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| <b><u>No:</u></b>                    | <b>BH2017/02583</b>   | <b><u>Ward:</u></b>        | <b>St. Peter's And North Laine<br/>Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>  |                            |   |
| <b><u>Address:</u></b>               | <b>Victoria Gardens North And South, Grand Parade, St Peter's Church, York Place (Valley Gardens) Brighton</b>  |                            |   |
| <b><u>Proposal:</u></b>              | <b>Hard and soft landscaping works to Victoria Gardens North and South and grounds of St Peters Church, including creation of public square to front of St Peter's Church, relocation of car parking spaces to North of church, new cycle routes and pedestrian paths, lighting and associated works.</b> |                            |   |
| <b><u>Officer:</u></b>               | Wayne Nee, tel: 292132  | <b><u>Valid Date:</u></b>  | 13.09.2017                                  |
| <b><u>Con Area:</u></b>              | Valley Gardens  | <b><u>Expiry Date:</u></b> | 13.12.2017                                  |
| <b><u>Listed Building Grade:</u></b> |   | <b><u>EOT:</u></b>         |   |
| <b><u>Agent:</u></b>                 | Murray Smith 6 Alexandra Walk London SE19 1AL   |                            |   |
| <b><u>Applicant:</u></b>             | Ms Tracy Beverley Transport Planning Team Hove Town Hall<br>Norton Road Hove BN3 3BQ  |                            |   |

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.

| <b>Plan Type</b>     | <b>Reference</b> | <b>Version</b> | <b>Date Received</b> |
|----------------------|------------------|----------------|----------------------|
| Location Plan        | 1705-PL-E-000    | 01             |                      |
| Landscaping Proposed | 1705-PL-P-110_2  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-110_1  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-111_2  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-111_1  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-112_2  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-112_1  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-113_2  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-113_1  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-114_2  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-114_1  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-115_1  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-115_2  | 05             | 18 October 2017      |
| Landscaping Proposed | 1705-PL-P-010    | 04             | 31 July 2017         |
| Landscaping Proposed | 1705-PL-P-011    | 03             | 31 July 2017         |
| Sections Proposed    | 1705-PL-P-120    | 02             | 18 October 2017      |

|                   |               |    |                 |
|-------------------|---------------|----|-----------------|
| Sections Proposed | 1705-PL-P-121 | 02 | 18 October 2017 |
| Sections Proposed | 1705-PL-P-125 | 02 | 18 October 2017 |
| Sections Proposed | 1705-PL-P-127 | 02 | 18 October 2017 |
| Sections Proposed | 1705-PL-P-128 | 02 | 18 October 2017 |

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 Prior to use of the development hereby permitted, details of disabled car parking provision for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the use of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure the development provides for the needs of disabled staff and visitors to the site and to comply with policy TR18 of the Brighton & Hove Local Plan and SPG4 guidance.

4 No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority. A written record of any archaeological works undertaken shall be submitted to the Local Planning Authority within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is first agreed in writing with the Local Planning Authority.

**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with the National Planning Policy Framework

5 No development shall take place until a Management Plan for the public space has been submitted to and approved in writing by the Local Planning Authority. The Management Plan shall be approved in writing prior to first use of the development and shall be implemented as approved thereafter. The details and actions with the Management Plan shall include;

- Programme of phased implementation of works
- Maintenance details of the soft and hard landscaping
- Details of signage
- Details of measures to manage anti-social behaviour, including criminal damage and graffiti, in consultation with stakeholders.

**Reason:** In order to safeguard the future use of the open space and the amenities of neighbours in accordance with policy CP16 of the Brighton and Hove City Plan Part One, and policies SU10 and QD27 of the Brighton & Hove Local Plan.

- 6 Prior to first use of the development hereby permitted, details of appropriate levels of lighting shall have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereby retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies QD25 and QD27 of the Brighton & Hove Local Plan.
- 7 No development shall take place until samples of all hard surfacing materials to be used in the construction of the external surfaces of the development, including the Yorkstone, 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 policies HE3 and HE6 of the Brighton & Hove Local Plan, and CP15 of the City Plan Part One.
- 8 Notwithstanding the submitted details of the 'Henley' lantern, no development of the lanterns shall take place until full details of the proposed lanterns, including details of the painting/colour, and reasons why any original lanterns are not to be retained and refurbished, 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, and CP15 of the City Plan Part One.
- 9 No development of the new benches hereby permitted shall take place until full details of the benches 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, and CP15 of the City Plan Part One.
- 10 No development or other operations shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until the following Method Statements have been submitted to and approved in writing by the Local Planning Authority:
- i) An Arboricultural Method Statement, to include a detailed Tree Protection Plan and Treeworks Specification and means for their implementation, supervision and monitoring during works;
  - ii) A Construction Method Statement to include details on how, amongst others, excavations, materials storage, drainage, servicing and hard surfaces will be managed and implemented to provide for the long-term retention of the trees;

No development or other operations shall take place except in complete accordance with the approved Arboricultural and Construction Method Statements.

**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site and protected species that may be present during construction works in the interest of the visual amenities of the area and to comply with policies QD16, QD18 & HE6 of the Brighton & Hove Local Plan and CP10, CP12 & CP15 of the City Plan Part One.

