

<b><u>No:</u></b>	<b>BH2023/02836</b>	<b><u>Ward:</u></b>	<b>West Hill &amp; North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Listed Building Consent</b>		
<b><u>Address:</u></b>	<b>Royal Pavilion Gardens Pavilion Buildings Brighton BN1 1EE</b>		
<b><u>Proposal:</u></b>	<b>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.</b>		
<b><u>Officer:</u></b>	<b>Steven Dover, tel:</b>	<b><u>Valid Date:</u></b>	<b>23.10.2023</b>
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	<b>18.12.2023</b>
<b><u>Listed Building Grade:</u></b>			
<b><u>Agent:</u></b>	<b>Allen Scott Landscape Architects 44 Newton Road Tunbridge Wells TN1 1RU</b>		
<b><u>Applicant:</u></b>	<b>Brighton &amp; Hove Museums</b>	<b>Royal Pavilion</b>	<b>Pavilion Buildings Brighton BN1 1EE</b>

## 1. RECOMMENDATION

1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** Listed Building Consent subject to the following Conditions and Informatives.

1. The works hereby permitted shall be commenced before the expiration of three years from the date of this consent.  
**Reason:** To comply with Sections 18 (as amended) and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. 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 B received on the 24 June 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.
3. Prior to installation of any railings or gates hereby approved, 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.

4. 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

5. 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 Two.

6. 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; and
- 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. This decision is based on the drawings listed below:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Report/Statement	DEVELOPMENT STAGE DESIGN REPORT	725-501 B	24 June 2024
Proposed Drawing	725-101		24 June 2024
Proposed Drawing	725-102		24 June 2024
Proposed Drawing	725-103		24 June 2024
Proposed Drawing	725-104		24 June 2024
Proposed Drawing	725-105		24 June 2024
Report/Statement	Preliminary Ecological Assessment	J21177_Rev B	23 October 2024
Report/Statement	Arboricultural Impact Assessment	J21177_Arb_B	17 April 2024
Proposed Drawing	725-205		24 June 2024
Proposed Drawing	725-100	B	24 June 2024
Proposed Drawing	725-207		24 June 2024
Proposed Drawing	725-214		23 October 2023
Proposed Drawing	725-202		24 June 2024
Proposed Drawing	725-209		24 June 2024
Proposed Drawing	725-210		24 June 2024
Proposed Drawing	725-204		24 June 2024
Proposed Drawing	725-211		23 October 2023
Proposed Drawing	725-361		23 October 2023

Proposed Drawing	P1154-RHP-TB-XX-DR-A-2000 P1		23 October 2023
Proposed Drawing	725-212		23 October 2023
Proposed Drawing	725-350		24 June 2024
Proposed Drawing	725-213		23 October 2023
Proposed Drawing	725-351		24 June 2024
Proposed Drawing	P1154-RHP-LS-XX-DR-A-2004 P1		23 October 2023
Proposed Drawing	725-352		23 October 2023
Proposed Drawing	725-357		24 June 2024
Proposed Drawing	725-353		23 October 2023
Proposed Drawing	725-358		24 June 2024
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2200 P1		23 October 2023
Proposed Drawing	725-354		23 October 2023
Proposed Drawing	725-360		24 June 2024
Proposed Drawing	725-359		24 June 2024
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2100 P1		23 October 2023
Proposed Drawing	725-367	B	18 March 2024
Proposed Drawing	P1154-RHP-TB-XX-DR-A-2001 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. SITE LOCATION

- 2.1. The application site 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. (associated 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 existing and proposed vehicular 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.
- 4.7. In addition, one of the mature trees (T42) 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.
- 4.8. The application was due to go before Planning Committee in May 2024 but was withdrawn from that meeting to allow further amendments in response to concerns that the scheme would reduce access to the site and its permeability.

The amendments have lowered the height of railings in some areas and removed a previously-proposed pedestrian gates. An additional round of publicity and consultation was undertaken in June 2024 in response to the revised plans, as set out below.

