

<u>No:</u>	BH2021/01328	<u>Ward:</u>	Queen's Park Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Dolphin House 2-6 Manchester Street Brighton BN2 1TF		
<u>Proposal:</u>	Change of use from language school to music school (F1).		
<u>Officer:</u>	Sonia Gillam, tel: 292265	<u>Valid Date:</u>	18.05.2021
<u>Con Area:</u>		<u>Expiry Date:</u>	17.08.2021
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Ken Parke Planning Consultants Anniversary House 23 Abbott Road Bournemouth BH9 1EU		
<u>Applicant:</u>	The BIMM Institute C/O Ken Parke Planning Consultants Anniversary House 23 Abbott Road Bournemouth BH9 1EU		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **GRANT** planning permission subject to the following Conditions and Informatives:

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
Location Plan			12 April 2021
Block Plan	ZZ-01-01-SITE		12 April 2021
Proposed Drawing	00-10-01-GA	Rev B	10 May 2021
Proposed Drawing	01-10-01-GA	Rev C	10 May 2021
Proposed Drawing	02-10-01-GA	Rev D	10 May 2021
Proposed Drawing	03-10-01-GA	Rev C	10 May 2021
Proposed Drawing	04-10-01-GA	Rev A	10 May 2021
Report/Statement	Noise Impact Assessment		12 April 2021
Report/Statement	Noise Management and Mitigation		10 May 2021

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. The site shall only be used as a Music School (use class F1) and for no other purpose (including any other purpose in Class F of the Schedule of the Town

and Country Planning (Use Classes) Order 1987 ("the Order") (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission obtained from the Local Planning Authority.

Reason: The Local Planning Authority would wish to retain control over any subsequent change of use of these premises in the interests of safeguarding the amenities of the area and to comply with policies DM20 of the City Plan Part Two, CP9 of Brighton & Hove City Plan Part One, and QD27 of the Brighton & Hove Local Plan.

4. The music school (F1) use hereby permitted shall not be carried out except between the hours of 08:00 and 20:00 on Mondays to Fridays, and not at any time on Saturdays, Sundays, Bank or Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with policies DM20 of the City Plan Part Two, SU10 and QD27 of the Brighton & Hove Local Plan.

5. The total number of students on site at any one time shall not exceed 200.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to limit trip generation and the impact on the highway network in accordance with policies DM20 of the City Plan Part Two, CP9 of City Plan Part One, SU10 and QD27 of the Brighton & Hove Local Plan

6. No vehicular movements nor any loading or unloading of vehicles shall take place in relation to the use except between the hours 08:00 and 20:00 daily.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 of the City Plan Part Two, SU10 and QD27 of the Brighton & Hove Local Plan

7. Within three months of the date of first use as a Music School, a Travel Plan for the development shall be submitted to and approved in writing by the Local Planning Authority, setting out measures to minimise vehicular travel to/from the school. The Travel Plan shall thereafter be fully implemented in accordance with the approved details.

Reason: To ensure the promotion of safe, active and sustainable forms of travel and comply with policies TR4 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One.

8. Prior to the first use of the site as a Music School as permitted, noise mitigation measures shall be implemented in strict accordance with the acoustic design criteria, review and recommendations contained within the "Noise Impact Assessment", produced by Clarke Saunders Acoustics, Titled: Dolphin House, Brighton, Project Ref: AS12032, Report Ref: AS12032.210310.NIA. Specific reference shall be made to the details in the assessment regarding: "4.1 Control of Noise Transfer" and "4.2 Operational Use" found on pages 5, 6 & 7 of the assessment, and retained as such thereafter.

Reason: To safeguard the amenities of the locality and to comply with policies DM20 of the City Plan Part Two, SU10 and QD27 of the Brighton & Hove Local Plan.

9. The ground floor, first floor and second floor windows on the rear (western) elevation shall be obscured glazed prior to the approved use as a Music School commencing, and thereafter permanently retained as such.