- 11 The recommended mitigation measures in the submitted Ecological Survey Report dated 16 March 2015 shall be implemented in full prior to use of the development hereby approved.

**Reason:** To ensure that the development contributes to ecological enhancement on the site and in accordance with policy CP10 of the City Plan Part One.

- 12 The hard surfaces hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policy CP11 of the Brighton & Hove City Plan Part One.

- 13 All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and 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, unless the Local Planning Authority gives written consent to any variation. All hard landscaping and means of enclosure shall be completed before the development is occupied.

**Reason:** To enhance the appearance of the development in the interest of the visual amenities of the area and to comply with policy QD15 of the Brighton & Hove Local Plan.

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 details of external lighting required by condition no.6 above should comply with the recommendations of the Institution of Lighting Engineers (ILE) 'Guidance Notes for the Reduction of Light Pollution (2011)' for Zone E or similar guidance recognised by the council. A certificate of compliance signed by a competent person (such as a member of the Institution

of Lighting Engineers) should be submitted with the details. Please contact the council's Pollution Team for further details. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton, BN1 1JP (telephone 01273 294490 email: ehlpollution@brighton-hove.gov.uk website: www.brighton-hove.gov.uk).

## **2. SITE LOCATION & APPLICATION DESCRIPTION**

- 2.1 The application relates to Victoria Gardens North and Victoria Gardens South, together with the green space surrounding St Peter's Church, forms the central part of the Valley Gardens conservation area. Valley Gardens is a linear area comprising of a series of public open spaces that run from Old Steine in the south to The Level in the north but which also includes the historic private communal gardens of Park Crescent to the north of the Level.
- 2.2 These open spaces have historic value in that way that they reflect the topography of Brighton and their subsequent developed from the late 18th century onwards. These green spaces reflect the route of the Wellesbourne, a winter-bourne stream that ran from the Downs to the sea but which was culverted in the later 19th century. The pattern of development saw grand terraces and some individual buildings constructed to front onto the open spaces, which became popular for promenading. Despite some late 19th and 20th century redevelopment this pattern of development has continued. Many of the buildings that front onto the green spaces are listed and the gardens form an important part of their setting. This includes the grade I listed Royal Pavilion and the grade II\* listed North Gate.
- 2.3 The one major structure within the central gardens is the grade II\* listed St Peter's Church, which was built 1824-28 to the designs of Sir Charles Barry and extended with new chancel, vestry and south east chapel in 1898-1906 by George Somers Clarke the younger and JT Micklethwaite. It is in a broadly Perpendicular Gothic style in Portland Stone with extensions in Sussex sandstone. The church is both a local and city-wide landmark, with its tower being a highly notable feature in a number of views. There are two other listed buildings within the application site boundary, both grade II: the Statue of Queen Victoria at the southern end of Victoria Gardens (1878 by EB Stephens) and the Obelisk and Fountain at the southern end the St Peter's Church Gardens. Opposite the Statue of Queen Victoria is the grade II listed Statue of George IV of 1828 by Sir Francis Chantrey.
- 2.4 Victoria Gardens themselves are included in the Local List of Heritage Assets and are therefore treated as undesignated heritage assets. Most of Victoria Gardens South lies within an Archaeological Notification Area. Following the enclosure of the Old Steine Gardens in 1778, the areas to the north were improved and enclosed in 1787. Originally known as the North Steine Enclosures, Victoria Gardens was originally open only to residents and subscribers. In 1883 the north enclosure was opened to the public and an encircling path made. The southern enclosures remained in exclusive use until 1896. In the 1920s, under the direction of Captain Bertie MacLaren, the iron railings were removed and the layout with dwarf fences installed.

as. Within the gardens there are a significant number of cast iron street lights dating from the 1920s and designed by BLEECO, in a pattern found nowhere else in Brighton & Hove. These have also been included in the Local List of Heritage Assets and are again to be treated as undesignated heritage assets.

- 2.5 The Mazda Electric Fountain stands to the northern end of Victoria Gardens South. Given to the town in 1930 by Thomson-Houston Ltd following an exhibition, it was originally illuminated from below with changing coloured lighting. The fountain control box survives to the north west pavement, an attractive feature in cast iron with multi-coloured 'sunbeam' stained glass. Victoria Gardens South also hosts two Portland Stone plinths of historic interest, the only surviving ones of five that originally hosted allegorical sculptures that were installed in 1898 and removed some time during the 1920s/30s.
- 2.6 Planning permission is sought for hard and soft landscaping works to Victoria Gardens North and South and grounds of St Peter's Church, including creation of public square to front of St Peter's Church, relocation of car parking spaces to the North of the church, new cycle routes and pedestrian paths, lighting and associated works.
- 2.7 The proposals are part of a wider transport scheme to improve access to public transport services and ease of movement throughout the area, improve cycling links and renew existing highway infrastructure.
- 2.8 The main features of the proposal are:
- Tree planting throughout the site, most notably along the Valley Gardens east edge of the site
  - New hard landscaped spaces, including a new square outside the south entrance of St Peter's Church (St Peter's Square), and a new square to the north of Victoria Gardens North (Richmond Square).
  - New pedestrian and cycle paths, including diagonal pedestrian path routes through the gardens to improve connectivity
  - Outline of potential new temporary event areas
  - Relocation of existing car parking south of St Peter's Church to the north of the building
- 2.9 A previous planning application (BH2015/00491) was submitted and later withdrawn. The most notable changes to this scheme are a more simplified landscape scheme with the removal of water features, alterations to materials of hard landscaping, alterations to pedestrian paths and tree locations, and the retention of the Mazda Fountain in its existing position.
- 2.10 During the course of the application, amended plans were submitted with further clarification of where the existing cast lighting columns are proposed for re-use, alterations to pathway materials, introduction of Yorkstone near to the church, and minor alterations to tree proposals.

