

<u>No:</u>	BH2018/03932	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Unit 1 75 - 79 East Street Brighton BN1 1NF		
<u>Proposal:</u>	Change of use from restaurant (A3) to public house/dancing/entertainment/live music venue (Sui Generis).		
<u>Officer:</u>	Luke Austin, tel: 294495	<u>Valid Date:</u>	15.01.2019
<u>Con Area:</u>		<u>Expiry Date:</u>	16.04.2019
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	HGH Consulting	HGH Consulting	45 Welbeck Street London W1G 8DZ
<u>Applicant:</u>	Falconland (Palace) Ltd	C/O HGH Consulting	45 Welbeck Street London W1G 8DZ

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 be **MINDED TO GRANT** planning permission subject to a s106 agreement and the following Conditions and Informatives:

S106 Heads of Terms

- An agreement securing that the Casino use at Unit 4, The Savoy Centre, 10 Pool Valley, as proposed under application BH20
- 18/01926 shall not commence until the live music venue/nightclub/public house at Unit 1, 75 – 70 East Street is fit out and made available for use in addition to an agreement securing that the live music venue/nightclub/public house at Unit 1, 75 – 70 East Street, as proposed under application BH2018/03932 shall not commence until the existing live music venue/nightclub at Unit 4, The Savoy Centre, 10 Pool Valley has ceased to operate.
- A Sustainable Transport Contribution of £3664 to be put towards the implementation of a cycle parking scheme within Pool Valley or other public streets within the vicinity of the site.

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	1427-A.005		24 December 2018
Proposed Drawing	A.003	REV 2	15 January 2019

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 occupy the public house element of development hereby approved outside the hours of 12:00 to 01:00 the following day and no customers shall occupy the live music venue/nightclub element of the development hereby approved outside of the hours of 19:30 to 04:00 the following day.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
4. Noise associated with any plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS 4142:2014. In addition, there should be no significant low frequency tones present.
Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
5. Prior to the commencement of the use hereby permitted a full assessment of music noise breakout shall be undertaken. The methodology and assessment criteria used shall be agreed in advance with the Local Planning Authority. The results of the assessment shall inform a Noise Management Plan, including where appropriate physical measures e.g. noise insulation, administrative actions e.g. operating times and management steps e.g. restrictions on the levels of amplified sound played within the premises. This shall be done to ensure that amplified sound emitted from the premises does not cause any increase in the typical LAeq, 5 minute or LAeq, 5 minute in the 1/3 octave bands between 31.5Hz and 125Hz 1 metre from the façade of any residential or noise sensitive premises in the vicinity. The Noise Management Plan is to be approved by the local planning authority in writing before the premises is used as hereby permitted, and the measures, actions and steps in the plan shall be implemented and kept in place whilst the permitted use continues, unless agreed otherwise in writing by the local planning authority.
Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
6. The development hereby permitted shall not be occupied until a Delivery & Service Management Plan, which includes details of the types of vehicles, how deliveries servicing and refuse collection will take place and the frequency of those vehicle movements has been submitted to and approved in writing by the Local Planning Authority. All deliveries servicing and refuse collection shall thereafter be carried out in accordance with the approved plan.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies SU10, QD27 and TR7 of the Brighton & Hove Local Plan.

7. Prior to first occupation of the development hereby approved a Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This should include details relating to site management, behaviour and conduct of future customers, and details of waste/refuse management.

Reason: To safeguard the amenities of occupiers of the adjoining properties, to ensure parking provisions are effectively managed and to comply with SU10 and QD27 of the Brighton and Hove Local Plan, Policy CP9 of the Brighton and Hove City Plan Part One and SPD14.

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 Environmental Protection department from carrying out an investigation in line with the provisions Environmental Protection Act 1990, should any complaints be received with regards to noise from the premises.