Reason: To safeguard the privacy of the occupiers of the adjoining property and to comply with policies DM20 of the City Plan Part Two, and QD27 of the Brighton & Hove Local Plan.

10. Prior to the commencement of the music school use hereby permitted, a site management plan shall be submitted to and approved in writing by the Local Planning Authority. The management plan should include details for dealing with the arrival and departure of students for classes, activities within common areas, smoking areas, no access (except in emergencies) for students and staff to the rear courtyard area adjoining Dolphin Mews, sound limiters for audio equipment, parking areas and general measures to ensure that the amenity of the neighbouring occupiers is not compromised. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

Reason: To safeguard the amenities of the locality and to comply with policies DM20 of the City Plan Part Two, SU10 and QD27 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. A formal application for any new connection to the public sewer is required to be made by the applicant or developer to Southern Water. To make an application visit: southernwater.co.uk/developing and please read their New Connections Services Charging Arrangements documents which are available on their website via the following link: southernwater.co.uk/developing-building/connection-charging-arrangements
3. The applicant should contact the Highway Authority Travel Plan Officer for advice and information at their earliest convenience to avoid delay (transportdcapps@brightonhove.gov.uk). The Travel Plan should be written entirely through use of the Modeshift Stars online Travel Plan management system (www.modeshiftstars.org), and shall include such measures and commitments as are considered necessary to mitigate the expected travel impacts of the development. The plan should set out as a minimum the following:
For Businesses, Further and Higher Education, Colleges and Universities:
 - (i) The particulars of the development, including the different uses and their quantum, numbers of occupants, times of opening and surrounding transport networks.

- (ii) A series of sustainable transport objectives, aligned to local policy and objectives and the particular needs and circumstances of the development and its occupiers, as established in part through its Transport Report.
- (iii) A commitment to reduce carbon emissions associated with business and commuter/student travel.
- (iv) A baseline and targets for all modes of travel to site, with targets focussed on reductions in the level of car use and mode shift towards sustainable forms of travel. These should be derived directly from the assessment of the proposed development in the Transport Report. Targets should be specified for the year of operational opening and 1, 3 and 5 years after this.
- (v) A range of measures planned to achieve the shift to sustainable modes including but not limited to
 - a) Promote and enable the increased use walking, cycling, public transport,
 - b) Promote public transport, car sharing & car clubs (preferably electric) and Park & Stride as alternatives to polluting vehicle use;
 - c) Increase awareness of and improve road safety and personal security;
- (vi) Results and response to dialogue and consultation with adjacent/neighbouring tenants/businesses;
- (vii) A monitoring framework, which shall include a commitment to undertake an annual staff/student travel survey utilising Modeshift Stars Travel Plan monitoring software, for at least five years, or until such time as the targets identified in section (iv) above are met, to enable the Travel Plan to be reviewed and updated as appropriate.
- (viii) Following the annual staff/student/visitor survey, an annual review will be submitted to the Local Planning Authority within 3 months for review and approval to update on progress towards meeting targets;
- (ix) A commitment to achieve accreditation for Travel Plan activities via Modeshift Stars (or equivalent). Noting that a green accreditation will signal approval of the Travel Plan condition, and a minimum of a Silver award should be attained by the end of the monitoring period.
- (x) The name and contact details of a member of staff to act as Travel Plan Coordinator, and to become the individual contact for the Local Planning Authority relating to the Travel Plan;
- (xi) Details and example of a Travel Pack for staff/students which provides information such as walking & cycle maps, public transport information, and information on how to take up on travel plan measures to promote the use of sustainable travel.
- (xii) A set of Remedial measures will need to be set out with Travel Plans in case targets are missed. The remedial measures will often consist of providing additional measures/incentives to occupants and/or a requirement to reoffer existing incentives and assistance to a wider audience and/or for longer periods.

2. SITE LOCATION

- 2.1. The application relates to a four-storey terraced building located on the western side of Manchester Street. The property's existing, permitted use is as a

language school. However, the application states that the language school is currently only operating in a limited capacity, using part of the ground, second and third floors, with very limited teaching being undertaken given the COVID-19 pandemic and the number of foreign students able to attend. The first floor was previously sublet as offices, as the lawful use allows (as set out below); however it is understood that it has been vacant now for some time.