### **3. RELEVANT HISTORY**

**BH2015/00491** Hard and soft landscaping works to Victoria Gardens North and South and grounds of St Peters Church, including creation of public square to front of St Peter's Church, relocation of car parking spaces to North of church, new cycle routes and pedestrian paths, streams and water features, bicycle provision, lighting and associated works - Withdrawn 13/07/2015

#### **4. REPRESENTATIONS**

4.1 One (1) letter of representation has been received objecting to the application for the following reasons:

- The application lacks detail of the visual representation of the development
- The design fails to create a quality urban landscape appropriate for the location
- The design fails to provide legible and safe links to the rest of the city
- Fails to enhance important heritage assets
- Does not make provision for outdoor events
- The proposals are cheap, but expensive to maintain

4.2 One (1) letter has been received commenting on the application as follows:

- There should be a limit on the number of additional trees so the land can accommodate events and activities;
- The Mazda Fountain should be retained
- There should be links of routes from north to south with good access for all
- Should provide adequate signage, seating, lighting and waste bins
- The proposals should allow for the free flow of traffic

#### **5. CONSULTATIONS**

5.1 **Brighton and Hove Archaeological Society:** No objection

The valley running from Round Hill down towards the sea front has been a busy thoroughfare for millennia. It is likely to have been the route from the sea to the Roman villa located at Ditchling Rise. When St Peter's church was built a number of Roman coins were found. The area immediately to the south of the church was used in medieval times as a training ground for archery. It is possible that vestiges from both these periods and even earlier may remain. The Brighton and Hove Archaeological Society would suggest that you contact the County Archaeologist for his recommendations.

5.2 **County Archaeology:** No objection

The proposed development is within an Archaeological Notification Area defining an area of Roman activity including human burials. It is noted that the applicant has not consulted the HER as required by the NPPF, or produced a heritage impact assessment outlining the potential impacts on buried archaeological remains. On the previous application for the same proposal, the applicant stated that in general the maximum digging depth will be around 500mm. In certain specific locations (such as tree pits which are shown in the planning drawings pack) excavations of up to 1100mm will be required.

- 5.3 In the light of the potential for impacts to heritage assets with archaeological interest resulting from the proposed development, the area affected by the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss. These recommendations are in line with the requirements given in the NPPF.
- 5.4 In furtherance of this recommendation, advice can be given to the applicant on how they can best fulfil any archaeological condition that is applied to their planning permission and to provide a brief setting out the scope of the programme of works.
- 5.5 The written scheme of investigation, referred to in the recommended condition wording above, will set out the contracted archaeologist's detailed approach to undertake the programme of works and accord with the relevant sections of the Sussex Archaeological Standards (April 2015).
- 5.6 **Sustainability: No objection**  
The application addresses City Plan policy CP8 effectively. The scheme incorporates sustainable design features to avoid expansion of the city's ecological footprint, help deliver the principles of the Biosphere and mitigate against and adapt to climate change. The scheme improves the resilience of the Valley Gardens corridor to climate change, through reducing 'heat island effect' and surface water run-off. Proposed sustainable urban drainage features provide temporary storage to avoid local surface water flooding. These features are well designed to provide additional benefits that include biodiversity enhancements and public amenity. They meet other aspects of policy CP8 by improving health and the wider environment by making the best use of layout, landscaping and materials
- 5.7 **Sussex Police: No objection** A consultation has occurred with the CCTV controllers regarding the views of Sussex Police CCTV surveillance cameras that can observe Victoria Gardens. It is noted that there is a proposal to plant a number of additional trees at various locations across the gardens which impact on the views of two of those CCTV cameras. The first, located at the junction of Richmond Place and St George's Place that observes the south end of St Peters church and the proposed public square. Also a further CCTV camera located at the junction of London Road and York Place/A23 with St Peters Place that gives a view southwards and which already has an impeded view of the gardens caused by tree foliage. Careful positioning and maintenance of the trees should be considered at this stage, as further trees have the potential to reduce the effectiveness of those CCTV cameras which aide crime prevention within the gardens.
- 5.8 Cyclists using the proposed cycle stands at St Peters Church should be encouraged to lock both wheels and the crossbar to a stand rather than just the cross bar and therefore a design of cycle stand that enables this method of locking to be used is recommended. Minimum requirements for such equipment

are Galvanised steel bar construction minimum thickness 3mm. Minimum foundation depth of 300mm with welded 'anchor bar'. Compliance can be demonstrated by products certified to PS 1175 Issue2 (2014) Security Rating 1 or 2 or alternatively Sold secure (Bronze Silver or Gold) (www.SecurebyDesign.com) Safer Homes 2016 Para 53.4.

