

<u>No:</u>	BH2023/00097	<u>Ward:</u>	St. Peter's And North Laine Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Brighton Dome Church Street Brighton BN1 1UE		
<u>Proposal:</u>	Installation of 2no butterfly awnings, guillotine windows, wrap around planters and glazed screen, to accommodate outside restaurant dining area to West and South of Studio Theatre.		
<u>Officer:</u>	Vinicius Pinheiro, 292454	tel: <u>Valid Date:</u>	18.01.2023
<u>Con Area:</u>	Valley Gardens	<u>Expiry Date:</u>	15.03.2023
<u>Listed Building Grade:</u>	Grade I & II	<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	M Palmer 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	21-002-PL-00		11 January 2023
Proposed Drawing	1729/L/3011	C1	16 February 2023
Proposed Drawing	E-09		16 February 2023
Proposed Drawing	E-07	D	16 February 2023
Proposed Drawing	E-08	E	16 February 2023
Proposed Drawing	PL-02	H	15 March 2023

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

3. No customers shall remain in the external seating area hereby approved, outside the hours of 08.30 to 23.00 Monday to Sunday, Bank and Public Holidays. No activity within the outside seating area shall take place between the hours of 23.00 and 08.30 daily.

Reason: To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

4. The guillotine glazing hereby approved shall be retained in the lowered position throughout at all times outside of the business opening hours.

Reason: To safeguard the amenities of the locality and to comply with policies DM20, DM26 and DM27 of Brighton & Hove City Plan Part 2.

5. The awnings hereby approved shall be of a single colour and shall not incorporate any image, lettering, numbering or logo.

Reason: To safeguard the amenities of the locality and to comply with policies DM20, DM26 and DM27 of Brighton & Hove City Plan Part 2.

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 should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.
3. The applicant must apply for a license for these proposals on the public highway under Section 115e of the Highways Act 1980. The applicant must contact the Council's Highway Enforcement Team (street.licensing@brighton-hove.gov.uk 01273 292090) to apply for permission and the licence.

2. SITE LOCATION

- 2.1. The application relates to the Brighton Dome (Concert Hall, Corn Exchange And Studio Theatre), Brighton Museum And Art Gallery Church Street And New Road Brighton. These buildings form a complex of buildings of the highest significance. The buildings as existing are the result of a number of conversions, alterations and additions over time but in a manner which presents a coherent street frontage to Church Street. The buildings are largely unified by the use of tan brick with stone dressings and by their architectural style and motifs.
- 2.2. The Corn Exchange (with the Dome Theatre) is a grade I listed building, originally built as a riding school and stables by William Porden, between 1803-08, for the Prince of Wales, in connection with the Royal Pavilion, and extended in 1831. The Dome was converted into a theatre in 1864-67 by Philip Lockwood, with forms loosely derived from Islamic architecture, and the former riding school was converted to a corn exchange in 1868. The Dome was further extended and given two new entrances in 1901-02, including one on Church Street, and the building at this time took on an even greater Eastern character with greater reference to the Royal Pavilion. A further significant scheme of alterations took

place in 1934 by Robert Atkinson, including the conversion of the Corn Exchange into an exhibition hall and the addition of the Church Street entrance foyer. The Foyer's exterior has a central tall arch with a relief figure of Ceres in its tympanum.

- 2.3. This Studio Theatre is grade II listed and dates from c1935, when it was built as a supper room for the Corn Exchange, by Robert Atkinson in a stylised form of Islamic architecture. It was later converted to a theatre. Its significance largely resides in its external design appearance, a careful mix of 1930s with the Moorish influence of the Pavilion estate buildings. Its copper clad pyramidal roof behind, flanking towers and castellated parapet are key townscape features. The listing includes the booking office adjacent, originally an early 19th century house with segmental bay at first floor.
- 2.4. These buildings occupy a very prominent place within the Valley Gardens conservation area and provide a very significant backdrop and setting to the registered park & garden (Grade II) of the Royal Pavilion gardens and form part of the setting of the Pavilion itself. They also form part of the setting of a number of other listed buildings in Church Street and New Road, including the Grade II* Theatre Royal.