- 2.2. The site is within a mixed-use area, with several pubs and entertainment venues nearby. The shops and restaurants of St James's Street are situated to the north, the vibrant seafront area to the south. The site is within the East Cliff Conservation Area.

3. RELEVANT HISTORY

- 3.1. **BH2010/03232** Application for Approval of Details Reserved by Conditions 3, 7, 9 and 10 of application BH2010/00559. Approved 08.12.2010.
- 3.2. **BH2010/00559** Change of Use to language school (D1) and/or offices (B1). Approved 10.06.2010.

4. APPLICATION DESCRIPTION

- 4.1. The current application seeks permission to change the use of the site from a language school to a music school. The entire building would be in use as a music school, with ancillary cafe and office elements related to the primary use.
- 4.2. In planning terms, both uses fall within the same Use Class, namely F1(a): Provision of Education (previously use class D1).
- 4.3. However, planning permission is required for the change of use because of a condition restricting the use solely to that of a language school. Specifically, planning permission was granted for a change of use from offices to a language school and/or offices in 2010 (ref. BH2010/00559), with a condition stating the following:
"The proposed D1 use shall be for a language school only and for no other purpose including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to the Class in any statutory instrument revoking and re-enacting that Order with or without modification.
Reason: *The Local Planning Authority would wish to retain control over the use of the premises in order to protect the amenities of the area in accordance with policy QD27 in the Brighton & Hove Local Plan."*
- 4.4. For this reason, planning permission is required to use the site as a music school.

- 4.5. The proposed hours of use are 08:00 and 20:00 Monday to Friday. The maximum number of students on site at any one time would be 200 plus 20 teaching and administration staff. No external alterations are proposed.

5. REPRESENTATIONS

- 5.1. **Five (5)** letters have been received objecting to the proposed development for the following reasons:
- Noise nuisance
 - Litter
 - Opening hours
 - Traffic
 - Highway safety
 - Loss of privacy
 - Operating plan should be submitted
 - Soundproofing conditions should be attached to permission
 - Detrimental impact on property values
- 5.2. **Two (2)** letters have been received in support of the proposed development for the following reasons:
- Positive for young people pursuing music and arts
 - In character with locality and artistic slant of city
 - Student traffic may be lower and not seasonal as existing
- 5.3. Objections relating to a detrimental impact on property values are noted, however is not a material planning consideration.

6. CONSULTATIONS

- 6.1. **County Archaeologist:** No objection No archaeological recommendations to make in this instance.
- 6.2. **County Ecologist:** No objection The proposed development is unlikely to have any impacts on biodiversity and can be supported from an ecological perspective.
- 6.3. **Environmental Health:** No objection subject to conditions relating to hours of use and noise mitigation.
- 6.4. **Planning Policy:** No objection On the basis that amenity of adjacent occupiers is not compromised, the proposal would not raise any policy concerns.
- 6.5. **Southern Water :** No objection A formal application for any new connection to the public sewer to be made by the applicant or developer is required.

- 6.6. **Sussex Police:** No objection Provided the proposed measures contained within this application to reduce noise impact to the local community is robustly implemented
- 6.7. **Sustainable Drainage:** No objection
- 6.8. **Sustainable Transport:** No objection subject to Travel Plan condition and restricted use of the premises.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report
- 7.2. The development plan is:
 - Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove Local Plan 2005 (retained policies March 2016);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour JAAP (adopted October 2019).
- 7.3. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
CP3	Employment land
CP9	Sustainable transport
CP15	Heritage

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

TR7	Safe Development
TR14	Cycle access and parking
SU9	Pollution and nuisance control
SU10	Noise Nuisance
QD27	Protection of amenity
HO20	Retention of community facilities
HE3	Development affecting the setting of a listed building
HE6	Development within or affecting the setting of conservation areas

Brighton & Hove City Plan Part 2

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the key CPP2 policies considered in determining this application is set out below where applicable.