5.9 In relation to a potential café being built on the site of the old public convenience it is recommended that vandal resistant doors and windows be fitted to conform to LPS 1175 SR2 with Vandal resistant dusk till dawn lighting fitted above entry doors.

5.10 **Environmental Health: No objection**

No potentially contaminated land is shown on the database. Designers should be aware that artificial lighting can cause nuisance to those living and working alongside. This should be borne in mind when designing the lighting.

5.11 External lighting for the development should be designed and positioned to:

- Be the minimum required to perform the relevant lighting task.
- Minimise light spillage and pollution.
- Include landscaping/screening measures to screen illuminated areas in 2 environmentally sensitive areas.
- Avoid dazzle or distraction to drivers on nearby highways. Any external lighting designs must have reference to both horizontal and vertical illuminance to account for the varied sensitive receptors on and around the site. The lighting installation shall comply with the recommendations of the Institution of Lighting Professionals (ILP) Guidance Notes for the Reduction of Obtrusive Light (2011).

5.12 **Heritage: Comment**

5.13 Initial comments:

The Valley Gardens conservation area is on the Historic England 'at risk' register for a number of reasons and the poor condition of the public realm and historic open spaces is one of the factors. The importance of a comprehensive solution for this area is acknowledged by policy SA3 of the draft City Plan Part 1. The policy has seven key aims and these proposals would address the majority of those aims whilst also partly reflecting the requirement to make clear the distinct role and character of each public space. In these respects the proposals are very welcome and are largely considered to have successfully addressed that policy.

5.14 There would be some notable change to the footprints of the historic public open spaces and footways but the footprint of these spaces have changed and evolved a number of times over past 230 years or so, most dramatically in the 1920s/30s, whilst the space south of St Peter's Church was substantially changed as part of a traffic scheme in the 1990s. These proposals are a continuation of that process of evolution and would retain the overall linear form of the public 3 space and its overall scale. The proposed increase in the amount of public open space in total is welcomed and the proposed layout of new pathways retains a sense of formality whilst reflecting desire lines.

- 5.15 The approach to new tree planting, with new or reinforced avenues of Elm to the perimeter and arboretum trees more centrally, is generally welcomed. But care will be needed to ensure that arboretum trees are not of size that would harm key views north to St Peter's Church or south towards the North Gate of the Royal Pavilion.
- 5.16 The proposals to relocate the car parking area from immediately south of St Peter's Church to the north of it, together with the reduction in the number of parking spaces, is very welcome as the southern frontage and tower is the most architecturally significant element of the exterior and the approach to the church, and views, from the south are the key ones. The proposed formal hardsurfaced space in front of the church echoes the footprint of the church and would further contribute, together with the new avenue of tree planting, to a clear enhancement of the setting of the church. The existing path of historic York Stone to the rear of the Church would regrettably be lost to the new car park access but a small area of York Stone paving to the west entrance to the memorial hall would be retained. However, it is disappointing that no further use of York Stone has been proposed. It would be appropriate to use York Stone for the entrance path to the east door and in a border around the tower (which will include the future ceremonial church entrance).
- 5.17 With regard to the two listed structures within the gardens, the setting of the Statue of Queen Victoria would generally be preserved but there are some concerns about the proposed 'art plinth' to the south east of this; an artwork of significant scale here could detract from the setting of the Statue. Similarly an artwork on the proposed plinth on the opposite side of the road could detract from the setting of the listed Statue of George IV. Therefore it would be appropriate to omit these two plinths. The setting of the Obelisk and Drinking Fountain would be enhanced by the new landscaped area south of the Church.
- 5.18 With regard to other heritage assets, the plans indicate the retention and refurbishment of the 1920s cast iron lighting columns, which is welcome. However, it is difficult to distinguish between the retained and new columns due to the colour key. More supporting information on this aspect of the proposals is needed, including numbers of cast iron columns to be retained and an explanation of the design approach taken to locating the retained and new columns.
- 5.19 The Mazda fountain is to be retained and presumably the associated control box with 'sunbeam' glazing is also to be retained. The two 1898 statue plinths in Victoria Gardens South would also be retained in situ but there is a concern that the one on the west side would be at risk from structures and events in the large Outdoor Performance Space indicated on plan.
- 5.20 Further comments:  
The revised plans and additional information have generally addressed the concerns raised in the previous comments. The inclusion of York Stone paving to the thresholds and entrances to St Peter's Church is welcomed and compensates for the loss of the original York Stone path to the rear of the

Church. Approval of a sample should be required by condition. The retention of the historic, locally listed lighting columns to the perimeter of the gardens (as existing) has been clarified and is again welcomed. Details have been submitted of a 'Henley' lantern which it is assumed is to replace the existing lanterns but it is not clear why the original lanterns are not to be retained and refurbished. Further information on this matter is required. It is also unclear as to whether the new lighting columns in the open space are to be painted/colour finished black to match the historic columns. This could be covered by condition. Details of the new benches to 'St Peter's Square' should also be covered by condition.

**5.21 County Ecologist: No objection**

Surveys were carried out in accordance with best practice and are sufficient to inform appropriate mitigation, compensation and enhancement.