2. SITE LOCATION & APPLICATION DESCRIPTION

- 2.1. The application site relates to a commercial unit fronting onto the junction of East Street and Pool Valley. The site forms a unit located within the western rear section of a substantial mixed use building, formerly known as the ABC Cinema. The building includes a number of frontages, with the main entrance set on Grand Junction Road. There are also a number of entrances fronting onto East Street and Pool Valley.
- 2.2. The building was formerly used as a cinema and was granted permission for the conversion into a number of smaller commercial units in September 2000 including; 4 restaurants / bars, offices and a 3 bedroom flat. Since that time the use of the building has evolved and the site now contains 6 units comprising; a casino (Unit 0), a vacant restaurant (Unit 1), a nightclub (Unit 2), a vacant bar / restaurant (Unit 3), a live music venue / nightclub (Unit 4) and a gentlemen's club (Unit 5).
- 2.3. This application relates to Unit 1 (known as 75 - 79 East Street), which was formerly Days Restaurant and is currently vacant. The application seeks permission for the conversion of Unit 1 into a mixed use venue, including a bar / pub to the north-west corner and a live music venue / performance space / nightclub to the rear section of the site fronting onto Pool Valley. This application is closely linked with another application, **BH2018/01926**, for the

conversion of Unit 4 from a live music venue to a casino. The venue proposed within this application is a proposed relocation site of the existing venue at Unit 4.

3. RELEVANT HISTORY

75 - 79 East Street:

- 3.1. **BH2004/02163/CL** - Certificate of Lawfulness of proposed use as a nightclub within class D2. Approved 27.07.2004.
- 3.2. **BH2003/03939/FP** - Variation of condition 4 of planning permission dated 4th September 2000 (reference BH1999/01370/FP) relating to opening and closing times of A3 units. (Re-submission of withdrawn application BH2001/01838/FP. Approved 02.03.2004.
- 3.3. **BH2003/00215/FP** - Change of use from offices class B1 to gentlemans club class D2. Refused 12.03.2003.
- 3.4. **BH2002/01755/FP** - Installation of new entrance doors - Retrospective. Approved 16.08.2002.
- 3.5. **BH2001/02283/FP** - Installation of new shop front to pool valley/east street entrance (former entrance to cinema). Approved 11.12.2001.
- 3.6. **BH2000/03131/FP** - External alterations to Pool Valley, Brill Lane and Grand Junction Road elevations. Approved 13.07.2001.
- 3.7. **BH1999/02190/CL** - Certificate of Lawfulness to establish the use of the property within Use Class D2 (Assembly and Leisure). Approved 09.11.1999.
- 3.8. **BH1999/01370/FP** - Change of use of part cinema (Class D2) and existing pub (Class A3) to form 4 x restaurant/bars (Class A3), offices and 1 x 3 bedroom flat. Approved
- 3.9. **BH1998/01946/FP** - Use of former cinema and pub as club and two public houses (involving partial change of use of cinema to public house), together with ancillary staff accommodation and off street servicing and minor external alterations. Refused 15.01.1999.

Unit 4:

- 3.10. **BH2018/01926** - Change of use of ground floor and mezzanine above from nightclub (Sui Generis) to casino (Sui Generis). Under Consideration
- 3.11. **BH2017/04226** - Change of use of ground floor and mezzanine above from nightclub (Sui Generis) to casino (Sui Generis). Refused 18.05.2018

4. REPRESENTATIONS

- 4.1. **One (1)** letter has been received, objecting to the proposed development for the following reasons:
- A public house would not be in keeping
 - Would add risk to vandalism
 - Existing ant-social behaviour
 - Already a number of drinking establishments in the area
- 4.2. **Councillor Phillips** objects to the proposed development. A copy of the objection is attached.

5. CONSULTATIONS

Internal:

- 5.1. **Ecology:** No objection
The proposed development is unlikely to have any impacts on biodiversity, therefore no comments to make.
- 5.2. **Environmental Health:** No objection
No objection subject to conditions securing soundproofing to the building and maximum noise levels from plant and machinery. Further controls with regards to queuing and issues such as customers smoking outside the premises can be secured via the licensing regime.
- 5.3. **Heritage:** No Comment
No external alterations are proposed.
- 5.4. **Planning Policy:** Comment
It is recognised that this application is seeking to address the concerns raised with another application BH2018/01962 and provide a venue for an existing live music business/ nightclub to relocate to. It is also recognised that this provides an opportunity to provide a better designed and configured venue. It is understood that rather than linked applications the relocation of the existing business will be secured through s106 Agreement.

The public floorspace area of c.105 sq m - which has been confirmed by the applicant - is below the threshold trigger in Policy SR12 of the retained Brighton & Hove Local Plan 2005. The hours of operation of the public house should be clarified with the application and conditioned and the comments of Sussex Police should be sought as to whether the proposed closing time is appropriate given the number of other public houses in close proximity.

