22. **East Sussex Fire and Rescue Service:** No objection

The means of escape appears to satisfy requirements. Access for fire appliances and fire-fighting is satisfactory.

- 6.23. **Historic England:** 22nd March 2024 Support
Historic England supports the proposals for new boundary railings, walls and gates subject to a more bespoke design for the India Gate. We are supportive of the other infrastructure and landscape improvements subject to the reconsideration of the removal of the Category B Lime Trees.
- 6.24. The Heritage Crime Risk Assessment Report has highlighted the seriousness of the crime and the high level of anti-social behaviour that takes place in the Gardens; that the site is a terrorism risk and that the internationally important listed buildings are at risk of vandalism or arson.
- 6.25. Therefore, while we note that new railings and gates would cause some relatively low level harm to heritage significance and that there are concerns about public access, we are supportive of the new boundary proposals.
- 6.26. This is because they would significantly help to address the serious crime problems and high levels of antisocial behaviour which have led to a degraded environment and which place the Royal Pavilion Estate at serious risk of vandalism, arson and/or misuse.
- 6.27. We consider that improvements to the design of the proposals for the India Gate could be achieved. We think a better approach would be a more bespoke design in consultation with the Indian community that still provides sufficient security.
- 6.28. We also do not consider that the removal of the two Category B Lime Trees is justified to help restore 'Nash views', as these views are already compromised by other interventions and trees and while some more of the buildings' facades may be revealed, the historic view will not be truly restored.
- 6.29. Historic England is supportive of the other proposals that will help to remove the Gardens from our Heritage at Risk Register.
- 6.30. **Southern Water:** No objection subject to details of the proposed means of foul sewerage and surface water disposal.
- 6.31. **Sussex Gardens Trust:** Support - on the basis the garden is secured and closed overnight
Support the design and development of the Gardens and have been consulted during the development process towards the application.
- 6.32. Support security of the site with railings and gates to protect the Heritage assets. Internally support the hard and soft landscaping and revised 'Changing Places' toilet block, learning space, redesigned bin store and gardener's compound and new vehicular entrance off Palace Place.
- 6.33. Surprised and concerned that Brighton and Hove City Council (BHCC) and Brighton and Hove Museums (B&HM) have committed to maintain 24 hours

access to the garden, as are not convinced that the garden will be sufficiently protected and secured without overnight closure to prevent vandalism and antisocial behaviour. State the unique garden deserves the highest possible level of protection.

- 6.34. **The Gardens Trust:** Support - on the basis the garden is secured and closed overnight
Support the design and development of the Gardens with enhanced security of the site.
- 6.35. Internally support the hard and soft landscaping and revised 'Changing Places' toilet block, learning space, redesigned bin store and gardener's compound and new vehicular entrance off Palace Place.
- 6.36. Concur with the views of the Sussex Garden Trust (SGT) in respect of the security of the site and that overnight closure is required to ensure reductions in crime. Examples are given of vandalism to listed structures which have received lottery funding. They strongly urge the site is secured at night.
- 6.37. **Sussex Police:** No objection
Given the high levels of both criminal & anti-social behaviour reported within the Pavilion Gardens pleased to see the application of perimeter fencing and gates - with supporting letters provided from the Neighbourhood Policy Team Inspector, which were sent to Chloe Tapping (Brighton & Hove Museums).
- 6.38. Crime prevention measures suggested in respect of CCTV, WC Bloc, Kiosk, Storage areas, Gardeners Compound, Cycle stands, Planting and Construction sites.
- 6.39. Full details of representations received can be found online on the planning register.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
 - Brighton & Hove City Plan Part Two (adopted October 2022);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).

8. RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One:

SA2	Central Brighton
SS1	Presumption in Favour of Sustainable Development
CP2	Sustainable economic development
CP5	Culture and tourism
CP8	Sustainable Buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP16	Open space
CP17	Sports provision
CP18	Healthy city

Brighton & Hove City Plan Part Two:

DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM26	Conservation Areas
DM27	Listed Buildings
DM29	The Setting of Heritage Assets
DM30	Registered Parks and Gardens
DM32	The Royal Pavilion Estate
DM33	Safe, sustainable and active travel
DM36	Parking and servicing
DM37	Green Infrastructure and Nature Conservation
DM43	Sustainable Drainage
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD14	Parking Standards
SPD16	Sustainable Drainage
SPD17	Urban Design Framework
	Valley Gardens Conservation Area Study

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the development, design appearance and heritage impacts; impacts on sustainable transport, and on arboriculture.