3. RELEVANT HISTORY

- 3.1. There is a lot of history for the Brighton Dome, the most recent including the following;
- 3.2. **BH2023/00098** Installation of 2no butterfly awnings, guillotine windows, wrap around planters and glazed screen, to accommodate outside restaurant dining area to West and South of Studio Theatre. Concurrent Listed Building Consent.
- 3.3. **BH2022/02872** Display of 7no non-illuminated banner signs, 2no externally illuminated banner signs, 2no non-illuminated hanging logo signs, 2no externally illuminated building identification fascia signs, 1no externally illuminated vinyl lettering fascia sign, 1no non-illuminated wall mounted map sign, 2no non-illuminated wall mounted panel signs, 10no externally illuminated poster frame signs, 5no non-illuminated operational signs, 2no externally illuminated brand identifier fascia signs and 2no non-illuminated information panel menu board signs. Approved 18.10.2022.
- 3.4. **BH2022/02873** Display of 7no non-illuminated banner signs, 2no externally illuminated banner signs, 2no non-illuminated hanging logo signs, 2no externally illuminated building identification fascia signs, 1no externally illuminated vinyl lettering fascia sign, 1no non-illuminated wall mounted map sign, 2no non-illuminated wall mounted panel signs, 10no externally illuminated poster frame signs, 5no non-illuminated operational signs, 2no externally illuminated brand identifier fascia signs and 2no non-illuminated information panel menu board signs. Approved 04.11.2022.

- 3.5. **BH2017/01107** Installation of commemorative blue plaque to front elevation. Approved 22.05.2017.
- 3.6. **BH2013/03093** Application for approval of details reserved by condition 5 of Application BH2012/01635. Approved 30.10.2013.
- 3.7. **BH2013/00134** Application for approval of details reserved by conditions 2, 3 and 4 of application BH2012/01635. Approved 21.02.2013.
- 3.8. **BH2012/03201** Display of externally illuminated letterset sign to Pavilion Theatre and non illuminated banners and letterset sign to Corn Exchange. Approved 24.12.2012.
- 3.9. **BH2012/03200** Installation of externally illuminated letterset sign to Pavilion Theatre and non illuminated banners and letterset sign to Corn Exchange. Approved 24.12.2012.
- 3.10. **BH2012/01635** Installation of new and replacement external banner, fascia, letterset and logo signs to Brighton Dome, Corn Exchange and Pavilion Theatre. Installation of internal signage and plasma screens. Replacement of glazing to Pavilion Theatre and removal of canopy to Corn Exchange entrance. Approved 09.10.2012.
- 3.11. **BH2012/01634** Display of new and replacement non-illuminated banner, fascia, letterset and logo signs to Brighton Dome, Corn Exchange and Pavilion Theatre and 1no externally-illuminated letterset sign to Pavilion Theatre. Approved 09.10.2012.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the installation of 2no butterfly awnings, guillotine windows, wrap around planters and glazed screen, to accommodate outside restaurant dining area to West and South of Studio Theatre.

5. REPRESENTATIONS

- 5.1. None received.

6. CONSULTATIONS

- 6.1. **Historic England: 30/01/2023**
On the basis of the information available to date, in our view you do not need to notify or consult us on this application under the relevant statutory provisions, details of which are attached.
- 6.2. **CAG 06/02/2023**
The group recommended approval.