In consideration of Policy SR13 Nightclubs of the retained Brighton & Hove Local Plan 2005, it is recognised that the application is proposing a multi-purpose venue with enhanced space for live music performances/ other performances as well as the venue also operating as a nightclub. The applicant has clarified that the floorspace venue proposed is 260 sq. metres compared with the current premise - Unit 4 having a public floorspace area c.181 sq m. Whilst there is an increase in the public floorspace of c.80 sq m and therefore increased capacity the proposal does not create a new nightclub/ live music

venue in that the existing, established business The Haunt is proposed to be relocated from Unit 4 to Unit 1 and this is to be secured through s106 legal agreement. The concern of the policy is to avoid concentrations of similar venues in close proximity and staggering closing time to avoid peak densities and 'flashpoints' of disorder.

Subject to the comments of Sussex Police it is considered that that on balance the requirement of Policy SR13a that the nightclub should not be within 400 m of another nightclub need not apply. Criteria SR13 b-e do apply and will need to be considered by the case officer. However it is considered that the principle of the change of use would not be contrary to policy.

Conditions will be required regarding the hours of operation, management strategy and the floor areas specified for each element of proposed uses.

5.5. **Sustainable Transport:** Initial Comment

This development - which includes amongst other things a 500 capacity venue - will generate substantial movement. National Planning Policy Framework para 111 requires applications for all such development to be supported by a Transport Statement or Transport Assessment. However, no such document has been included in the submission. This must be provided so that the applications can be assessed.

Second Comment

The comments below were provided following the submission of a Transport Statement:

- The site is considered to be in a good city centre location in terms of access to different transport options and the wider transport network
- the TS does not consider the implications of the proposal, or any net change, on minimum disabled driver/blue badge holder car parking and cycle parking provision, as specified within SPD14 for A4 and D2 land uses.
- the TS suggests (para 4.6) that all deliveries to Unit 1 will continue to be via East Street. Given the relocation of The Haunt to Unit 1, and the servicing needs of a music venue (timing, frequency, volume, weight etc) therefore being significantly different to that of a restaurant, it is recommended that a Servicing/Delivery Plan be secured in order to clarify how and when each unit will be serviced to ensure that appropriate provision/capacity is available to do so safely. In particular, this will need to take account of East Street being closed to vehicular traffic on Sat. and Sun. 11am -7pm
- the TS refers to 430 covers and 450 covers when calculating an estimated existing trip rate - which figure and which calculation is correct?
- it is not clear why the extension to the casino is not expected to generate more trips (para 5.18), but it would be expected that the impacts of any additional trips by patrons would be unlikely to affect busy/peak times for vehicular and people movement

- the TS makes no reference to person access into the building, and the planning application plan of the proposed layout is unclear in terms of explaining/separating access to unit 1 and the entrance to the venue
- the increased capacity (almost double the number of people) of the venue will generate greater congregation of people at its proposed Pool Valley entrance, and therefore some form of crowd management/queuing arrangement proposals within Pool Valley will be required to avoid people standing in the carriageway (Pool Valley is not a pedestrianised street as stated in para 3.4) in order to address potential personal/road safety issues for attendees, and enable continued use of the footway by pedestrians/wheelchair users.

Whilst accepting that the proposal is unlikely to increase overall trip generation and therefore would not have a significant impact on the city's transport network or its operation at busy times, further information is needed, or commitments sought to secure appropriate conditions/obligations to address identified shortfalls, before we could provide a clear and firm indication of the acceptability of the proposal in transport terms, especially with regard to safety and adequate provision of transport infrastructure or appropriate alternatives.

Third Comment

The comments below were provided following the submission of an additional Technical Note to the Transport Statement in order to address the concerns raised above.

The draft management plan provides sufficient confidence that crowd/audience management will be in place when required, in terms of public safety on the highway at full capacity events.

The addendum advises that the enlarged and relocated music venue will be serviced from double yellow lines in Pool Valley. The submission of swept path analysis is welcomed and provides sufficient confidence that vehicles could be accommodated.

The casino extension clarification is noted.