Statement Of Significance

- 9.2. The Royal Pavilion is a Grade I listed building of international significance for its architectural, historic and artistic interest as a royal palace in an idiosyncratic largely Indian style (reflecting the Regency period's interest in Orientalism) and designed by the leading Regency architect, John Nash. Due to its location, scale and design it is an extremely prominent building and its roofline of bulbous onion domes, pagoda roofed pavilions and minarets is synonymous with Brighton. Whilst its entrance is on the west elevation facing the popular Pavilion Gardens it is the more formal east elevation which is most impressive and which is most photographed. The gardens also affect the setting of important listed building around it, including the Grade I Dome Theatre, the Grade II India Gate, the Grade II* King William IV Gate, and the listed lampposts within the gardens and other buildings that are not directly associated with the pavilion but are visible from it.
- 9.3. The gardens of the Royal Pavilion are a registered park and garden of special historic interest, Grade II. The eastern lawns are a much simpler and more formal space than the livelier gardens to the west. They form an integral and highly important part of the setting of the building, inviting views of the building itself and allowing the drama of the building's east elevation and roofline to unfold in views from the east and north-east.
- 9.4. The Pavilion Estate Gardens form a part of the linear ribbon of historic green spaces that form the heart of the Valley Gardens Conservation area. The pattern of development and the prevailing architecture are contemporary with the Royal Pavilion and form part of its wider context. This proposal would have an impact on the setting of all the listed buildings but particularly the Royal Pavilion; the character of the registered park and garden; and the character and appearance of the Valley Gardens conservation area.

Principle of development

- 9.5. The gardens were originally established and laid out between 1816 and 1825 during the construction of the Royal Pavilion, following a design by John Nash, which reworked some of an earlier scheme by Samuel Lapidge. The gardens were renovated in 1981/1982 in conjunction with refurbishment of the Royal Pavilion, and again updated in 1991. These later iterations sought to reinstate and recover the original scheme by John Nash.
- 9.6. The present scheme would again seek to restore and improve the Gardens while maintaining their use for outdoor recreation so in principle is considered acceptable.

Design, Appearance and Heritage Impacts:

- 9.7. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any

features of special architectural or historic interest which it possesses. Moreover, when considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

- 9.8. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".
- 9.9. As already noted the Royal Pavilion grounds are Grade II listed and a designated Registered Park and Garden of Special Historic Interest. The Royal Pavilion is a Grade I listed building. The site lies within the Valley Gardens Conservation Area. The setting of the Pavilion is an essential part of its character as the gardens have been laid out to complement its design.
- 9.10. The siting, scale and appearance of the proposal is similar to previous permissions in that it seeks to reconnect and better conserve and better integrate the existing historic buildings and the surrounding landscaped areas. This is to be achieved through the following:
- The restoration and enhancement/replacement of the existing entrances to the garden.
 - The restoration and enhancement/replacement of the existing historic walls, iron railings, gates and perimeter buildings to the garden.
 - Restoration of the 19th century historic lamp posts and installation of matching new lighting.
 - Restoration of the Nash views into the western lawn and east lawn, through enhancement of exiting planting and removal of existing trees and hedged areas that currently impede these views.
 - Amendments to the existing path network which predominantly makes wider and would give improved drainage.
 - A new outdoor learning space with storage and handwashing facilities
 - Renovation of the existing toilet block with a new changing places facility, storage areas and multi-use kiosk area.
 - A revised gardeners compound and sheds
 - Enhanced drainage and garden irrigation
 - Changes to the internal fencing, predominantly around the garden beds
 - A new utilities areas (bin store)

Perimeter Works.

New Road (Western Perimeter):

- 9.11. The existing open western vehicular entrance (abutting The Corn Exchange) would be secured with a new metal vehicular sliding gate, comprising natural stone piers to either side and a metal gate of 2.1m in height in a design to match the other proposed external railings (black with pointed detailed vertical bars and low and high level horizontal supporting bars). A new pedestrian gate would be created to the side (north) which would have matching material and details. A timber wall/bench on the opposite side (south) would be replaced with a 0.6m high stone wall with black metal railings over to produce a total height of 2.1m to

match the proposed pedestrian and vehicular gates. The two existing pedestrian entrances of New Road would also have new gates and piers to match these.

