

<u>No:</u>	BH2023/01522	<u>Ward:</u>	Kemptown Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	45 George Street Brighton BN2 1RJ		
<u>Proposal:</u>	Change of use from tattoo parlour (Sui Generis) to low/non-alcoholic bar (Sui Generis). (Retrospective).		
<u>Officer:</u>	Emily Stanbridge, 293311	tel: <u>Valid Date:</u>	08.06.2023
<u>Con Area:</u>	East Cliff	<u>Expiry Date:</u>	03.08.2023
<u>Listed Building Grade:</u>	N/A	<u>EOT:</u>	
<u>Agent:</u>	N/A		
<u>Applicant:</u>	Torstigbar Ltd Unit 3 45 Albion Court George Street Brighton BN2 1RJ		

1. RECOMMENDATION

Conditions:

- 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			25 May 2023
Proposed Drawing	D100		25 May 2023
Proposed Drawing	D200		25 May 2023
Proposed Drawing	D205		7 June 2023
Other	Noise Impact Assessment		17 August 2023

- The use hereby permitted shall not be carried out except between the hours of 17:00 and 23:00 on Tuesdays to Fridays and 13:00 and 23:00 on Saturdays (except for up to five days per calendar year when the premises may operate between the hours of 17:00 and 01:00 on any given day) for special events.

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

- The use hereby permitted shall be carried out in accordance with the recommendations contained in the Noise Assessment report received on the 17th August 2023.

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

Informatives:

- 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. This application does not purport to grant advertisement consent for the projecting sign to the front elevation of the property. A separate application for advertisement consent should be sought for this alteration.

2. SITE LOCATION

- 2.1. The application relates to a ground floor commercial unit situated within a three-storey, mid terrace building. The two floors above the application property are in residential use. The property is situated on George Street which comprises a mix of commercial and residential units. The property is also located within the East Cliff Conservation area.

3. RELEVANT HISTORY

- 3.1. **BH2017/02453**: Change of use from retail (A1) to tattoo shop (Sui Generis). Approved June 2019.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the retrospective change of use from tattoo parlour (Sui Generis) to low/non-alcoholic bar (Sui Generis).

5. REPRESENTATIONS

- 5.1. **Fifteen (15)** letters of representation have been received objecting to the proposed development on the following grounds:
 - There have been noise nuisance complaints
 - Questioned whether appropriate noise checks have been carried out
 - Music played until late at night
 - Late opening hours
 - The buildings above are residential and suffer frequent disturbance
 - The change of use is unsuitable
 - The building pre-dates modern construction standards and noise travels throughout the building
 - People gather on pavements outside the entrance to the residential units
 - George Street already has too many bars/coffee shops
 - Impact on property values
 - The previous commercial uses have been during the daytime
- 5.2. **Ninety Six (96)** letters of representation have been received in support of the application on the following grounds:

- The bar is a welcoming, inclusive and safe place
- The bar provides a safe venue for those who cannot or choose to not drink alcohol
- The council should support small and innovative businesses
- People travel into the city to visit the bar and boost the local economy
- The bar is a community and cultural asset
- The bar decreases anti-social behaviour
- This is the only non-alcoholic bar in the city
- The bar is less disruptive than a traditional bar
- The street already has traditional bars/pubs on it
- The bar works alongside local suppliers and businesses
- Never issues with antisocial behaviour
- Supports the mental health of Brighton residents
- The bar is considerate to neighbours
- The bar helps to lift the look of the street
- The bar provides choice and variety for non-drinkers

6. CONSULTATIONS

Internal

- 6.1. **Environmental Health** Initial comments 29.06.2023 Further information required

A noise impact assessment should be submitted as part of the application.

Comments following submission of a noise impact assessment 08.09.2023

- 6.2. Approval of the application is recommended, there are no objections to the scheme from a noise perspective.

- 6.3. **Highways** No objection

External

- 6.4. **Sussex Police** No objection

There are no concerns from a crime prevention viewpoint.

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 City Plan Part Two (adopted October 2022)
- East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);

- East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
- Shoreham Harbour Joint Area Action Plan (adopted October 2019).

8. POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP2 Sustainable economic development

CP4 Retail Provision

CP5 Culture and Tourism

CP8 Sustainable buildings

CP9 Sustainable transport

CP15 Heritage

Brighton & Hove City Plan Part 2

DM12 Regional, Town, District and Local Shopping Centres

DM20 Protection of Amenity

DM26 Conservation Areas

Supplementary Planning Documents:

SPD14 Parking Standards

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to the principle of development, impact on the wider conservation area, the impact on neighbouring amenity and sustainable transport impacts.
- 9.2. When considering whether to grant planning permission for development in a conservation area the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
- 9.3. Case law has held that the desirability of preserving or enhancing the character or appearance of a conservation area should be given "considerable importance and weight".

Principle of development

- 9.4. This application seeks permission for the retrospective change of use from a tattoo parlour (sui generis) to a low/non-alcoholic bar (sui generis). Whilst both uses fall within the sui generis use class, planning permission is required for any change in the use of the premises.
- 9.5. Planning permission was granted in 2017 for the use of the application site as a tattoo parlour. Since November 2022, the property has been in use by the current occupiers, Torstig, comprising a low/non-alcoholic bar, serving low or no

alcohol beverages. The bar does not serve any drinks that contain more than 0.5% alcohol.