In terms of the council's parking standards as set out in SPD14, the comparative table that has been submitted is welcomed, although it would have been expected that the applicant should have initially assessed the music venue based on a D2 use (music hall).

- Disabled driver parking - the applicant's interpretation of the SPD guidance is noted and therefore it is expected that any customer visiting either of the new uses will utilise existing dedicated parking provision for blue badge holders, or park on double yellow lines for up to three hours, within the vicinity of the site.
- Motorcycle parking - the applicant's interpretation of the SPD guidance is noted and therefore it is expected that any customer visiting either of the new uses will utilise existing dedicated parking provision within the vicinity of the site, most likely being the Old Steine or Grand Junction Road (the A259).

- Cycle parking - assessment of the proposed D2 use of almost 900 people (equivalent to seats) indicates that a minimum of 30 spaces should be provided rather than 6. Taking account of the net change in capacity from 450 people of the music venue, it would be appropriate to seek to secure 15 cycle spaces within the vicinity of the site via an appropriate mechanism, and that these should be located within Pool Valley.

External:

5.6. Sussex Police: Comment

Sussex Police have recommended a number of security measures in order to design out crime within the proposed development including safety specifications for windows and doors. Alarms and appropriate CCTV are also recommended.

Concerns are raised regarding the possible entrance of the unit on East Street, given the close proximity to another licensed venue and residential flats. It is recommended that the Pool Valley entrance is used for entrance and exit of large volumes of people.

The applicants are 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 location.

5.7. County Archaeology: No objection

Although this application is situated within an Archaeological Notification Area, based on the information supplied, it is unlikely that any significant archaeological remains are likely to be affected by these proposals. For this reason I have no further recommendations to make in this instance.

5.8. Scotia Gas Networks: Comment

The developer is advised that there is a low/medium/intermediate pressure gas main near the site. There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system. The developer should, where required confirm the position using hand dug trial holes.

5.9. UK Power Networks: Comment

The developer is advised to take note of the enclosed a fact sheet which contains important information regarding the use of our plans and working around UK power equipment.

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, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);

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
CP4	Retail provision
CP5	Culture and tourism
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP15	Heritage
CP18	Healthy city

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

TR4	Travel plans
TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD27	Protection of amenity
SR4	Regional shopping centre
SR12	Large Use Class A3 (food and drink) venues and Use Class A4 pubs and clubs)
SR13	SR13 Nightclubs
HE6	Development within or affecting the setting of conservation areas

Supplementary Planning Documents:

SPD14	Parking Standards
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8. **CONSIDERATIONS & ASSESSMENT**

8.1. The main considerations in the determination of this application relate to the principle of development, the loss of the existing use, the proposed use, the

impact of the proposed use on neighbouring occupiers and the sustainable transport impacts.

8.2. **Principle of Development :**

The application has been submitted alongside another application (BH2018/01926) for the conversion of an existing nightclub/music venue to a casino at Unit 4 within the wider site. Application BH2018/01926 is a resubmission of an earlier application (BH2017/04226) for the same conversion which was refused for the following reason:

The proposed development would result in the loss of a use including a live music venue. City Plan Part One Policy CP5 resists the loss of arts and performance venues including live music venues unless certain tests are met. The application has not addressed these tests and the proposed development would harm the City's culture and tourism offer, contrary to Policy CP5. The limited merits of the proposal to enlarge an existing casino do not outweigh the harm and the application is therefore refused.

8.3. In order to overcome this reason for refusal, the current application has been submitted alongside the application for the casino in Unit 4. This application therefore seeks permission for the conversion of Unit 1 from a vacant restaurant to a mixed use public house/live music venue/nightclub, in order to relocate, and improve whilst doing so, the existing venue at Unit 4. It is proposed that the two applications are to be linked together via a S.106 agreement in order to secure that the casino use cannot commence until the music venue is ready for occupation, provided the new venue is acceptable in all other respects. Conversely, it is also required that the existing use in unit 4 does not continue in the event this permission is implemented. This is to prevent a concentration of similar uses in the immediate surroundings.

8.4. Loss of the existing use:

The last use of the application site (unit 1) as a restaurant does not benefit from policy protection. On this basis there is no objection to the loss of the current A3 use on site.