5.22 The site is not subject to any designations for its nature conservation value. The site comprises buildings, hard standing, species poor amenity grassland, scattered trees, planted shrubs and perennials and a yew hedge. The features of greatest significance are the trees, most notably the two large English Elms within Victoria Gardens South, which should be retained and protected. Other habitats on site are of relatively low value but have the potential to support protected species.

5.23 All species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and the Conservation of Habitats and Species Regulations 2010, making them European Protected Species. The Church has the potential to support roosting bats. Artificial light can negatively impact on bats through e.g. causing disturbance at the roost, affecting feeding behaviour, avoidance of lit areas and increasing the chances of bats being preyed upon. It is therefore recommended all lighting design should take account of national guidance, and shields should be used to avoid light spill onto the church.

5.24 The site has the potential to support breeding birds. Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. To avoid disturbance to nesting birds, any removal of scrub/trees that could provide nesting habitat should be carried out outside the breeding season (generally March to August). If this is not reasonably practicable within the timescales, a nesting bird check should be carried out prior to any demolition/clearance works by an appropriately trained, qualified and experienced ecologist, and if any nesting birds are found, advice should be sought on appropriate mitigation.

5.25 The proposed development is considered unlikely to have any impacts on any other protected species and therefore no specific mitigation is required. If protected species are encountered during works, works should stop and advice should be sought from an ecologist on how to proceed.

5.26 The site offers opportunities for enhancement that will help the Council address its duties and responsibilities under the NERC Act and NPPF. Opportunities include but are not limited to the use of species of known wildlife benefit within

the landscaping scheme, the creation of wildflower meadow areas, the provision of bird and bat boxes and the provision of stage beetle loggeries.

5.27 In summary, provided the recommended mitigation measures are carried out, the proposed development is unlikely to have a negative impact on biodiversity and can be supported from an ecological perspective. The site offers opportunities for enhancement which will help the Council address its duties and responsibilities under the NERC Act and NPPF.

5.28 **Conservation Advisory Group: Objection**

The Group recommend REFUSAL on the grounds that:

- The low quality hard landscaping surfaces proposed should be selectively upgraded to enhance the character of the Conservation Area and incorporate a wider variety of paving materials such as cobbles, setts, brick paving, and Conservation style concrete paving slabs in order to define different uses and areas.
- There are insufficient or no details provided on the hard landscaping drawings of important landscaping elements and street furniture such as seating, bollards, new lamp standards, tree guards, railings, fences, litter bins, signage - all the elements which can - if correctly selected and specified - contribute to the character and visual interest of the historic setting of Valley Gardens.
- There were no details of a budget for maintenance - there is a large amount in the design, eg trees and flowering beds, which will require an ongoing maintenance programme. It would be regrettable if a grant funded scheme put the local authority in an unsustainable position. The lack of maintenance of the recently renovated buildings at The Level was cited as a salutary warning.
- The Group requested that, if recommended by the Officer for approval, the proposal should be referred to Planning Committee.

5.29 **Planning Policy: Comment**

The principle of this proposal is welcomed and supported. The City Plan clearly sets out in SA3 support for the enhancement and regeneration of the Valley Gardens Area that reconnects the open space to the surrounding urban realm whilst bringing about a number of other benefits. The retention and enhancement of existing open space, especially in a manner which meets needs and increases effective open space use, is welcomed and supported by planning policy (policy CP16 in particular). The use of sustainable urban drainage systems (SUDs) and biodiversity enhancements are also encouraged (policies CP8 & CP10). Pedestrian, cycling and public realm improvements in Valley Gardens are also supported by planning policy (policies CP9 & CP13) and so are cultural and tourist enhancements including outdoor event space (policy CP5).

5.30 The proposal does, however, take quite an engineered approach which will be dependent upon adequate funding and future maintenance to secure its success. In order to ensure the proposal accords with planning policy, which seeks sustainable and viable development (thus the current public sector

austerity cuts should be taken into account), confirmation is needed on the following: who will be responsible for provision and also future maintenance (eg highways, city parks etc without any area/feature left unaccounted for); that those responsible for maintenance support the proposals and that they agree there is appropriate maintenance funding (regard to liability should also be given); and, that replacement materials can be readily sourced and at a cost that can be covered by the maintenance fund.

- 5.31 Consultees should confirm the likely impact of this proposal on air quality and traffic improvement (cars, coaches, buses, taxis, lorry and bicycles), as well as the likely impact of the proposed planting and lighting on security taking into account the appropriateness of the planting within each section. Compliance with planning policy will be subject to the above matters. Regard should also be given to the provision of additional features to promote informal play throughout the space for all ages so that the area is used more effectively.
- 5.32 The extent and permeability of the proposed network of hard surfaced pathways should be considered and where appropriate (in terms of design, use, practicability etc) amended to be more permeable and/or fewer. Care is needed to ensure the new paths don't generate a need for the SUDs. SU2 seeks to minimise water use and encourages the use of greywater/rainwater, regard to this should be given in respect of the water supply for the water features.
- 5.33 **City Parks: Comment**  
Please see below some pertinent extracts from the Open Spaces Strategy:
- 5.34 Trees
- c) Increase water porous rigid and unbound aggregate surfaces to be implemented where possible around existing and proposed street trees in replacement of tarmac.
- 5.35 Public Realm
- a) An integrated design approach to be adopted for the development of streets linked to parks and open spaces.
- b) All benches to meet minimum design standards for equitable seating, promoting accessibility for the widest range of users.
- c) As a general principle tarmac should be the preferred material for parks and streetscapes where water porous surfaces are not feasible. Subject to exemptions for high profile projects and conservation areas.
- 5.36 Actions
1. Identify streets linking to other open spaces as part of the Community Infrastructure Levy process.
2. Implement the policies of 'public realm' into the Valley Gardens scheme.
- 5.37 Sponsorship, Advertising and Donations
- a) Donations: In order to receive some donations; future maintenance costs may need to be built into the contract.