## 5. REPRESENTATIONS

Prior to readvertising and consultation in June 2024:

5.1. An objection from **two (2)** individuals has 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 buildings
- Adversely affects Conservation Area
- Inappropriate height of development (railings and gates)
- Poor design
- Loss of existing WC's
- Railings and enclosure of site, with potential closure of public access unacceptable
- Lockable gates unacceptable
- Reduction in site permeability
- Restriction of views
- Narrowing of path and potential loss for areas of seating in front of the cafe
- Intention to close gardens more often for private events
- Loss of mature trees

5.2. **One (1)** letter of support stating;

- Good design,
- In keeping with Listed Building
- Fully support both the installation and design of the railings and the retention/redesign and reopening of the toilet block, as very much needed

After readvertising and re-consultation in June 2024:

5.3. **One (1)** further letter of comment was received following the advertisement of the revised application stating that they;

- Support proposal to upgrade the landscaping, fencing, paths and toilets and install a community learning centre as this would improve the gardens but,
- Object that the proposal now fails to commit to installing gates for the Pavilion Gardens to be securely closed at night.

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

BHCC Arboriculture initially objected 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, subject to conditions securing a full construction method statement for all ground works within Root Protection Areas 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.

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

**Heritage:**

Updated Comments July 2024: No objection subject to conditions

- 6.3. The amendments to the are minor in respect to the impact on historic significance so there is no in principle objection to any of the details. The amendments to the internal railings are an improvement to that was earlier proposed as the character of the “estate railings” appears more consistent with what was previously used on the gardens. However, it would still be beneficial to have detail drawings secured by condition. The boundary wall and details of the entrance on the west side of the site are also a considerable improvement. Other changes do not have a substantial impact on the heritage significance so there are no further objections on conservation grounds.

Initial Comment: No objection subject to conditions

- 6.4. 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. Initial concern over gardeners’ shed but overcome with updated details.
- 6.5. 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.

External:

- 6.6. **Conservation Advisory Group:** Recommend Approval

6.7. **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.

- 6.8. 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.



- 6.9. 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.
- 6.10. **Historic England: Support:**
- Updated Comments July 2024:
- 6.11. Previously, considered the proposals for secure new boundary railings and gates around the Gardens would be desirable for public safety reasons and protection of the listed buildings. This position was based on the findings of 'The Royal Pavilion Gardens Heritage Crime Assessment Report', which advised that the serious night-time crime risks would be significantly reduced by the installation of secure railings and gates around the boundaries.
- 6.12. HE considers the revised proposals, which propose to retain 24-hour access to the garden, while beneficial for access, are likely to be less effective in addressing the serious night-time crime risk and potential vandalism and arson risks to the historic buildings. However, they will still enable the site to be more easily protected when large scale public events take place nearby in Brighton.
- 6.13. Importantly, the amended proposals would deliver a higher quality and more coherent boundary and would help to re-establish a sense of arrival and a single Royal Estate identity.
- 6.14. Furthermore, they would also cause less harm to the India Gate than the previous proposals would have done, would deliver improvements to the appearance of the Gardens, and would provide welcome new facilities.
- 6.15. Also welcome proposals for new planting, restoration of the path network, construction of a new outdoor learning area, re-design of the existing public toilets to provide a new Changing Places toilet and public W/Cs; relocation of the bin store, re-design of the gardener's utility space, all which would help address some of the issues that cause risk to the heritage significance of the gardens.
- Initial Comments: Support
- 6.16. 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.
- 6.17. 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.
- 6.18. 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.

- 6.19. 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.
- 6.20. 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.
- 6.21. 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.
- 6.22. Historic England is supportive of the other proposals that will help to remove the Gardens from our Heritage at Risk Register.

**Sussex Gardens Trust:**

Updated Comment July 2024: Object

- 6.23. One of the important points made in earlier comments was the need for night closure to ensure this unique garden is given the highest possible level of protection. Pleased the see a comprehensive and authoritative Heritage Crime Risk Assessment (HCRA) report has not been submitted. The HCRA report identified three options, The preferred option (option 2) involves a secure fence and gate perimeter. The revised plans exclude most of the gates which were included in the earlier plans. All the gates should be included in the proposals as originally planned and they should routinely be closed at night. If the application is approved without the gates, the recommendation for night closures included in the HCRA cannot be implemented as part of the project. Worse still, the exclusion of the gates mean night closure can never be implemented, even if the security situation deteriorate further. Nor would the physical layout provide the ability to dynamically escalate or de-escalate boundary security to respond to public events (nearby or within the Estate) or as in response to other threats that may arise from time to time.

Initial Comment: Support - on the basis the garden is secured and closed overnight

- 6.24. Support the design and development of the Gardens and have been consulted during the development process towards the application.
- 6.25. 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.
- 6.26. 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 antis

social behaviour. State the unique garden deserves the highest possible level of protection.

