

# **ITEM E**

**Hove Museum, 19 New Church Road, Hove**

**BH2013/02823  
Council Development**

**30 OCTOBER 2013**

# BH2013/02823 Hove Museum, 19 New Church Road, Hove



**Brighton & Hove  
City Council**



Scale : 1:1,250

<b><u>No:</u></b>	<b>BH2013/02823</b>	<b><u>Ward:</u></b>	<b>WESTBOURNE</b>
<b><u>App Type:</u></b>	<b>Council Development (Full Planning)</b>		
<b><u>Address:</u></b>	<b>Hove Museum 19 New Church Road Hove</b>		
<b><u>Proposal:</u></b>	<b>Creation of terrace incorporating new low level perimeter wall.</b>		
<b><u>Officer:</u></b>	Christopher Wright Tel 292097	<b><u>Valid Date:</u></b>	16/08/2013
<b><u>Con Area:</u></b>	Pembroke and Princes Area	<b><u>Expiry Date:</u></b>	11 October 2013
<b><u>Listed Building Grade:</u></b> Grade II Listed Jaipur Gate			
<b><u>Agent:</u></b>	Baqus Group PLC, Midland House 1 Market Avenue Chichester West Sussex PO19 1JU		
<b><u>Applicant:</u></b>	Brighton & Hove City Council , Royal Pavilion Museums 4-5 Pavilion Buildings Brighton BN1 1EE		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

## 2 SITE LOCATION & DESCRIPTION

- 2.1 The application site is occupied by a large two and three storey detached Victorian Villa on a corner plot at the junction between New Church Road and Pembroke Gardens.
- 2.2 The building is set back from the road behind a front garden which is bounded by low walls and railings. To the rear of the building there is a public park/garden.
- 2.3 The building is not listed, but it is a building designated as being of Local Interest. The Buildings of Local Interest document (26 April 2012) describes the building as follows:-
- 2.4 *New Church Road, Hove Art Gallery and Museum. Impressive yellow brick mansion, originally Brooker Hall, built in 1873 for the Vallance family, (Lords of the Manor of Hove). Designed by T. Lainson, it is a fine Victorian villa with Italianate features. Set in garden which emphasizes the formal layout of the area, with handsome rendered piers and cast iron railing, reinstated in 1994.*
- 2.5 The Jaipur Gate at the front of the site is Grade II Listed. The application site lies within the Pembroke and Princes Conservation Area.

**3 RELEVANT HISTORY**

**BH2013/01122** – Creation of terrace incorporating low level perimeter wall, demountable canopy and fixed timber benches. Withdrawn 29 July 2013.

**BH2005/05553** – Relocation of Jaipur Gate to south west position and associated conservation works. Approved 28 November 2005.

**BH2005/05551** – Conservation works and relocation of the Jaipur Gate. Approved 6 March 2006.

**BH2001/01632/CD/** - Erection of rear extension to provide lift for the disabled. Approved 12 October 2001.

**4 THE APPLICATION**

- 4.1 Planning permission is sought for an external seating area and terrace to the west side of the building connected to the existing museum tea room on the ground floor. Access to the terrace would be via two existing doors on the western flank elevation of the building towards the rear, which provide direct access to the existing tea room inside the building.
- 4.2 The terrace area would be approximately 43 square metres and would be surfaced using re-claimed York stone. The terrace would be sited alongside the flank wall of the museum building and would come out 3.2m, approximately in line with an existing pathway around the building. The terrace would have a perimeter wall along the side of the terrace, made from gault brick to match the existing building and to a height of 600mm. Alongside the wall a planted border is proposed.
- 4.3 The plans submitted indicate up to 22 seats on the proposed terrace, of which four tables and 16 chairs would be removable and the other fixed.
- 4.4 The terrace would be situated between 8m and 9m from the boundary of the museum gardens and from the façades of the nearest residential dwellings of 1 Pembroke Gardens and 2 Pembroke Gardens, 50m and 30m respectively.
- 4.5 The terrace would be 15.5m away from the Grade II Listed Jaipur Gate in the front corner of the museum gardens.
- 4.6 The application is a revised proposal following the withdrawal of a previous application, ref. BH2013/01122. The previous scheme sought provision of up to 53 additional seats on a 90 square metre terrace, that being more than twice the size of the current proposal. The previous application sought to extend the terrace in front of the main building and also sought planning permission for the erection of a 6m long timber pergola with removable canvas canopy. The current application does not propose a pergola.
- 4.7 The proposed opening hours for the café are 10am until 4.30pm Monday, Tuesday, Thursdays, Fridays and Saturdays; 2pm until 4.30pm Sundays and Bank Holidays; and closed on Wednesdays.