8.5. The proposed use:

The proposed development will comprise a mixed use including a public house to the section fronting onto East Street and a live music/entertainment/nightclub venue within the rear section. As detailed above, the proposed use is a relocation of another similar business operating in Unit 4 within the same building, known as The Haunt.

8.6. The draft management plan indicates that the public house element will open at midday and will close at 1:00am. On theatre and performance nights, the venue element will open at 19:30 and will close at 22:00. On club nights the venue will open at 23:00 and close at 04:00, which matches the hours of operation at the current use at Unit 4.

8.7. The public house will use the entrance on East Street and is proposed to be used as an informal pub environment with no live music performance. The draft

management plan indicates that while patrons of the music venue may well use the pub, there will be no direct access between the two. Patrons visiting the music venue would access the site via the entrance on Pool Valley. The venue is envisaged to be a multipurpose venue capable of seating c500 seated people and up to c900 standing. The submission indicates that theatre and performance nights will take place 3-4 times a week, in accordance with the frequency of events at the existing venue (The Haunt) at Unit 4. The nightclub element would usually operate on four regular nights a week (Mondays, Thursdays, Fridays and Saturdays) with up to 10 additional nights each year for particular events.

- 8.8. Local Plan policy SR12 seeks to avoid a high concentration of large drinking establishments within close proximity to one another, and stipulates that any new pubs and bars with a public floor area in excess of 150m² will not be permitted if they are within 400m of another establishment falling into the same category. Policy SR12 applies to the public house element of the proposal as it can be considered that the public house element operates separately to the rear live performance venue. With a public floorspace area of c.105m² however the requirements of policy SR12 would not be triggered in this instance.
- 8.9. Local Plan policy SR13 relates to nightclub uses and, similarly to policy SR12, seeks to avoid concentrations of large premises' within the city, in order to avoid anti-social behaviour and associated disturbance to neighbouring occupiers. Although the sole use of the venue would not be as a nightclub, it would encompass a number of similar qualities, due to the numbers of people coming and going. Club nights would also be held there on a regular basis. It is therefore considered that policy SR12 should be applied in this instance. SR12 states that new nightclub uses / extension to existing nightclubs with a public floor area of above 150m² will not be permitted if they trigger one of following criteria:
- it would be located within 400m of another venue falling into the same category;
 - it would not operate within, or directly abutting, a building containing residential accommodation;
 - it would not result in additional noise impact or public nuisance to neighbouring occupiers;
 - it would be in close proximity to late night transport options.
- 8.10. The proposed venue would contain 260m² of public floor space, however it should be noted that the proposed site would be a relocation of on an existing premises nearby which current contains c181m². Whilst there is an increase in the public floor space of c.80m², and therefore represents increased capacity, the proposal does not create a new nightclub/live music venue as the existing, established business is proposed to be relocated from Unit 4 to Unit 1. It is therefore considered that on balance the requirement of Policy SR13a that the nightclub should not be within 400 m of another nightclub should not apply in this instance. In order to avoid the potential scenario of two large venues operating within close proximity to one another, a S.106 agreement is proposed

in order to ensure that the new venue use in unit 1 cannot commence until the use in unit 4 has ceased operation.

- 8.11. With regards to the remaining criteria of SR14, the unit would not operate within a building, or directly abut a building, containing residential accommodation. With regards to potential noise and disturbance, the venue has the potential to generate significant levels of noise and associated disturbance due to the nature of the use proposed. An initial acoustic assessment, in addition to a draft management plan have been submitted which set out a number of methods of how noise and disturbance will be managed. On this basis, as set out on further detail below, it is considered that the proposed use can be accommodated on site whilst avoiding significant harm to neighbouring amenity.
- 8.12. The application site is in a central location, within close proximity to several taxi ranks and bus services which operate at late hours.
- 8.13. In favour of the proposed use, City Plan policy CP5 seeks to maintain and enhance the cultural offer within the city and will support the roles of arts and creative industries with high quality facilities for events and experiences. As identified above, the proposed use is a relocation of an existing business at Unit 4 within the building. The adjacent unit (The Haunt) is currently operating as a live music venue and is a well renowned venue within the city catering for a number of acts/performances each year. The venue and facilitates a number of performances, several of which are associated with festivals hosted within the city. The loss of such a use would be contrary to policy CP5, as established within the refusal of the previous planning application (**BH2017/04226**). This application would secure the continued operation of a live music within the city centre whilst improving the facilities on offer.
- 8.14. Given the points set out above and subject to the securing of the necessary measures via condition and by a legal agreement, the proposed development is considered acceptable in principle.