b) Commercialisation: Develop commercial activity in the city's open spaces such as advertising, sponsorship and donations to grow income for Cityparks, but in a way that is sensitive to the wider heritage and community values of each space, appropriate to health and well-being objectives and in collaboration with the any potential Parks Foundations/Trust.

c) Advertising: New income from advertisement in open spaces to be used primarily for Cityparks.

d) Park Improvement Districts (PIDs): Work with the Business Improvement District (BID) to explore the potential to establish a PID for central Brighton, which might allow Cityparks to lever in additional funding from a 'parks levy' to sustain high quality horticulture in return for commercial benefits to business supporters.

5.38 s106 and CIL

Maximise opportunities to fund ongoing open space improvement and management from development agreements, including embedding the priorities of the Open Spaces Strategy within the Community Infrastructure Levy (CIL) for Brighton & Hove, in particular aiming to secure funding for:

1. Parks and gardens due to their multi-functionality, inclusivity and popularity with residents;
2. An integrated approach to public space design and management including open spaces, highways, trees and flood-risk management.
3. Seek to provide well maintained public open spaces to respond the city's changing built environment as it intensifies to meet housing demand.

5.39 **Sustainable Transport:** No objection

Recommended approval as the Highway Authority has no objections to this application subject to the inclusion of the necessary condition.

5.40 For clarity the Highway Authority comments only relate to the proposals as part of the planning application. None of the comments relate to aspects of the Valley Gardens scheme which are outside the remit of this planning application; which includes all proposed changes to the adopted highway; as these are deemed to benefit from permitted development rights.

5.41 The Highway Authority comments are similar to a recent withdrawn planning application BH2015/00491.

5.42 Pedestrian and Cycle Access:

Pedestrian and cycle access to and through the gardens will be enhanced as a result of the proposed scheme. New pedestrian routes through the gardens will be created providing a linear pedestrian route through the gardens. This increased pedestrian access through the park is welcomed.

5.43 The main pedestrian access to St Peters Church is retained from the Richmond Place frontage. The Highway Authority has no objections to this arrangement.

5.44 Cycle Parking:

The applicant states that they are proposing the retention of the 5 existing Sheffield stands that serve St Peters Church. However, there appears to be 6

Sheffield Stands located on the western side of St Peters Church. The Highway Authority has no objections to the retention of this level of cycle parking to serve the church. As part of the wider scheme additional cycle parking will be provided on highway land.

5.45 Disabled Parking:

The applicant is proposing 3 disabled car parking spaces within the Church car park where currently none are provided. This accords with the Council's parking standards contained in SPD14. The Highway Authority welcomes the provision of this disabled user car parking. The disabled bays appear to be designed in accordance with the Department for Transport Traffic Advisory Leaflet 5/95 Parking for Disabled People. This requires a 1.2m clear zone either side of each bay. However, the 1.2m clear zone has not been hatched on the submitted drawings; further details could be secured via condition.

5.46 Servicing:

Servicing associated with the church and events at the church are proposed to take place from within the proposed car park. While any servicing associated with events to the south of the church is to take place from within St Peters Square.

5.47 Vehicular Access:

The applicant is proposing a new vehicular access to the relocated parking to the north of the church. The new vehicular access is from Richmond Place. The Highway Authority has no objections to a new vehicular access in this location.

5.48 Car Parking:

As part of the proposals the applicant is proposing to relocate and reduce the car parking for the church. The number of car parking spaces will be reduced from 26 to 12, 3 of which are for disabled users. The car parking will be relocated from its current location to the south of the church to the north of the church.

5.49 The Council's parking standards state that for a church in the central area the maximum car parking standard is disabled user car parking only. However, given that these car parking spaces are existing and that a reduction in the overall level of car parking is proposed the proposed retained level of provision is not considered to warrant a reason for refusal. Given the central and sustainable location the church benefits from and that there are several alternative modes of travel and alternative parking available in the locality the Highway Authority has no objections to the reduction in the parking spaces. The proposed relocation of the car park opens up and maximises the public open space to the south of the church. Therefore the Highway Authority has no objections to the relocation of the car parking.

5.50 Trip Generation/Highway Impact:

The proposals are not considered to significantly increase trips to and from the site above existing levels, as there is no new specific trip generator proposed as part of the application.

## **6. MATERIAL CONSIDERATIONS**

- 6.1 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
- 6.2 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 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 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.