DM9	Community Facilities
DM20	Protection of Amenity
DM26	Conservation Areas
DM29	The Setting of Heritage Assets
DM33	Safe, Sustainable and Active Travel
DM40	Protection of the Environment and Health - Pollution and Nuisance

Supplementary Planning Documents:

SPD14	Parking Standards
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9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of the proposed development, impact on neighbouring residential properties and any transport/ highways implications.

Principle of Use:

- 9.2. The permitted use of the site is as a language school (former D1 use class) and/or offices (former B1 use class) as approved under BH2010/00559. The earlier permission is restricted by a condition to retain the D1 element of the approved scheme as a language school only and for no other use within the D1 use class, in order to protect neighbour amenity.
- 9.3. The applicant is proposing to operate the site as a music school, which would retain an educational use on the site plus ancillary uses including offices in connection with the music school (e.g. estates and facilities, exams and administration etc) and facilities such as a café.
- 9.4. Planning Policy HO20 of the Brighton and Hove Local Plan and emerging policy DM9 of the City Plan Part Two (which can be given significant weight) seek to retain appropriate community facilities. The resulting use of the facilities would remain as educational use (Class F1, as stipulated in the amended Use Classes Order (September 2020)). Therefore, there would be no loss of community facilities as a result of the application.
- 9.5. Policy CP3 of the Brighton & Hove City Plan states that sufficient employment sites and premises will be safeguarded in order to meet the needs of the city. It is understood that first floor was previously sublet as offices separate from the language school use, as allowed by permission BH2010/00559. However, this

floor has been vacant for some time. Prior to 2010 the site was entirely in office use.

- 9.6. The principle of the loss of offices was accepted under BH2010/00559 as it was considered that the scheme would bring an empty building back into use, to the benefit of the local economy. That planning permission allows the whole building to be used for education, offices or a combination of the two, and therefore accepted the principle of the loss of office use, if solely occupied as an education establishment. Given this fallback, the minimal loss of office use is considered acceptable.
- 9.7. The Council's Planning Policy Officer has no objections to the scheme.
- 9.8. There is, therefore, no objection in principle to the loss of offices by way of the entire premises being used for educational purposes.

Design and Appearance:

- 9.9. The site is within the East Cliff Conservation Area and opposite a listed building at 14-17 Manchester Street.
- 9.10. In considering whether to grant planning permission for development which affects a listed building or its setting, the Council has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Moreover, when considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.11. Case law has held that the desirability of preserving a listed building or its setting or any features of special architectural or historic interest it possesses, and the desirability of preserving or enhancing the character or appearance of a conservation should be given "considerable importance and weight".
- 9.12. No external alterations are proposed as part of this application. Given that the building is predominantly in use as a language school, as existing, it is considered that the change to a music school, with similar pupil numbers and hours of use retained, would have no significant impact on the historic character or appearance of the surrounding conservation area. The setting of the nearby listed building would be unchanged.

Impact on Amenity:

- 9.13. Policy QD27 of the Brighton & Hove Local Plan and emerging Policy DM20 of City Plan Part 2 (which can be given significant weight) state that planning permission for any development or change of use will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and/or adjacent users, residents, occupiers or where it is liable to be detrimental to human health.
- 9.14. It is proposed that the site would be used for the teaching of music. It is therefore acknowledged that the use would need to be carefully managed, such that music

school can peacefully co-exist with the surrounding residents and businesses. It is stated in the application that the maximum number of students on site at any one time would be 200, with up to 20 staff. This is similar to the capacity of the existing language school, as the website for the Dolphin House EC language school refers to a capacity of 270 students.