8.15. Design and Appearance:

No external alterations are proposed as part of the conversion.

8.16. 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.

- 8.17. The application site is located at the junction of East Street and Pool Valley within an area including several pubs/bars/nightclubs and several vacant units which have been previously been occupied by similar uses. The night-time economy forms part of the character of the area and therefore the same level of amenity cannot be expected as would be found in a predominately residential area.

- 8.18. There are a number of residential dwellings within the vicinity, including flats on; Pool Valley, East Street, Brills Lane and adjacent to the Pool Valley Coach Station. Nos. 2-9 Pool Valley comprises a terrace of properties to the north of site with commercial uses at ground floor levels and several flats within the upper levels. To the south of the site is Clarendon Mansions, a five storey residential block with an A4 use at ground floor level. Pool Valley includes an open area occupied by the coach station and parking with several residential blocks to the north and east including 42A Old Steine and Lace House. There is also the Royal Albion Hotel to the east and the YHA Hostel to the north-east.
- 8.19. Due to the nature of the proposed use, and the close proximity to residential dwellings set out above, the proposed development must be carefully managed in order to avoid noise disturbance and public nuisance to neighbouring occupiers. The existing venue at unit 4 has received one complaint from noise breakout within in 2015 as the fire escape doors were left open. No other complaints have been received relating to music breakout within the last five years.
- 8.20. The application has been submitted with an initial noise assessment. The document makes reference to the following concerns regarding noise:
- Noise breakout (from music within the venue)
 - Noise from plant, machinery and ventilation equipment
 - Noise from customers queuing outside.
- 8.21. With regards to breakout of noise, the report acknowledges that noise levels within the venue are likely to be high and will generate significant levels of bass, which has the potential to cause the most disturbances to neighbouring dwellings. The report indicates that satisfactory noise levels should be achievable due to the substantial structure of the building, with thick masonry and no direct openings. This approach is considered acceptable by the Environmental Health team, subject to the inclusion of an appropriately worded condition securing a noise management plan and maximum noise levels.
- 8.22. Similarly, it is considered that the noise emitted from plant and machinery can be adequately controlled through the use of a condition securing maximum noise levels.
- 8.23. In relation to noise from queuing customers and potential noise from designated smoking areas, the draft management plan indicates that customers would queue for the music venue within the internal corridor / staircase accessed from Pool Valley. The draft management plan indicates that there is potential for overspill onto Pool Valley on busier nights, however it is acknowledged that this would be an improvement to the existing situation a Unit 4, where all queuing is external. A number of security measures would also be implemented including CCTV cameras and staff with direct access to the Police, should an incident occur requiring assistance.

- 8.24. The pub element would not have any external queuing as customers would be free to enter and exit without restrictions. Furthermore there would be no live music performances within the pub element.
- 8.25. The Environmental Health team have identified that there have been several complaints relating to noise from customers using the designated smoking area outside of the existing venue. These complaints have all been made from guests at the Royal Albion Hotel which includes windows overlooking the existing venue. The proposed use would include a fenced off external smoking area on Pool Valley which would be beneficial given the location of where current complaints have been received from, however it is acknowledged that this may simply displace the issue. The Environmental Health team have raised no objection to this approach and have advised that the licence for the current venue at unit 4 includes restrictions on the maximum number of customers permitted to smoke outside. It has been advised that a similar approach will be secured via the licencing for the proposed venue.
- 8.26. On theatre and performance nights, the venue is proposed to be open between the hours of 19:30 and 22:00. On club nights the venue will be open between 23:00 and 04:00. These opening hours closely match those of the existing venue at Unit 4 and are therefore considered acceptable and shall be secured by condition. The pub element is proposed to be open between the hours of 12:00 and 01:00 which is comparable to other similar venues within the vicinity. These opening hours are considered acceptable and shall be secured by condition, subject to final comments by Sussex Police.
- 8.27. It is acknowledged that there will be a level of disturbance associated with the venue which is unavoidable given the nature of proposed development; however such a level of activity is to be expected within a central location such as this. Furthermore, the proposed use is a re-location of another nearby venue, meaning in terms of numbers of units, there is no net gain of uses of this character within the area. Although the proposed venue would have a larger capacity, a considerable proportion of the activity associated with the use would be offset by the closure of the current venue. The new venue also gives the opportunity for further control and stricter measures to be secured by condition and licensing. Finally, it should be noted that whilst planning permission may be granted, this does not preclude the Environmental Health team from carrying out an investigation in the future, should any complaints be received with regards to noise from the premises.
- 8.28. On the basis of the points raised above, it is considered that the proposed development would not result in significant harm to neighbouring amenity, subject to the inclusion of the necessary measures to be secured by condition.
- 8.29. Sustainable Transport:**
City Plan Policy CP9 seeks to reduce reliance on private car usage through the promotion of sustainable transport measures. The proposed development is likely to generate a substantial amount of movement through the associated comings and goings of customers to and from the site.