## **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:

SS1           Presumption in Favour of Sustainable Development  
CP15          Heritage

#### Brighton & Hove City Plan Part Two:

DM26        Conservation Areas  
DM27        Listed Buildings  
DM29        The Setting of Heritage Assets  
DM30        Registered Parks and Gardens  
DM32        The Royal Pavilion Estate

#### Supplementary Planning Documents:

SPD09       Architectural Features

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.

### **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 gardener's compound and sheds;
  - Enhanced drainage and garden irrigation;
  - Changes to the internal fencing, predominantly around the garden beds; and
  - 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 circa 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 1.8m - 2.1m to match the proposed pedestrian and vehicular gates. The two existing pedestrian entrances of New Road would also be revised and enlarged with piers to match these and central bollards.

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 setting of 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, sense of arrival, and views.

Prince's Place (Southern Perimeter):

9.14. Similar to New Road, the existing open entrance on Prince's Place would be partially enclosed with natural stone piers/low wall and railings 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). Two pedestrian entrances would form part of the enhanced boundary. An existing small wall and areas of low hooped railing would be replaced by the same.

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, sense of arrival, and appearance.

South Gate (India Gate) (Southern Perimeter):

9.17. Previously the proposal included the addition of gates to the two existing pedestrian entrances, which would have matched the railings and the design of other pedestrian gates, and the main gate within India Gate was proposed to have a matching design. However, due to concerns raised by officers and Historic England the gates have been omitted from the proposal.

9.18. The proposed perimeter works would see the existing walls retained, but with the addition of a new pointed railings applied to the western half of the wall, 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).

9.19. Following receipt of amended plans, the main India Gate itself would remain unaltered in design, with the existing walls and gates all retained and

refurbished. The exact details of the form of refurbishment will be secured by condition to ensure the final appearance is acceptable to the Local Planning Authority (LPA).

- 9.20. The principle of alterations to the existing boundary, incorporating refurbishment of the India Gate to increase the security of the site and the setting of the heritage assets within, is acceptable, but the final appearance 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):

- 9.21. 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).

- 9.22. 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.

- 9.23. The design of the new gates and replacement railings to Palace Place are considered to be of an appropriate design 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 setting of the heritage assets within and allow for another vehicular access point that would help service the existing Royal Pavilion Estate.

Old Steine (Eastern Perimeter):

- 9.24. 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 circa 1.8m - 2.1m. The design of the railings would match the other proposed railings onsite (black with pointed detailed vertical bars and horizontal supporting bar).

- 9.25. 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.

- 9.26. 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 setting of 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):

- 9.27. 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 circa 1.8m to 2.1m, which would extend from the eastern boundary facing the Old Stiene. The existing gates and railings incorporated into the North Gate and to the west would be retained and refurbished. The existing Maclaren wall, piers and gates, which remain located to the south of the proposed new railings, would be refurbished and remain.
- 9.28. The design of the new gates and railings to the North Gate area 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.
- 9.29. 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:

- 9.30. 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.
- 9.31. 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 to this effect.
- 9.32. 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.

- 9.33. A 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.
- 9.34. 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.
- 9.35. 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

- 9.36. 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.
- 9.37. The design and elevations of the refurbished block are considered acceptable with a 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.

- 9.38. 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

- 9.39. 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

- 9.40. The proposed changes to the gardener's 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:

- 9.41. 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:**

- 9.42. The proposed railings, walls and gates would enhance the security of the existing perimeter of the garden, which currently has a relatively permeable boundary with multiple points of access and egress to many parts of the Gardens.
- 9.43. 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.

- 9.44. 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 is 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.
- 9.45. *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.*
- 9.46. *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.*

#### **Arboriculture**

- 9.47. 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.
- 9.48. Full details of the landscaping and mitigation planting would be secured by condition to offset harm caused through the loss of existing trees.

#### **Conclusion and Planning Balance:**

- 9.49. 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.
- 9.50. 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.

- 9.51. 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, DM26, DM27, DM29, DM30 and DM32 of City Plan Part Two and CP15 of City Plan Part One
- 9.52. The application is therefore recommended for approval.

## **10. EQUALITIES**

- 10.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
    - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
    - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
    - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.
- 10.3. The proposed development would 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.