**5 PUBLICITY & CONSULTATIONS**

**External:**

**5.1 Neighbours:** Six (6) letters of representation have been received from **1, 2, 4 and 10 Pembroke Gardens; and 21 and 23 New Church Road, objecting** to the application for the following reasons:

- Café use will become dominant over museum use of the building.
- Reduction in green space in residential area.
- Shift from residential to commercial area.
- City centre type use not in keeping with quiet residential area.
- Permanent hard landscaping and terrace not in keeping with the gardens, Jaipur Gate or the conservation area.
- In February a Licence was granted allowing the premises to open until 11pm up to 24 times per year.
- The new café leaseholder, Peyton & Byrne, runs restaurants and cafes throughout London, including parties, weddings and corporate events.
- Neighbours were not notified of the Licensing application.
- Inadequate publicity of liquor licence application.
- A by-law for the museum gardens states no person shall cause or permit any noise which is so loud or so continuous or so repeated as to give reasonable cause for annoyance to other persons.
- The tea rooms used to put out tables and chairs and parasols onto the gardens and these were put away after hours. This would be considered acceptable.
- Increased traffic volumes.
- Increased parking problems.
- Increased noise in gardens.
- Increased disturbance.
- Increased deliveries and servicing.
- Increased night time noise and ballgames.
- People ignore the signage and play ball games in the museum gardens.
- The terrace surface and walls will be used to play football and basketball when the café is closed.
- Increased likelihood of use by night time drinkers and increased chance of anti-social behaviour.
- Will create a rendezvous for drinkers, children, winos and druggies.
- Loss of privacy.
- Loss of trees.
- Free access to gardens at any time of day as they are not fully walled in.
- The museum may become a large restaurant, bar or night club.

**5.2 Councillor Denise Cobb objects** to the application (letter attached).

**5.3 Sussex Police:** Comments awaited.

**Internal:**

**5.4 Heritage:** No objection.

There is no objection in principle to a terraced seating area and the extent and footprint of the proposed terrace is appropriate in size and shape, with a formality that relates well to the historic building itself. The terrace would be

paved with re-claimed York stone, which is an appropriate traditional material, and the low border wall would be of gault brick to match the Museum building. Subject to approval of materials it is considered that the proposals would preserve the appearance and character of the conservation area and would preserve the settings of both the Museum and the Jaipur Gate.

**5.6 Arboriculture: No objection.**

A condition is recommended for the protection of the Cherry tree during the course of development.

**5.7 Sustainable Transport: No objection.**

The proposals to create a terrace for outside seating are not considered to increase trips significantly above existing levels. It is also noted that the proposals are supplementary to the main use and attraction of the site of an art gallery and museum.

## **6 MATERIAL CONSIDERATIONS**

6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

6.2 The development plan is:

- Brighton & Hove Local Plan 2005 (saved policies post 2007);
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
- East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
- East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.

6.3 The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is a material consideration which applies with immediate effect.

6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.

6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.

6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

## **7 RELEVANT POLICIES & GUIDANCE**

The National Planning Policy Framework (NPPF) March 2012

Brighton & Hove Local Plan 2005:

TR1 Development and the demand for travel  
TR14 Cycle access and parking  
TR19 Parking standards  
SU10 Noise nuisance  
QD1 Design – quality of development and design statements  
QD2 Design – key principles for neighbourhoods  
QD15 Landscape design  
QD16 Trees and hedgerows  
QD27 Protection of amenity  
HE3 Development affecting the setting of a listed building  
HE6 Development within and affecting the setting of conservation areas  
HE10 Buildings of local interest

Supplementary Planning Guidance:

SPGBH4 Parking Standards

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste  
SPD06 Trees & Development Sites  
SPD09 Architectural Features

Brighton & Hove City Plan Part One (submission document)

SS1 – Presumption in Favour of Sustainable Development

## **8 CONSIDERATIONS & ASSESSMENT**

- 8.1 The main considerations in the determination of this application relate to the design and appearance; the impact on neighbour amenity; and the impact on transport.
- 8.2 The neighbour comments in respect of the future use of the museum tea room are noted. Presently the tea room is ancillary to the primary use of the building as a museum, falling into Use Class D1. Should the tea room use intensify in future, an assessment as to whether a material change of use has occurred would be undertaken. Any future proposals to change the use to a bar (Use Class A4) or a nightclub (*Sui Generis*) would require planning permission in their own right.