- 9.12. The replacement of the solid timber wall with railings would open up views into the Pavilion Gardens from New Road which is considered to be positive. It is noted that the revised perimeter would bring visual changes to the New Road streetscene with the loss of the existing benches and relatively 'soft' timber fence, but it is not considered to bring any visual harm. The loss of the amenity provided by the existing seating would be offset by the provision of new benching in New Road (which the Council is to provide at a later date) which would be set back from the new boundary to ensure that it does not become a climbing aid to the new railings. The new boundary would increase the security of the site and the heritage assets within.
- 9.13. The design of the new gates and railings to New Road are considered to be appropriate designs and material palette which complements the status of the garden and the heritage assets that surround it, causing no significant harm and bringing benefits in respect of site security and views.

Prince's Place (Southern Perimeter):

- 9.14. Similar to New Road, the existing open entrance on Prince's Place would be secured with natural stone piers and two metal pedestrian gates to 2.1m with a design to match the other proposed external railings (black with pointed detailed vertical bars and a low and high level horizontal supporting bar). An existing small wall and areas of low hooped railing would be replaced with a low stone plinth and black metal railings over with a total height of 2.1m, with railings to match the pedestrian gate.
- 9.15. This is considered to bring improvements as the existing arrangement is a poor mixture of designs and street furniture that detracts from the public realm. The new boundary would increase the security of the site and the heritage assets within.
- 9.16. The design of the new gates and railings to Prince's Place are considered to be appropriate designs and material palette which complements the status of the garden and the heritage assets that surround it, causing no significant harm, and bringing benefits in respect of site security and appearance.

South Gate (India Gate) (Southern Perimeter):

- 9.17. The proposed perimeter works would see the existing walls retained but with the addition of a new pointed railings applied to the top which would create a combined railing and wall with a height ranging between 1.8m and 2.1m. The design of the railings would match the other proposed railings onsite (black with pointed detailed vertical bars and horizontal supporting bars).
- 9.18. The two existing pedestrian entrances would also have a new gates installed which would match the railings and the design of other pedestrian gates, and the main gate within India Gate is proposed to have a matching design. Historic England have raised concerns that the design is not overly complimentary to India Gate and have requested that further thought is given to the design and

history of the Gate in relation to the Indian community, but have agreed these further details could be secured by condition. A condition to that effect would be attached to any approval.

- 9.19. The principle of alterations to the existing boundary, incorporating India Gate to increase the security of the site and the heritage assets within, is acceptable, but the final design is to be secured by condition and agreed with the LPA, prior to any works commencing on the India Gate boundary.

Palace Place (Southern Perimeter):

- 9.20. The proposed perimeter works would see the majority of the existing pointed railings (F1) retained but with the addition of a new gates to allow the creation of a new vehicular entrance which would improve access to the Royal Pavilion and gardens for servicing, and when events are in situ (such as the winter ice rink). The design of the gate would match the existing railings and other proposed railings onsite (black with pointed detailed vertical bars and horizontal supporting bar).
- 9.21. The new access would be subject to a S278 agreement and a Delivery and Service Management Plan to be agreed prior to commencement of any works on highways land, to ensure that proposed works can be constructed and utilised in a safe manner.
- 9.22. The design of the new gates and replacement railings to Palace Place are considered to be appropriate designs and material palette which complement the status of the garden and the heritage assets that surround it, causing no harm. The new boundary and gates would increase the security of the site and the heritage assets within, and allow for another vehicular access point that would help service the existing Royal Pavilion Estate.