- 8.30. The application includes a supporting Transport Assessment (TA) which assesses the likely impact of the proposed use on the local highway and transport network.
- 8.31. In terms of access, no parking is provided on site however the building is located in the city centre within walking distance of a number of local transport options including bus stops, public car parks, taxi ranks and the Brighton Railway Station. The site is also located within a Controlled Parking Zone (CPZ) meaning that the proposed development will not result in a high proportion of on street parking within the vicinity. The site is therefore accessible via a range of sustainable transport options.
- 8.32. The proposal includes stepped access via a corridor with multiple corners and therefore does not provide a route for potential customers with restricted access. Whilst this arrangement is not ideal, and it would be preferable for access to be provided for all users, it is noted that the proposed application is making use of an existing building with restricted access.
- 8.33. In terms of trip generation, the TA indicates that the combination of the existing uses including the venue at unit 1 and the restaurant at the application site generate a total number of person trips of 3824 per day, whilst the proposed uses would generate a total of 2,286, thus resulting in a reduction of 1538 trips.
- 8.34. The TS Technical note also includes a calculation of the minimum requirement for cycle, motorcycle and disabled parking spaces required for the proposed use. The Technical note applies the existing use vs the proposed use in order to compare the level of each type of parking would be required in order to establish whether there would be any net gain. The calculations provided indicate that there would be no net gain in the requirement for cycle or motorcycle parking spaces and that there would be a decrease of the requirement of cycle parking spaces by 3.
- 8.35. The TS Technical note however applies an A4 use across the entire site whereas the live music venue would be more akin to a D2 use for the basis of SPD14. Using this approach the level of disabled parking and motorcycle parking required would be the same; however the level cycle parking required would increase from 6 to 15 based on a net gain of c450 customer to the music venue in addition to staff. On this basis a contribution for the implementation of cycle parking within Pool Valley shall be secured via a legal agreement.
- 8.36. The submission details that the food and drink deliveries for the existing venue take place in Pool Valley using the western stub of the road where no loading restrictions are in place. It is proposed that this same arrangement would be retained for deliveries, serving and loading/unloading for performers within the proposed use. A swept path analysis has been provided indicating that vehicles can appropriately manoeuvre in this area without restricting the movements of the adjacent coach station. The measures are detailed are considered acceptable.

8.37. Given the points raised above; it is considered that the proposed development is considered acceptable in terms of sustainable transport, subject to inclusion of the necessary conditions and securement of the appropriate contribution via a legal agreement.

9. CONCLUSION:

9.1. The proposed development would facilitate the retention of a live music venue within the city centre whilst improving the standard of facilities and increasing the capacity available. The proposed development is acceptable in transport and s106 requirements are recommended to secure a scheme of cycle parking within the vicinity of the site.

9.2. There is likely to be an increased level of disturbance associated with the proposed use in comparison to the existing restaurant use, however when taking the closure and relocation of the existing venue in unit 4 into account the level of additional harm is considered acceptable, subject to the inclusion of necessary conditions securing sound proofing.

9.3. Overall, it is considered that the scheme would deliver substantial benefits and planning permission is recommended subject to the conditions and s106 requirements.

10. EQUALITIES

10.1. As identified above, the proposed venue does not include a level access; however the applicant would be required to make reasonable adjustments in order allow for disabled access in accordance with the Equalities Act 2010.