Design and appearance-

- 8.3 Policy HE6 of the Local Plan states that proposals within or affecting the setting of a conservation area should preserve or enhance the character or appearance of the area and should show:
- a consistently high standard of design and detailing reflecting the scale and character or appearance of the area, including the layout of the streets, development patterns, building lines and building forms;



- b. the use of building materials and finishes which are sympathetic to the area;
  - c. no harmful impact on the townscape and roofscape of the conservation area;
  - d. the retention and protection of trees, gardens, spaces between buildings, and other open areas which contribute to the character or appearance of the area;
  - e. where appropriate the removal of unsightly and inappropriate features or details; and
  - f. the retention and where appropriate the reinstatement of original features such as chimneys, chimney pots, gates, railings and shop fronts and small scale architectural details such as mouldings which individually or cumulatively contribute to the character or appearance of the area.
- 8.4 Policy HE10 of the Local Plan states the planning authority will seek to ensure the retention, good maintenance and continued use of buildings of local interest. Whilst not enjoying the full protection of statutory listing, the design and the materials used in proposals affecting these buildings should be of a high standard compatible with the character of the building.
- 8.5 The proposed palette of materials, including use of gault brick and York stone paving, is considered acceptable and in keeping with the character of the museum building.
- 8.6 The proposed hard surfaced terrace area would result in a minimal loss of garden and the terrace would come little further into the garden area than the existing pathway around the side of the building. The siting of the terrace along the side elevation of the museum is considered appropriate and sympathetic both to the character of the building and its setting. The area of terrace would be set well back from the street and the Jaipur Gate such that the setting of the latter structure, which is Grade II Listed, would not be compromised. The development would not detract from the setting and appearance of the listed Jaipur Gate in the front corner of the museum gardens.
- 8.7 The Heritage Team raises no objection to the proposal.
- 8.8 In accordance with policy HE6 of the Local Plan the proposal reflects the scale and character or appearance of the area, the museum gardens, and the spatial character and layout of open areas in the conservation area which contribute to its character or appearance.
- 8.9 The proposed development is considered compatible with the locally listed status of the museum building in accordance with Local Plan policy HE10, which states the planning authority, will seek to ensure the retention, good maintenance and continued use of buildings of local interest.
- 8.10 The proposal is not likely to have an adverse impact on the existing trees within the site. However, the cherry tree nearest the proposed terrace has a life expectancy of up to 10 years and the Council Arboriculturalist raises no objection



subject to this tree being protected. As no trees would be lost or adversely affected by the proposed development, a condition requiring replacement planting is not required. Accordingly, the proposal does not conflict with either policies QD15 or QD16 of the Local Plan.

Neighbour amenity-

- 8.11 At present the existing tea room is ancillary to the primary use of the building as a museum (Use Class D1). It is understood from neighbour comments that on occasions a small number of tables and chairs are put outside and taken in again when the tea rooms are closed. The proposed terrace would formally enlarge the size of the tea rooms by way of a permanent hard surface and low boundary wall on the long edge. The proposal would not result in a material intensification of the existing use that would be harmful to neighbour amenity. The small area of the terrace, which could provide for a maximum of 22 seats (reduced from 53 seats in the previous application), in the location proposed and at the opening times proposed (closing at 4.30pm the majority of the time), would not give rise to undue noise or disturbance for neighbouring properties. Neighbour concerns in respect of private views and late night refreshment until 11pm twice per month, as permitted by the Premises' Licence, are noted. Refreshments are often provided at private views. However, such activities are likely to take place inside the building where exhibits and works are displayed and the applicant is proposing to use the outdoor terrace only until 4.30pm. When considering the current planning application for the external seating terrace it is not considered appropriate to seek to control existing uses and activities undertaken inside the museum building as part of the function of that building as a community use.
- 8.12 It is not anticipated that the small size and nature of the proposed terrace would have a marked impact on ball games which are understood to be already played on the larger and more open area of the gardens to the rear of the museum.
- 8.13 Neighbour comments in respect of privacy are noted. There is a relatively wide road (Pembroke Gardens) in between the museum site and the residential properties opposite. Normally, protection of privacy for the front, street facing elevations of dwellings is not sufficient to justify the refusal of planning permission. These elevations front a public highway. In addition the proposed terrace would be at least 30m away from the nearest residential façade. For these reasons the refusal of planning permission on this basis is not considered to be justifiable.
- 8.14 Neighbour comments in respect of late night anti-social behaviour in relation to the use of the proposed terrace are noted. These concerns are part of a wider issue which cannot be solely addressed under planning legislation and which should not necessarily compromise or stifle development. It is considered the benefits of the proposal to improve the museum facilities for visitors and the community outweigh the above concerns which are better addressed by other means and through other agencies. Sussex Police have been consulted on the application and their comments will be reported at Committee.