- 9.6. The former use of the site as a tattoo parlour is not protected by local plan policies and the loss of this former use is therefore considered acceptable. The application site is located within a defined Local Shopping Centre under policies CP4 of City Plan Part One and DM12 of City Plan Part Two, and retains a commercial use at ground floor which provides an active frontage, which accords with policy. It is further considered that the change of use will still maintain the commercial character of the street at ground floor level, and therefore will not impact the character of the conservation area.
- 9.7. The change use to a low/non-alcoholic bar is therefore considered acceptable in principle.

Design and Appearance

- 9.8. No external changes are proposed as a part of this application. The only difference between the current external appearance and that previous is the external paint finish which did not require planning permission.
- 9.9. It is noted that concerns have been raised by neighbours regarding a drop-down bench that had been installed to the shop front of the building. This temporary structure had been installed to allow patrons to sit outside the bar. The applicant has confirmed that this alteration to the building does not form part of this planning application and has provided evidence to demonstrate that the bench has now been removed. The application does not therefore propose any external seating.
- 9.10. The change of use will not impact upon the character of the host building and will similarly not impact upon the character of the conservation area, given the retention of a commercial use, which will retain a shopfront and attract pedestrians in a similar fashion as the previous use. Accordingly, the application will preserve the character and appearance of the conservation area in accordance with national policy and City Plan Part One policies CP12 and CP15 and City Plan Part 2 policies DM18 and DM26.
- 9.11. It is noted that the plans include a projecting sign to the right-hand side of the front elevation. This application does not purport to grant advertisement consent for this advertisement. A separate application for advertisement consent is required for this addition.

Impact on Amenity:

- 9.12. Policy DM20 states that planning permission for development including change of use will be granted where it would not cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is not liable to be detrimental to human health.
- 9.13. The application is supported by an acoustic report. The submitted noise impact assessment seeks to provide assurance that the bar would not result in harm to

neighbouring residential properties, particularly those above the application site in Albion Court.

- 9.14. The proposed bar operates 5 days a week, Tuesday to Friday 5pm-11pm and on Saturdays 1pm-11pm. Whilst background music is played on site through speakers, no live music is played in the premises.
- 9.15. It is understood that during the lifetime of the application and since initial complaints were received (and prior to the submission of a noise impact assessment), the applicant has put measures in place to reduce noise levels within the bar. Measures include relocating the speakers to a lower position away from the ceiling and installation of thick curtains to the rear of the bar. Further, the removal of the bench to the front of the property which provided an external seating area for patrons will limit noise outside the premises.
- 9.16. The applicant has also decreased volume levels of any music played within the venue in accordance with advice given by Environmental Health. During an officer site visit, these noise levels were clearly displayed behind the bar for all staff members to follow.
- 9.17. The noise impact assessment submitted is considered to be robust in its methodology and analysis of results, as confirmed by the council's Environmental Health Team. The report concludes that even with the worst-case scenario applied, (based on hourly internal sound pressures in the bar recorded over a three day period) the predicted sound impact within the living room of the property directly above the bar (which would be most affected), would be within industry standard guidelines. The report therefore concludes that the proposed use of the application property would not have a harmful impact on neighbouring residential occupiers by way of noise impact.
- 9.18. The applicant has requested that the bar have extended opening hours to cover a small number of exceptional events such as New Year's Eve and Eurovision. Given that these extended hours would occur during night-time hours (23:00-07:00) consideration has been given to the additional impact this may have on the nearest residential properties. From the results set out in the noise impact assessment, it is evident that the worst-case scenario in terms of noise volume, even when applied during night-time hours would not exceed the industry guidelines. For reference the predicted sound impact in the residential unit above would be 26dB, below the night-time criterion of 30dB. Given the infrequency of these later openings, which would be limited to a maximum of 5 times per year, this is on balance considered acceptable.
- 9.19. There have been no changes to the property that would impact the privacy of neighbouring occupiers and therefore no objection is had in this regard.
- 9.20. The proposed use of the site as a commercial bar is appropriate in this mixed-use location and is not considered to result in harmful amenity impact to neighbouring properties. As such, subject to conditions restricting opening hours, the development is in accordance with Policy DM20 of the Brighton and Hove City Plan Part 2.

Sustainable Transport:

- 9.21. The change of use would not generate significant additional vehicle movements over and above those associated with the previous use. There are a number of bars and shops in this street and therefore the increase in trips is likely to be linked to close by amenities. No additional parking is being proposed and therefore the scheme would accord with the objectives of City Plan policy CP9 which encourages sustainable transport. There is an existing loading bay located in close proximity to this proposal. This will facilitate the loading and unloading of supplies.

- 9.22. The application does not propose any cycle storage. However, the only location for possible bike storage would be at the rear of the property which would be difficult to access. The building is located close to public transport and there are public cycle storage facilities on nearby St. James's Street. Cycle storage facilities are therefore not requested in this instance.

10. EQUALITIES

- 10.1. None identified.

11. CLIMATE CHANGE/BIODIVERSITY

- 11.1. None identified

