

<u>No:</u>	BH2021/03900	<u>Ward:</u>	Westbourne Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Rockwater Kingsway Hove BN3 4FA		
<u>Proposal:</u>	Retention of six existing timber "beach huts" adjacent to the main building for a period of 3 years.		
<u>Officer:</u>	Jack Summers, tel: 296744	<u>Valid Date:</u>	02.11.2021
<u>Con Area:</u>	Sackville Gardens	<u>Expiry Date:</u>	28.12.2021
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Rockwater Group Ltd C/o Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		

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
Location and block plan	202	A	2 November 2021
Proposed Drawing	204	A	2 November 2021
Proposed Drawing	205	-	2 November 2021
Proposed Drawing	207	A	2 November 2021

2. The kiosks hereby permitted shall be removed and the land restored to its former condition immediately on or before three years from the date of this permission.
Reason: The kiosks hereby approved are not considered suitable as a permanent form of development, to safeguard the character and setting of the site and the Sackville Gardens Conservation Area, and to comply with policies QD14 and HE6 of the Brighton & Hove Local Plan; CP12, CP13 and CP15 of the Brighton & Hove City Plan Part One; and DM26 and DM29 of the Brighton & Hove City Plan Part Two.
3. The kiosks hereby permitted shall be painted only in the colours BS 4800 C35 (gloss) to the roof and upper sides, and BS 4800 04 D45 (gloss) to the plinth and lower sides.
Reason: To ensure a satisfactory appearance to the development and to comply with policy HE6 of the Brighton & Hove Local Plan; CP12, CP13 and CP15 of

the Brighton & Hove City Plan Part One; and DM26 and DM29 of the Brighton & Hove City Plan Part Two.

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 advised that the three-year permission hereby granted is considered adequate for the purposes they have put forward to justify the development, and a further extension is unlikely to be granted.

2. SITE LOCATION

- 2.1. The application site is a substantial detached building on the seafront south of Kingsway and the junction of Walsingham Road, within the Sackville Gardens conservation area. It is immediately adjacent to the locally listed Western Lawns. Six timber 'beach hut' style kiosks have been erected on the edge of the public footway on the south side of the site; these were granted a temporary permission which has expired as of 17th December 2021.

Statement of Significance:

- 2.2. The application site is located at the southern edge of the Sackville Gardens Conservation Area and is set within the green open spaces of the Western Lawns. The Western Lawns are included in the Council's list of Local Heritage Assets, and although the subject building is not included in the designation, proposals for the site may affect the setting of the Lawns.
- 2.3. Nearby to the west and east of the site are established rows of traditional beach huts set at the back of the Esplanade. These beach huts all have the same materials and colours used on their rear and side elevations and their roofs, to ensure uniformity when viewed from the north across the lawns.

3. RELEVANT HISTORY

- 3.1. **BH2021/00229** Retention of existing six timber "beach huts" adjacent to the main building for a period of 6 months. Approved

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for planning permission for a temporary period of three years for the six 'beach hut' kiosks.

5. REPRESENTATIONS

- 5.1. **Five (5)** representations have been received, objecting to the proposal on the following grounds:
- The original permission for this development was in response to the COVID-19 pandemic, the three-year proposed permission is not justified.
 - Increased footfall leading to congestion on the footway
 - The proposed development causes harm to the character of the area
 - The proposed kiosks should instead be placed on Rockwater-operated land to the north of the site.
 - The proposed development represents a 'land grab' by the operators of Rockwater
 - The operators of Rockwater are benefitting from an 'unfair opportunity' by being allowed to expand onto the footway. This is not fair on other commercial operators in the area.
 - The operators of Rockwater chose not to include a takeaway window feature when the building was redeveloped recently; they should not be allowed to have the proposed development instead.
 - Additional refuse/littering from customers
 - Additional noise from customers leaving the site via residential areas.
- 5.2. **One (1)** representation has been received, supporting the proposal on the following grounds:
- The proposed development is a positive enhancement to the area

6. CONSULTATIONS

External

Conservation Advisory Group:

- 6.1. It is recommended that planning permission be refused for the following reasons:
- This is encroachment on the promenade which, at 4.5m, is at its narrowest at this location.
 - The proposal causes harm as it is overdevelopment, resulting in reduced public space particularly when queues occur, causing congestion.
 - Breaks continuity of the street scene and vistas along the seafront.
 - Extends the clutter of service areas, particularly on the East side.
 - No justification is provided as to why the proposal is for three years.

Sussex Police

- 6.2. Due to the existing close co-operation with the applicant and Sussex Police Licensing Teams as well as a result of several licensing conditions being imposed upon the premises, there are no concerns from a crime prevention perspective.

Internal

6.3. Heritage

The temporary siting of these structures during the recovery of the hospitality industry following national restrictions during the Covid 19 pandemic, is not resisted in principle.

Following the original application for retention of these temporary structures, amendments were made in accordance with the requirements of the Heritage Team, and it is considered that this has reduced the harm of the scheme. Accordingly, there is no objection to a further extension of the temporary permission.

6.4. Sustainable Transport

Matters regarding servicing and deliveries (including waste and recycling), and staff facilities (such as toilets and/or cycle parking) should be clarified. The preferred solution would be for all the above matters to be dealt with in association with the main Rockwater business.

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 Local Plan 2005 (retained policies March 2016);
- 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 Joint Area Action Plan (JAAP) 2019.