- 8.15 For the above reasons the proposal is considered acceptable in respect of the potential impact on neighbour amenity, and the application complies with policy QD27 of the Local Plan whereby development will not be permitted if it would cause material nuisance and loss of amenity to neighbouring residents.

Transport-

- 8.16 In order to comply with policy TR1 of the Local Plan, the development should provide for the demand for travel generated. The application is not for a change of use but the capacity of the existing tea rooms would be extended. The applicant does not propose any additional off-street parking within the site. Neighbour comments in respect of increased parking are acknowledged.
- 8.17 However, the site is in a sustainable location in terms of transport: within a few minutes walk of Hove centre and fronting New Church Road along which there are frequent bus routes throughout the day and night. On-street parking is controlled by permit which applies between 9am and 8pm and there are pay-and-display parking spaces alongside the application site. Many of the neighbouring dwellings have off-street parking and are not therefore reliant on street parking. On conducting the site visit it was noted there are several free on-street parking spaces during the day and the proposal to provide an additional 22 seats on the external terrace is not considered likely to materially worsen existing highway conditions.
- 8.18 The absence of any off-street parking provision within the museum grounds complies with SPGBH4: Parking Standards because this contains maximum standards rather than minimum standards. In any case, for museums, SPGBH4 does not require any on-site parking provision.
- 8.19 In terms of cycle parking there is ample space within the site to provide for the minimum of 2 cycle parking spaces set out in SPGBH4 and, if approval was to be granted, details of such facilities would be secured by condition.
- 8.20 Sustainable Transport raises no objection to the application.

**9 CONCLUSION**

- 9.1 The proposed development is considered acceptable in terms of design, appearance, scale and external materials and finishes, and would be sympathetic to the character of the museum building and its garden setting and would not detract from the setting of the Grade II Listed Jaipur Gate or the appearance of the wider Pembroke and Princes Conservation Area.
- 9.2 The scale and siting of the development together with the hours of usage proposed is not considered likely to have a significant adverse impact on neighbour amenity or existing parking and transport conditions.
- 9.3 Accordingly approval is recommended.

## 10 EQUALITIES

- 10.1 The external terrace would be at ground level. However, there would be steps between the terrace and the interior of the museum tea rooms.

## 11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

### 11.1 Regulatory Conditions:

- 1) 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.
- 2) 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
Site Plan and Block Plan	001A		16 Aug 2013
General Arrangement Plan	02-01	J	16 Aug 2013
Existing Exterior Elevations	09-01		16 Aug 2013
Proposed Exterior Elevations	09-02	A	16 Aug 2013

- 3) The external seating terrace hereby permitted shall not be occupied by customers except between the hours of 10.00 and 16.30 on Mondays to Saturdays and between the hours of 14.00 and 16.30pm on Sundays and Bank or Public Holidays.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

### 11.2 Pre-commencement Conditions:

- 4) No development shall take place until samples of the materials (including colour of render, paintwork and colourwash) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.  
**Reason:** To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan.
- 5) No development shall commence until fences for the protection of trees to be retained have been erected in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority. The fences shall be erected in accordance with BS5837 (2012) and shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by such fences.  
**Reason:** To protect the trees which are to be retained on the site in the interest of the visual amenities of the area and to comply with policies QD1 and QD16 of the Brighton & Hove Local Plan.

- 6) The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted 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 TR14 of the Brighton & Hove Local Plan.

11.3 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) 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. This decision to grant Planning Permission has been taken:
  - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:  
(Please see section 7 of the report for the full list); and
  - (ii) for the following reasons:-

The proposed development is considered acceptable in terms of design, appearance, scale and external materials and finishes, and would be sympathetic to the character of the museum building and its garden setting and would not detract from the setting of the Grade II Listed Jaipur Gate in front of the museum or the appearance of the wider Pembroke and Princes Conservation Area.

The scale and siting of the development together with the hours of usage proposed is not considered likely to have a significant adverse impact on neighbour amenity or existing parking and transport conditions.

11<sup>th</sup> September 2013

Hello Christopher,

I will be speaking against this application and in line with residents concerns as set out in the attached letter from the resident at 2 Pembroke Gardens.

Best wishes,

Denise