## **7. POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development  
SA3 Valley Gardens  
CP5 Culture and tourism  
CP8 Sustainable buildings  
CP9 Sustainable transport  
CP10 Biodiversity  
CP11 Flood risk  
CP13 Public streets and spaces  
CP15 Heritage  
CP16 Open space

#### Brighton and Hove Local Plan (retained policies March 2016):

TR7 Safe Development  
TR14 Cycle access and parking  
TR15 Cycle Network  
SU9 Pollution and nuisance control  
QD15 Landscape design  
QD16 Trees and hedgerows  
QD25 External Lighting  
QD27 Protection of amenity  
HE3 Development affecting the setting of a listed building  
HE6 Development within or affecting the setting of conservation areas  
HE10 Buildings of local interest  
HE11 Historic Parks and Gardens

HE12 Scheduled ancient monuments and other important archaeological sites

Supplementary Planning Documents:

SPD03 Construction & Demolition Waste

SPD06 Trees & Development Sites

SPD11 Nature Conservation & Development

SPD14 Parking Standards

**8. CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application relate to the impact of the proposed development on the visual amenities of the public gardens, the Grade II\* St Peter's Church, the street scene and the wider Valley Gardens Conservation Area, and also the setting of listed buildings within the locality of the site. Other considerations include the impact on highways, sustainability, ecology, trees and archaeology.

**8.2 Planning Policy:**

Policy SA3 sets out the aim to support the enhancement and regeneration of the Valley Gardens Area in an integrated manner that reinforces its strategic significance, emphasises its historic and cultural character, reduces the adverse impact of vehicular traffic, improves local air quality and creates a continuous green boulevard that reconnects the open space to the surrounding urban realm. Policy CP16 requires the retention of existing open space, and to ensure a more effective and appropriate use of it.

8.3 The application site covers an area of open space and non-highway land that includes Victoria Gardens North and South, and the gardens that surround St Peter's Church. The wider transport scheme, including the reduction in carriageway, allows for the public open space within the application site to be significantly increased in size.

8.4 As stated, policy SA3 has several key aims and the proposal would address the majority of those aims whilst also partly reflecting the requirement to make clear the distinct role and character of each public space. The overall retention and enhancement of the existing open space would increase the effectiveness of its public use. The pedestrian, cycling and public realm improvements are welcomed and are considered in accordance with Policy CP16. The proposal also includes cultural and tourist enhancements including outdoor event space, in accordance with Policy CP5.

**8.5 Design and Appearance:**

Policy HE6 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) 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 shopfronts and small scale architectural details such as mouldings which individually or cumulatively contribute to the character or appearance of the area.
- 8.6 Proposals that are likely to have an adverse impact on the character or appearance of a conservation area will not be permitted. Policy HE3 relates to development affecting the setting of listed Buildings. This policy states that development will not be permitted where it would have an adverse impact on the setting of a Listed Building, through factors such as its siting, height, bulk, scale, materials, layout, design or use.
- 8.7 Consultation has been carried out with local residents, business and interest groups regarding the proposals. Details of the responses to the public consultation process have been submitted as part of the application. Key priorities emerged through the Concept Delivery Plan.
- 8.8 The application site is an important thoroughfare for urban movements in all directions. The open spaces have great historic value and are important as being part of the setting of many listed buildings that surround the site. The existing pedestrian routes are inconsistent, and the public realm and historic open spaces are in poor condition. The Valley Gardens Conservation Area is on the Historic England 'at risk' register, partly for these reasons. As set out above, the importance of a comprehensive solution for this area is acknowledged by Policy SA3 of the City Plan Part 1.
- 8.9 There have been numerous changes to the footprint of the historic public open spaces over time, and this proposal would provide further evolution of the space, but would still retain the overall linear form of the public 3 space and its overall scale. As set out above, the amount of public open space would increase which is welcomed. The proposed layout of new pathways retains a sense of formality whilst reflecting desire lines.
- 8.10 The proposed tree planting, including the reinforcing of the avenues of Elm to the perimeter and arboretum trees more centrally, is considered acceptable. It is important that the trees are not in a position or size that would harm key views north to St Peter's Church or south towards the North Gate of the Royal Pavilion. However it appears that, in comparison to the previous application, the locations of trees have been improved and important sight lines would be retained.
- 8.11 The proposed relocation of the car parking area from immediately south of St Peter's Church to the north is considered to be an improvement from a heritage

perspective. The southern frontage and tower is the most architecturally significant element of the exterior and the approach to the church, and views, from the south are important. The relocation of the car park allows for the proposed formal hard surface square to contribute to a clear enhancement of the setting of the church. The setting of the Obelisk and Drinking Fountain would also be enhanced by the new landscaped area and square south of the church.