7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One (CPP1)

SS1 Presumption in Favour of Sustainable Development

SA1 The Seafront

CP2 Sustainable Economic Development

CP5 Culture and Tourism

CP9 Sustainable Transport

CP12 Urban Design

CP13 Public Streets and Spaces

CP15 Heritage

CP16 Open Spaces

Brighton & Hove Local Plan (BHLP) (retained policies March 2016)

TR7 Safe Development

QD5 Design - street frontages

QD27 Protection of amenity

SR18 Seafront recreation

HE6 Development within or affecting the setting of conservation areas

HE10 Buildings of local interest

Brighton & Hove City Plan Part Two

Policies in the Proposed Submission City Plan Part Two do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23rd April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM15 Commercial and Leisure Uses on the Seafront

DM18 High quality design and places

DM20 Protection of Amenity

DM26 Conservation Areas

DM28 Locally Listed Heritage Assets

DM29 The Setting of Heritage Assets

DM33 Safe, Sustainable and Active Travel

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the proposed development; the design and appearance of the proposed development; and the potential impacts on the amenities of visitors to the site; on the significance of heritage assets in the vicinity; and on highway safety.

Principle of Development

- 9.2. The principle of development in this instance has already been agreed on a temporary basis with the approval of permission BH2021/00229. It is considered in this instance that although the permanent retention of all of these structures would not be supported, that a longer temporary basis can be supported.
- 9.3. The need for a temporary period of three years has been questioned. It is considered that the huts were originally developed to offset some of the restrictions to indoor services brought about by the COVID-19 pandemic; by this logic, an extension of the planning permission should not need to extend beyond 2022. It is the position of the applicant that a longer time period will allow them to assess their business model going forward, whilst also allowing the Local Planning Authority to continue to assess any issues. The applicant also states that a further three years is requested '*due to the success of the huts and the benefits to local businesses.*'

- 9.4. On balance, it is considered that the huts do serve to provide positive functions to the area and a three-year permission would not result in significant harm to the area (as set out below). The applicant should be advised, however, that a further extension of this timeframe is unlikely to be agreed, for reasons explained below.

Design and Appearance

- 9.5. The beach hut style kiosks reference the specific location of the site and the character of the area. They seek to mimic a key feature of the locality. It is noted that they are larger than a typical beach hut and have paraphernalia associated with the use positioned around them. As a permanent addition they would not be considered acceptable given their scale and designs, and they would result in visual clutter to the area and add to the sprawl of the main site following the significant extensions that have already been consented to the main Rockwater building.
- 9.6. As before, the temporary nature of the permission applied for under this application is a mitigating factor in assessing the harm from the kiosks. The kiosks are only temporary in nature and the impact on the appearance of the site and the wider Sackville Gardens conservation area is considered to be limited therefore, and insufficient to warrant planning permission being withheld in this instance.

Impact on Heritage Assets

- 9.7. 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 or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".
- 9.9. It is noted that the Heritage Officer has raised no objection with the proposed development subject to the condition that the huts are only in situ for a temporary period of three years.
- 9.10. The objection from the Conservation Advisory Group is noted, however it is also noted that the concerns they have raised (which primarily relate to the impact on visual amenity and pedestrian movement) are not shared by the Heritage department or Highway Authority. It is considered that the temporary nature of the permission mitigates the potential harm to an acceptable degree in both these regards.
- 9.11. It is considered that, given the temporary nature of the development, it would cause less than significant harm to the significance of the Sackville Gardens conservation area, and in this instance the public benefits (coupled with the temporary nature of the permission) outweigh said harm.

Impact on Amenities

- 9.12. The kiosks are located in a busy area adjacent to existing commercial premises, including the large Rockwater venue. It is not considered that the potential noise from customers of the kiosks would likely be so great as to cause a statutory noise nuisance. The council will retain the authority to investigate under the Environmental Protection Act 1990, should any noise complaints be received.

Impact on the Public Highway

- 9.13. The proposed development is not considered to have an unacceptable impact on the public footway. The kiosks are not positioned forward of the main Rockwater building and as such do not result in a reduction in the width of the promenade along this stretch of the seafront. The existing width of the promenade is retained for the movement of pedestrians around the site.
- 9.14. Along the seafront the presence of people queuing for a venue or takeaway service is not unusual and is to some degree expected at busy times of the day and in peak season. A promenade space of 5.5m is considered sufficient to successfully accommodate any queues and allow people to pass by.

Other Considerations

- 9.15. Concerns have been raised that the increase in commercial output in this area will give rise to additional littering by patrons. Given the relatively small scale of the development it is not considered that this harm would be so significant as to justify withholding planning permission. The problems caused by littering are already managed through alternative regimes, and do not warrant action in this instance.
- 9.16. Multiple concerns have also been raised at the principle of the owner(s) of Rockwater being allowed additional room to operate the business, potentially to the detriment of other businesses in the area. Competition between businesses is not, however, a material planning consideration and cannot be given any weight in this assessment.

Conclusion

- 9.17. It is considered that a temporary permission for the six kiosks has been justified and would have no significant detrimental impacts on the visual amenity of the local area, or the amenities of any person. For the foregoing reasons the proposal is considered to be in accordance with policies TR7, QD5, QD27, SR18, HE6 and HE10 of the Brighton and Hove Local Plan; and SA1, CP2, CP5, CP9, CP12, CP13, CP15 and CP16 of the City Plan Part One.
- 9.18. It is also considered that the proposal would be in accordance with policies DM20, DM26, DM29 and DM33 of the Proposed Submission City Plan Part Two which is gathering weight. Policies DM26, DM29, and DM33 are considered to have significant weight at this stage and policy DM20 is considered to have more weight than the adopted Local Plan policy QD27.

10. EQUALITIES None identified

11. CLIMATE CHANGE/BIODIVERSITY

- 11.1. The beach huts have reportedly been constructed using flooring timbers that were removed from the main site during its refurbishment. This represents a good example of re-use of materials and reduces the carbon cost of the development.