Old Steine (Eastern Perimeter):

- 9.23. The proposed perimeter works would see the existing 1.4m high hooped railings removed and replaced with new pointed railings applied to the top of a new natural stone bottom plinth, creating a combined railing with a height of 2.1m. The design of the railings would match the other proposed railings onsite (black with pointed detailed vertical bars and horizontal supporting bar).
- 9.24. The existing Maclaren wall, piers and gates, located to the west of the replacement railings, would be refurbished and retained. The exact details of the refurbishment are to be agreed with Heritage Officers and a condition would be attached to ensure this occurs. The gap between the replacement railings and the Maclaren wall would be managed as meadow to help increase biodiversity, in place of the existing short mown grass. No new public access would be provided on this boundary with the Old Steine.
- 9.25. The design of the replacement railings to Old Stiene are considered to be appropriate designs and material palette which complement the status of the garden and the heritage assets that surround it, causing no harm. The new boundary would increase the security of the site and the heritage assets within. In particular on this elevation the changes are considered to create a more

coherent and higher quality boundary, which reinforces the identity of the Royal Pavilion Estate and sense of arrival. The renovation of the Maclaren wall is welcomed.

North Gate (King William IV Gate) (Northern Perimeter):

- 9.26. The proposed perimeter works would see the existing relatively open area to the east of the North Gate secured with new pointed railings applied to the top of a new natural stone bottom plinth, which would create a combined railing with a height of 2.1m , which would extend from the eastern boundary facing the Old Stiene. Incorporated within the new railings would be a pedestrian gate which matches the others proposed onsite. The existing Maclaren wall, piers and gates, which remain located to the south of the replacement railings, would be refurbished and remain.
- 9.27. The design of the new gates and railings to the North Gate are considered to be appropriate designs and material palette which complements the North Gate with a railing design that mirrors the current heritage gate installed. The existing status of the garden and the heritage assets that surround it would suffer no harm.
- 9.28. It is noted that the revised perimeter will bring visual changes to the North Gate streetscene with the loss of the existing relatively open aspect to the east of North Gate, but it is not considered to bring any visual harm. The new boundary would increase the security of the site and the heritage assets within. As with the Old Stiene boundary the changes are considered to create a more coherent and higher quality boundary, which reinforces the identity of the Royal Pavilion Estate and sense of arrival at the William IV Gate. The renovation of the Maclaren wall is welcomed.

Landscaping and widening of existing paths:

- 9.29. Careful consideration has been given to the proposed removal of trees assessed as being of moderate quality and value (grade B). This is proposed to allow for the revised footpath (T27 & T17) and boundary treatments (T27) which on balance is considered to be justified, taking into account the wider benefits provided as part of the overall development and the security/accessibility improvements. Replacement/mitigation planting is required and would be secured by condition.
- 9.30. The removal of a grade B mature tree in the west lawn (T42) was initially proposed but was not considered by the LPA to be justified purely on the basis of reinstating or enhancing the 'Nash Views' of the Royal Pavilion. The possibility of relocating the tree within the garden was discussed but the likelihood of success considered low. The plans have been amended to show T42 as being retained and a condition would be attached this effect.
- 9.31. The removal of existing planting and trees as part of this plan to enable the improvements to the layout and existing paths is therefore supported, subject to a condition for replacement and mitigation planting, with suitable specimens to be agreed. The majority of trees removed being have been assessed as being of relatively low quality and value so their loss is not opposed.

- 9.32. The majority of the enlarged/ revised pathways follow the existing, but with the significant change occurring to the area to the north of India (South) Gate, which would enlarge the existing grassed oval and extend the surrounding pathway. To the west, opposite the existing Café, the grassed area would also increase and the pathway would decrease in width. The degree of change is not considered to bring any harm and partially mitigates the loss of grassed areas generally to allow the increased path widths elsewhere. It is noted that objection has been raised in reduction to the amount of hard stand area that tables and chairs associated with the Café would be able to utilise, but the wider benefits are considered to outweigh the loss, with an increased grassed area opposite the Café for customers and visitors to utilise.
- 9.33. The proposed improvement to the existing landscaping and widening of the existing pathways are considered acceptable in principle, but will be subject to a condition requiring a full hard and soft landscaping plan to be submitted the LPA for assessment and approval.
- 9.34. The new internal railings to the lawned areas proposed (Design F7 and F8) are considered acceptable in general design, but the supplied details are not considered sufficient and a condition would be attached to ensure the final detailed design is acceptable to the LPA prior to installation.