- 8.12 The existing path of historic York Stone to the north of the Church would regrettably be lost to the new car park access, but a small area of York Stone paving to the west entrance to the memorial hall would be retained. Following amendments to the scheme, the proposal also includes new areas of York Stone on the entrance path to the east door and in a border around the tower to the south.
- 8.13 The setting of the listed structures within the gardens (the Statue of Queen Victoria, the Statue of George IV, and two 1898 statue plinths) would generally be preserved. The proposed drawing indicates that potential for performance space and 'art-plinths' to be located in close proximity to these structures, however the drawing provides an indicative location for future temporary event space, and on this basis no significant harm to the listed structures would occur.
- 8.14 The proposed plans indicate the retention and refurbishment of the 1920s cast iron lighting columns, which is considered acceptable. Overall, subject to the compliance with the recommended conditions, it is considered that the proposals would not have a detrimental impact upon the visual amenities of the public space, the related street scenes or to the wider area, especially with regard to the surrounding Conservation Area and the setting of the nearby Listed Buildings.
- 8.15 Landscaping:  
The applicant has submitted detailed hard and soft landscaping plans. The soft landscaping includes lawned gardens, meadow garden on the west perimeter of the gardens, and rain gardens and perennial gardens on the east side. In terms of trees, avenues of Elm to the perimeter and arboretum trees more centrally are used throughout the site. In terms of hard landscaping, the footways, cycle paths and squares would consist of various shades of bound gravel.
- 8.16 The proposed improvements for pedestrians and cyclists involving a wide network of hard landscaped paths could reduce the potential for future informal/formal uses of the green. However the proposal offers of more streamlined and simple landscape layout in relation to what was set out in the previous application (BH2015/00491). It is also recognised that the space is not currently being used effectively as a park (which is its identified use in the open space studies). Given that the proposal is seeking to bring about a number of benefits set out in Policy SA3, it is considered that the proposed landscaping is in accordance with the open space policies.
- 8.17 The future maintenance of the proposal is an important factor. Without maintenance there would be concerns that the open space will fall into disrepair.

The applicant has provided a Management and Maintenance Plan, further details of which can be conditioned.

**8.18 Impact on Amenity:**

Policy QD27 of the Brighton & Hove Local Plan 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.

8.19 The proposed development is mostly situated of a sufficient distance away from neighbouring residential properties so as not to cause significant harm to residential amenity.

8.20 The proposed artificial lighting could have the potential to cause light pollution affecting nearby residents. The Environmental Health Team has recommended that the lighting installation complies with the appropriate lighting guidance levels.

**8.21 Sustainable Transport:**

The proposed development includes improvements to pedestrian and cycle routes through the site which is welcomed.

In terms of cycle parking, the existing St Peter's Church cycle stands would be retained, and it is noted that cycle parking would be provided on highway land outside of the site. This is considered a suitable arrangement.

8.22 The proposal includes the relocation of the church car parking area from the south side of the building as existing, to the north side of the building. This would result in the reduction in number of car parking spaces provided from 26 to 12, which are mostly used by staff and regular users of the church facilities. It is understood that the proposed number of car parking spaces provides sufficient capacity for daily users of the church. The Highway Authority have no objection and highlight that the maximum standards for a church within SPD14: Parking Standards is for disabled car parking only. Although a reduction in the number of spaces is proposed, the site benefits from being within a central and sustainable location. During the infrequent times when the church is in full capacity use, it is clear that the existing number of car parking spaces do not currently allow everyone to park on site. There are a number of alternate modes of travel available and there are alternative public car parks nearby. Given this, and taking into account the heritage benefits of relocation, and the benefits of maximising the opportunity for public open space, it is considered that the level of proposed parking provision is acceptable in this instance. The proposed level of disabled parking (three spaces) is also considered acceptable, subject to a condition for further design details.

8.23 A new vehicular access for the relocated parking to the north of the church is proposed, which would enter onto Richmond Place on the east side of the site. The new vehicular access is considered acceptable in terms of location.

**8.24 Ecology:**

The proposed soft landscaping works provide an opportunity to enhance biodiversity on the site. The applicant has submitted an Ecological Survey Report which included findings of a survey of protected species and habitats. The County Ecologist has states that this is sufficient to inform appropriate mitigation, compensation and enhancement.

8.25 The site is not subject to any designations for its nature conservation value. The features of greatest significance are the trees. Other habitats on site are of relatively low value. The existing green space offers limited opportunities for wildlife. No evidence of a bat roost was recorded. No notable nesting birds were found on the site. The survey recommends further surveys for habitats in the church, that any works to the shrubs to the north of Victoria Gardens North should take place outside the bird nesting season, and that the existing Elm trees in Victoria gardens South should be protected during works. Providing the recommended mitigation measures are carried out, the proposed development is considered unlikely to have a significant negative impact on biodiversity.

8.26 **Sustainability:**

The proposal incorporates sustainable design features, and through the landscaping works, there is an intention to reduce the 'heat island effect' and surface water run-off. The use of sustainable urban drainage systems (SUDs) including the rain gardens and biodiversity enhancements are welcomed. The features provide temporary storage to avoid local surface water flooding.

8.27 Overall it is considered that by improving health and the wider environment by making the best use of layout, landscaping and materials, it is considered that the proposal is in accordance with Policy CP8.

8.28 **Archaeology:**

The site is within an Archaeological Notification due to known Roman activity. The applicant has not submitted a heritage impact assessment, to assess the impact on the proposed development which would include digging of the land, especially in the positions of the proposed tree pits.

8.29 The County Archaeologist has recommended that the proposals should be the subject of a programme of archaeological works. This will enable any archaeological deposits and features that would be disturbed by the proposed works, to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss,. The programme of works is therefore required by condition.

**9. EQUALITIES**

9.1 The proposed car park would provide three no. disabled car parking spaces.