- 9.15. A Noise Impact Assessment and Noise Management and Mitigation Plan have been submitted with the application. The documents note that there would be no noisy ensemble classes and many of the instruments (such as keyboards, guitars and electric drums) taught would be electronic, which would allow students to wear headphones, negating the need for continuous amplified music.
- 9.16. It is recognised, however, that amplified music and louder instruments would be played during some lessons. For this reason, the layout and internal construction of the site have been designed to mitigate against amplified noise transmission. The application states the following:
- A majority of the spaces in which amplified music would be played are situated away from party walls;
 - Rooms serving other purposes would often separate the 'noisy' spaces from the party walls, thereby acting as acoustic buffer zones;
 - The majority of 'noisy' spaces are situated on the Manchester Street façade, which experiences higher levels of ambient noise than the rear façade, thereby providing a greater level of sound masking.
- 9.17. Within the submitted Noise Impact Assessment it is stated (paragraph 2.2.14) that "that instrument-specific classes will be provided at Dolphin House, with ensemble classes, which could be expected to involve higher noise levels, provided at BIMM's existing Hove facility"
- 9.18. The Council's Environmental Health Officer (EHO) has been consulted in relation to potential noise impacting upon end users/ occupants and any nearby existing noise sensitive receptors. The EHO confirms that the submitted Noise Impact Assessment has made detailed reference to applicable standards and guidelines. The methodology used and calculations made are recognised techniques in predicting noise levels, the impact of them and any necessary mitigation.
- 9.19. Therefore, the EHO has no objection to the scheme, subject to the proposed measures relating to attenuation, construction and soundproofing detailed in the Noise Impact Assessment. The noise mitigation measures/ details can be secured by condition, as can hours of use (stated to be Monday to Friday 08:00 - 20:00). The existing hours of use are 08.00 and 20.00 on Mondays to Fridays and 10.00 and 16.00 on Saturdays, therefore there will actually be fewer hours of operation than is currently approved.
- 9.20. It is noted that the application confirms that the site operation involves security personnel situated at the entrance/exit, who will aid in dispersing students after lessons, so that pre-existing ambient noise levels are not unduly affected. This can be secured by an operating / management plan.

- 9.21. Overall, given the current planning use of the site and the proposed noise mitigation measures, it is not considered that the proposal would have a significantly greater impact on neighbouring properties, in accordance with policy QD27 of the Brighton & Hove Local Plan and emerging policy DM20 of City Plan Part 2

Sustainable Transport:

- 9.22. There is no car parking (including disabled) or cycle storage provision associated as part of the proposed development. However, it is noted that this is as existing for the language school and that the site is constrained. There are on-street disabled parking bays in the area, and blue badge holders can also park on double yellow lines up to 3 hours where not causing an obstruction. The Council's Highways Officer does not wish to object to lack of provision, given that the site is constrained, and in a central location close to transport and cycle hubs.
- 9.23. The proposed change of use from language school to music school is unlikely to increase overall trips to the site. It is noted that the type of trips to the site may differ from the existing language school and there may be the possibility of an increase in car journeys to the site, possibly from the need for repeat trips to drop-off and return to pick up the music students / clients; and the need to use the private car to transport some large or bulky musical instruments.
- 9.24. To manage and monitor these car trips, the Council's Highways Officer has requested that a Travel Plan is provided within 3 months of the music school opening, to assist in reducing car use; and promote alternative use of sustainable travel modes to the site. This can be secured by condition.
- 9.25. Due to the number of possible uses within the F1 use class, which can have varied and different travel patterns and greater trip generation, the Highways Officer has requested that the use of the premises is restricted to the purpose of a Music School. This is considered acceptable and can be secured by condition.

Conclusion:

- 9.26. The site would retain an educational establishment. The loss of office space has been previously accepted in principle and it is acknowledged that the existing planning permission does allow the whole building to be used for education purposes. There are no major changes proposed for the music school, to the floor area, staff/ student numbers and opening hours, when compared to the existing use as a language school. The Council's Planning Policy Officer supports the application, as does the Council's Environmental Health Officer, subject to the implementation of the proposed noise mitigation measures. The proposal is therefore considered acceptable and is recommended for approval.

10. EQUALITIES

- 10.1. There is level access provided into the building. There is no lift, only stairs between floors however this as per the existing situation.