Works to toilet blocks

- 9.35. The proposed works to refurbish the existing (currently closed) toilet block would retain the existing footprint but revise the internal floorspace and elevations. These works will introduce a new 'changing places' facility which would increase the accessibility and use of the gardens for those with mobility and other challenges, with a space which allows full access to toilets for mobility scooters, motorised wheelchairs and carers, and onsite changing and shower facilities. New unisex WCs and a baby change suitable stall would be accessed from the front of the refurbished toilet block. To the western side of the block a new multifunctional kiosk/information centre is proposed which would have storage to the rear with an incorporated plant room. Further new storage would be created to the rear of the unisex toilets.
- 9.36. The design and elevations of the refurbished block are considered acceptable with the majority of the existing structure retained, but with new bronzed metal canopies to the front, steel doors for the WCs and new timber door and bifold timber windows to the proposed kiosk. Some elements are considered utilitarian, but this is the case with the existing structure and overall the elevational changes would bring improvement to its appearance. Changes would also occur to the rooflights, which would be removed and replaced with a new timber and ply structure, finished with new thermal insulation that would carry across the rest of the roof, and increase the thermal capacity and sustainability of the refurbished building.
- 9.37. The design and use of the toilet block building is considered appropriate and would provide an updated public amenity that increases the quality of WCs for all and in particular those who may have difficulties using traditional WCs. The

new kiosk would provide a flexible space that would contribute to the public and private uses proposed within the garden. The existing status of the garden and the heritage assets that surround it would suffer no harm.

Outdoor Learning Space

- 9.38. A new outdoor learning space would be located to the east of the Brighton Museum, adjacent to the existing learning building and formed of stone seating walls surrounding a new permeable membrane positioned around an existing tree. To the north would be located new storage facilities in front of an existing elevational wall, with new handwashing area to the side. The design is considered acceptable and would enhance the existing public offering from the garden in relation to education. No harm would be caused to the existing listed structures.

Gardeners' Compound

- 9.39. The proposed changes to the gardeners' compound are considered acceptable with a design for the new fencing and gates (set behind new hedge planting) with new low public seating walls which cascade onto the revised pathways within the gardens. The design would be in keeping with other proposed works to the garden. Revised plans showing timber sheds have been submitted which are considered acceptable.

New Bin Store:

- 9.40. The existing structure and size is identified as bringing harm to the garden currently. The proposed scheme would see a reduction in size of the bin store and reorientation to be mainly serviced from the existing vehicular access on New Road, adjacent to the Brighton Dome. This would reduce the existing negative impact and allow for greater soft landscaping to replace the footprint removed, both of which would have positive effects on the gardens and surrounding heritage assets. The final details of the revised bin store in relation to finish and materials are to be agreed and a condition would be attached to ensure suitability by the LPA.

Security of site and impact on heritage assets:

- 9.41. The proposed railings, walls and gates would allow the closure of and security of the existing perimeter of the garden, which currently has a relatively permeable boundary with multiple points of access and egress, and no facility to close existing openings to many parts of the boundary.
- 9.42. Significant work has been carried out by Historic England and external consultants, in conjunction with the local and national police, to produce a security report in relation to the gardens. The executive summary of that report forms part of the supporting documentation for the application and informs Historic England's (HE) support for securing of the site with new boundary railings and gates, due to the wider public benefits that would accrue in relation to general crime reduction in the area and potential damage to the heritage assets from vandalism. They identify that although relatively low level harm would be caused by the railings and gates to the heritage assets, and that concerns exist in relation to public access, any harm is identified as less than

significant and outweighed by the wider public benefits, with the preservation and enhancement of significance for existing heritage assets.

- 9.43. This view is shared by the LPA, and with the benefits identified, it is considered that any harm to the setting of the listed buildings, to the character of the registered park and garden itself and to the appearance of the conservation area, has been mitigated as far as possible (subject to conditions). The harm is 'less than substantial' under the terms of the NPPF and there are significant heritage, cultural, security and preservation benefits that may be weighed against that harm under paragraph 208 of the National Planning Policy Framework (NPPF) and in line with paragraph 212.
- 9.44. NPPF Paragraph 208 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.”*
- 9.45. NPPF Paragraph 212 states: *“Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.”*

Sustainable Transport:

- 9.46. Given the nature of the proposals and similarity to the existing situation, the majority of additional person trips will be linked journeys associated with visits to Brighton city centre. As such the proposed development would be unlikely to result in increased impacts on the highway and transportation networks or on the demand for parking.
- 9.47. New cycle parking stands are being provided to the north by the King William IV (North) Gate, with the exact amount and design will be secured by condition.
- 9.48. Various off-site works are proposed and a new vehicular access is to be provided at Palace Place. As these works would take place on highway land and/or create additional vehicular movements Transport Officers require a Delivery and Service Management Plan (DSMP) and that the applicant enter into a S278 agreement to ensure the impacts are fully assessed and acceptable. These elements will be secured by suitably worded conditions.
- 9.49. With regard to emergency vehicle access, the Pavilion has existing procedures in place. Vehicles can access the site via the William IV Gate to the north of the site, the Indian Gate to the south, and North Road to the west, and via the Palace Place gate to the south once the new access is created. East Sussex Fire Service has confirmed that the access arrangements are appropriate and the means of escape in case of fire would be satisfactory.

Arboriculture

- 9.50. Because it is important that vegetation and trees within the Pavilion Gardens, which form a key part of the setting of the Royal Pavilion and its listing, is protected during development, details of tree protection measures have been provided with the application and would be secured by condition. As previously noted, the loss of some existing trees is considered to be justified by the wider benefits of the scheme, but Arboricultural Officers are opposed to the removal of any mature trees to allow the reinstatement/enhancement of views so this element has been removed from the proposal.
- 9.51. Full details of the landscaping and mitigation planting would be secured by condition to offset harm caused through the loss of existing trees.

Other Matters:

- 9.52. The proposed redevelopment of the garden is considered acceptable in terms of impact upon residential amenity, with no increase in noise, overlooking, overshadowing or overbearing effects on surrounding residents arising as a result of the proposed works, in excess of the existing situation. As noted earlier the alterations to the gardens are considered to bring significant improvements to the accessibility and security of the site which would benefit all users and surrounding residents. The loss of the existing seating onto new road and the public amenity it provides will be mitigated through the new benches are intended to be installed.
- 9.53. The proposal to renovate the public toilets would improve efficiency and heating, meeting the Council's aspirations for a circular economy with the reuse of an existing building to a more efficient standard. Provision of an external electrical supply would be explored as part of the overall landscaping scheme for the site to be secured by condition.
- 9.54. The applicant has demonstrated that a biodiversity net gain in excess of 10% would be delivered through the scheme, which would be secured through the provision of an Ecological Design, Management and Monitoring Strategy by condition.
- 9.55. The proposed development would pose some risk of damage to archaeological remains but with a suitably worded condition attached which would require a scheme of investigation to be agreed by the LPA and implemented, the risk of damage is mitigated to an acceptable level, such to prevent refusal.

Conclusion and Planning Balance:

- 9.56. The harm from the proposed boundary railings and gates, and loss of mature trees upon the Conservation Area, the Historic Park and Garden, and the setting of the Grade I Listed Royal Pavilion is acknowledged. The harm is 'less than substantial' under the terms of the NPPF and there are heritage and other significant public benefits that may be weighed against that harm as per the NPPF.
- 9.57. The development would generate increased accessibility and use of the gardens, particularly for those with protected characteristics such as reduced mobility. The works would increase the significance of the heritage assets (the

setting and views of the Royal Pavilion) while helping to preserve and enhance for future generations the existing heritage assets. The development increases the public amenity benefits and education that the site currently provides through provision of more flexible buildings and an outdoor education space. Enhanced servicing access to the Royal Pavilion is provided with new access from Palace Place, increasing opportunities for the use of the gardens for special events to raise additional income in the support of the upkeep of the Royal Pavilion Estate.

- 9.58. Overall, it is considered that any harm to the setting of the listed buildings, to the historic character of the registered park and garden itself and to the appearance of the conservation area, has been mitigated as far as possible and the positive impacts are numerous. Given the above and that the development will enhance the cultural and tourism offering of the City, it is considered that the positive effects of the development outweigh the harm that the loss of some mature trees and proposed railings and gates would cause, and the development is in accordance with policies DM18, DM20, DM22, DM26, DM27, DM29, DM30, DM32, DM33, DM37, DM43 and CP5 CP12 and CP15
- 9.59. The application is therefore recommended for approval.

10. EQUALITIES

- 10.1. 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.
- 10.2. The proposed development will enhance the existing pathways increasing access for those with visual or mobility impairments. A changing rooms facility and baby change facilities are also being provided to the refurbished toilet block building, all of which would enhance accessibility and use of the gardens, increasing equality of use.