- 6.3. **Heritage:** 01/02/2023 - Seek amendment/further information
These proposals relate to the areas of land outside the front and side elevations of the Studio Theatre, which is undergoing major alterations and restoration to change floor levels and incorporate a ground floor café/restaurant. The proposed enclosure for the outside seating area and the butterfly blinds would be removable, reversible fixtures that would not directly impact on any historic fabric of the Studio Theatre or indeed to the hard surfaces, but which would impact on the setting of the listed building and on the appearance and character of the conservation area. These impacts could be harmful if they are not sufficiently and appropriately minimised and mitigated through siting, design and detailing.
- 6.4. The enclosed area is large and the westward line of the enclosure to the north side of the entrance is considered to project too far, going beyond the line established by the street furniture and creating an awkward asymmetric arrangement. It should be pulled back further eastwards and this could perhaps be partly achieved by omitting the banquette.
- 6.5. The butterfly awnings as shown are considered to be the least intrusive approach to providing cover here. The metal framework would be level with the stringcourse band and on the key front elevation the awning itself would be set well away from the façade. The proposed colour scheme is suitably restrained and contextual, though it is noted that the colour of the awning fabric has not been specified.
- 6.6. The submitted elevation drawings should be repeated to also show the awnings when in place and the guillotine glazing when raised to its full height. On the south side an elevation drawing is also needed to show the proposals in conjunction with the existing brick retaining wall. At the eastern end here the relationship of the glazed screen to the listed building where they abut is unclear. The line of this is slightly different on plan and elevation and its abutment with the window has the potential to be visually awkward if not clearly considered. An additional detailed elevation or section may be needed to clarify this.
- 6.7. **Heritage:** 28/02/2023 - Approval
The applicant's unwillingness to engage on the line and extent of the proposed seating area is disappointing, but the consistency with existing external seating areas on the east side of New Road is noted.
- 6.8. The additional drawings have clarified the height and appearance of the guillotine glazing when raised and the extent of the awnings when in place, and it is welcomed that the pitch to these is very shallow. The drawings have also clarified the relationship of the proposals to the previously approved brick retaining wall on the south side and how these impacts on the line of the guillotine glazing. Approval is now recommended, subject to conditions.
- 6.9. **Theatres Trust:** 06/02/2023 - Grant planning permission
They seek installation of a butterfly awning, guillotine windows, glazed screen and planters to create an outdoor seating area associated with a new restaurant operation following refurbishment works at the Dome.

- 6.10. We are supportive of these proposals which will help enhance the attractiveness and viability of restaurant's operation, in turn contributing towards the operation and sustainability of the Dome complex as an important venue for Brighton. We consider that the design of the structure is sensitive to the historic significance of the Dome and Studio Theatre, and the character of the conservation area.
- 6.11. Therefore we are supportive of the granting of planning permission and listed building consent.
- 6.12. **Sussex Police: 23/01/2023**
The National Planning Policy Framework demonstrates the government's aim to achieve healthy, inclusive, and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion - for example through the use of attractive, well-designed, clear, and legible pedestrian and cycle routes, and high-quality public space, which encourage the active and continual use of public areas.
- 6.13. The level of crime and anti-social behaviour in Brighton & Hove district is above average when compared with the rest of Sussex, so additional measures to mitigate against any identified local crime trends and site-specific requirements should always be considered.
- 6.14. This application seeks planning permission and listed building consent for the construction of a structure comprised of three unifying parts, a butterfly awning; guillotine windows and wrap around planters and a glazed screen to accommodate an outside dining area.
- 6.15. There is a cumulative impact policy in place and the premises falls within the cumulative area of the night-time economy.
- 6.16. The applicant and their partners are strongly advised to take note of the Brighton & Hove City Council Statement of Licensing Policy in relation to licensed premises in the Cumulative Impact Area, and to consult directly with Police Licensing at Sussex Police before making plans for licensed premises serving alcohol or conducting other licensable activities at this site.
- 6.17. 1.3. The restaurant area is ideally located on the south-west corner of the Brighton Dome, adjacent to the Pavilion Gardens to the south, with the shared space of New Road to the west. The lease includes external areas to the south and west of the building. Therefore, the intention is to provide formal external seating in these areas, to activate the frontage of Brighton Dome and maximise the offering from Redroaster. The proposed awnings would allow these areas to be used on a year-round basis.
- 6.18. 3.2. The structure would allow for an outside seating area to be used by customers of the café when weather conditions are less favourable, which will support the viability of the business and vitality of the area.

- 6.19. From a crime prevention viewpoint, there is no concern with regards to the design and layout of the proposals, but I do have concerns about the amenity of the surrounding residential community.
- 6.20. The application form does not state hours of trading and although as stated within point 5.7 of the accompanying Planning & Heritage statement: 'The proposed development will not introduce a new use to the area, and the way the site is used will be in keeping with existing uses. Therefore, the proposal will have a negligible impact on residents' nevertheless the introduction of additional outside dining and drinking to the area has the potential to impact on the local residential community through noise and activity at unsocial hours due to customers on a year-round basis.
- 6.21. I would therefore ask moving forward that reasonable hours of trading are made a condition of consent in order to protect the amenity of nearby residential occupiers and to accord with policy QD27 of the Brighton & Hove Local Plan.
- 6.22. In closing, from a crime prevention perspective I would ask that the observations and concerns as raised be given due consideration. Thank you for giving me an opportunity to comment.
- 6.23. The Crime & Disorder Act 1998 heightens the importance of taking crime prevention into account when planning decisions are made. Section 17 of the Act places a clear duty on both police and local authorities to exercise their various functions with due regard to the likely effect on the prevention of crime and disorder. You are asked to accord due weight to the advice offered in this letter which would demonstrate your authority's commitment to work in partnership and comply with the spirit of The Crime & Disorder Act.
- 6.24. They seek installation of a butterfly awning, guillotine windows, glazed screen and planters to create an outdoor seating area associated with a new restaurant operation following refurbishment works at the Dome.
- 6.25. We are supportive of these proposals which will help enhance the attractiveness and viability of restaurant's operation, in turn contributing towards the operation and sustainability of the Dome complex as an important venue for Brighton. We consider that the design of the structure is sensitive to the historic significance of the Dome and Studio Theatre, and the character of the conservation area.
- 6.26. Therefore we are supportive of the granting of planning permission and listed building consent.
- 6.27. **Environmental Protection:** 22/02/2023 Grant subject to conditions
The outdoor restaurant dining area to the west and south of the Studio Theatre (that falls within the butterfly awnings, guillotine windows, wrap around planters and glazed screen) should be closed at 11:00pm.
- 6.28. **Transport:** 15/03/2023 Unable to support the approval in principle
Unable to support the approval of this application in principle. Further amendments to the proposals are requested to maintain the current on-street

access measures currently in place for visually impaired pedestrians walking on New Road. These are tactile linear paving along the drainage channel. Previously plans have been submitted and relocation of at least three of the sets of tables and chairs, and removal of the screening/wall were required as they obstructed the linear tactile paving/ drainage channel and therefore the safer route for pedestrians.

- 6.29. New plans have been provided since our previous comments detailing the rearrangement of the tables and chairs (and other ancillary furniture) but not the removal of the wall/screen. It is noted that the applicant has indicated that part of the wall is removable however, it would still appear to be obstructed and inaccessible for visually impaired highway users. We therefore still cannot support this application as this would be contrary to policy DM33 of the city plan that states "in order to encourage walking, new development should... maintain, improve, and/or provide pedestrian... accessible routes, that are easy, convenient and safe to use".
- 6.30. If the LPA is minded to approve this application, the following is requested:
- An agreed, suitably worded condition requiring the partial removal of the perimeter screen wall are made, prior to commencement.
 - A Tables and chairs license Informative is attached.

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 Two (adopted October 2022);
 - Brighton & Hove City Plan Part One (adopted 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.

8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP4 Retail provision

CP5 Culture and tourism

CP8 Sustainable buildings

CP9 Sustainable transport
CP12 Urban design
CP15 Heritage

Brighton & Hove City Plan Part Two

DM18 High quality design and places
DM20 Protection of Amenity
DM26 Conservation Areas
DM27 Listed Buildings
DM29 The Setting of Heritage Assets
DM33 Safe, Sustainable and Active Travel
DM40 Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD02 Shop Front Design
SPD07 Advertisements

Valley Gardens Conservation Area Study

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the impacts of the proposed development on the historic character and appearance of the host Listed Building, the wider area including the setting of other Listed Buildings and the surrounding Conservation Area, and highway safety. The impacts upon the amenity of neighbouring properties must also be assessed.
- 9.2. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Moreover, when considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.3. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".
- 9.4. A site visit was not undertaken, but it was considered that the proposal could be assessed adequately based on site photographs provided, along with 3D satellite views.

Impact on Character and Appearance:

- 9.5. Amended drawings have been received since submission of the application to show the height and appearance of the guillotine glazing, the extent of the awnings and the proposals in conjunction with the existing brick retaining wall;

to remove all tables and chairs from the drainage channel and tactile strip, re-allocate the welcome station and re-allocate the service station.

- 9.6. As noted by the Heritage Officer, the proposals relate to the areas of land outside the front and side elevations of the Studio Theatre. The proposed enclosure for the outside seating area and the butterfly blinds would be removable, reversible fixtures that would not impact on any historic fabric of the Studio Theatre or indeed the hard surfaces.
- 9.7. After amendments, the butterfly awnings as proposed are considered to be acceptable. The metal framework would be level with the stringcourse band and would be set well away from the façade. The proposed colour scheme is suitably restrained and contextual.
- 9.8. The amended drawings have also clarified the height and appearance of the guillotine glazing when raised and the extent of the awnings when in place, and it is welcomed that the pitch to these is very shallow.
- 9.9. The proposal would be in keeping with the existing external seating areas on the east side of New Road, therefore, the works are considered to be acceptable.
- 9.10. Overall, it is considered that the proposed works would not harm the historic character or appearance of the Listed Building or the wider conservation area, in accordance with policies set out above.

Impact on Residential Amenity:

- 9.11. Policy DM20 of City Plan Part 2 states that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.12. The proposed butterfly blinds would cover existing public realm space, but the plans show that the seating would be within the enclosing screen and planters. Accordingly, it is not considered that the structure would cause harm to public amenity and warrant refusal, especially when considering the external sitting areas within the immediate vicinity.
- 9.13. Although the enclosure will take up some from the pavement, it is considered that the pavement is wide enough as it is, and the development would not obstruct the road.
- 9.14. Transport has raised some concerns regarding the current on-street access measures currently in place for visually impaired pedestrians walking on New Road. Whilst their comments are acknowledged, the proposed plan has been amended to remove tables, chairs, the welcome station, and service table from the tactile linear paving along the drainage channel. Furthermore, the proposed enclosure for the outside seating area and the butterfly blinds would be removable, therefore, it is not considered that the proposal would cause adverse harm such to warrant a refusal at this stage.

9.15. Following a consultation with Environmental Health regarding the application, the Environmental Health Officer has not raised any objections to the proposal and suggested that the outdoor restaurant dining area to the west and south of the Studio Theatre (that falls within the butterfly awnings, guillotine windows, wrap around planters and glazed screen) should be closed at 11:00pm. A condition is to be included to secure the hours of use in order to adequately protect the amenity of the adjoining occupiers.

9.16. It is considered that for the reasons set out above, the proposed development would not cause substantial harm to the amenity of neighbours and would comply with policies DM20 and DM40 of the Brighton and Hove City Plan Part 2.

Highway Safety

9.17. As set out above the Transport Officer has raised some concerns regarding the current on-street access measures currently in place for visually impaired pedestrians walking on New Road. Whilst their comments are acknowledged, the proposed plan has been amended to remove tables, chairs, the welcome station and service table from the tactile linear paving along the drainage channel. The proposed screen retained in the proposal would be removable and would not cause such adverse harm to warrant a refusal of the application. Furthermore a license for paraphernalia on the pavement would be required from the Council's Highway Team, which is a separate matter to the granting of the planning permission.

9.18. The applicant is not proposing any significant alteration to their current servicing arrangements to this site and for this development this is deemed acceptable.

9.19. There is not forecast to be a significant increase in vehicle trip generation as a result of these proposals therefore any impact on carriageways will be minimal and within their capacity so the application is deemed acceptable and developer contributions for carriageway related improvements will not be sought.

10. EQUALITIES

10.1. As identified above, equalities concerns have been raised in relation to the application. In terms of the impact of the structure on those individuals who are blind or partially sighted or have mobility impairments, this is not considered to be significant from what is proposed. Essentially the proposal seeks to implement an enclosed outside seating area, however, the proposed enclosure for the outside seating area and the butterfly blinds would be removable. Therefore, it is not considered to be a substantial alteration which would need mitigation.

11. CLIMATE CHANGE/BIODIVERSITY

None identified.

