

<b><u>No:</u></b>	<b>BH2024/00507</b>	<b><u>Ward:</u></b>	<b>Hanover &amp; Elm Grove Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>62 Albion Hill Brighton BN2 9NX</b>		
<b><u>Proposal:</u></b>	<b>Renovation of existing public house (sui generis) including internal alterations to the existing first floor ancillary landlords/Managers accommodation (sui generis) with part demolition and erection of ground floor and first floor extensions, replacement windows and doors, facade alterations, roof alterations including raising the roof ridge height and all associated works.</b>		
<b><u>Officer:</u></b>	Steven Dover, tel:	<b><u>Valid Date:</u></b>	12.03.2024
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	07.05.2024
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	07.06.2024
<b><u>Agent:</u></b>	N/A		
<b><u>Applicant:</u></b>	Dragonfly Architectural Services Limited 62 Albion Hill Brighton BN2 9NX		

## 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 and block plan	124 - PR - 001		6 March 2024
Block Plan	124 - 01EX - 101		26 February 2024
Proposed Drawing	124 - 01PR - 101		3 May 2024

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 development hereby permitted shall not be commenced until samples/details of the following materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority:

- a) samples/details of render and roof tiling (including details of the colour of render/paintwork to be used)

- b) samples/details of all glazed tile cladding to be used, with comparison examples of original historic tiles including, if necessary, tiles containing lettering, fascia brackets and the profiled string courses.
- c) samples/details of all hard surfacing materials. Development shall be carried out in strict accordance with the approved details.

**Reason:** To ensure the satisfactory replication of elements of this locally listed building and to comply with policy DM28 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One

4. Notwithstanding the approved plans, prior to any internal or external works to the western and southern elevations, a full photographic survey of the existing glazed ceramic tiling and lettering on the façade of the building shall be carried out and submitted to the Local Planning Authority (LPA) for approval, with details of those tiles due to be replaced due to unauthorised removal or currently missing, details of those tiles to be repaired or reinstated due to existing damage, and details of those tiles which are proposed to be removed to facilitate the approved works, and for their replacement or repair to be agreed in writing by the LPA prior to any internal or external works to the western and southern elevations. The works to these elevations shall then be carried out in full accordance with approved details, unless otherwise agreed in writing by the LPA. All replacement tiling and lettering shall be replicated in font, size, colour, material and finish to match the existing.

**Reason:** To ensure the satisfactory retention and replication of elements of this locally listed building and to comply with policy DM28 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One

5. The development hereby permitted shall not be first occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

**Reason:** To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DM33 of Brighton & Hove City Plan Part 2, and SPD14: Parking Standards.

6. The hard surfaces within the landscaping 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 property.

**Reason:** To reduce the risk of flooding and pollution and increase the level of sustainability of the development and to comply with policies CP8 & CP11 of the Brighton & Hove City Plan Part One.

7. All new render finishes shall be smooth, lime-based, wet render without external beads, stops, bell drips or expansion joints.

**Reason:** To ensure the satisfactory preservation of this locally listed building to comply with policies DM28 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part one.

8. No works shall take place to the windows until full details of all new windows and their reveals and cills including 1:20 scale elevational drawings and sections and 1:1 scale joinery sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out and completed fully in accordance with the approved details and maintained and retained as such thereafter.  
**Reason:** To ensure the satisfactory preservation of this listed building and to comply with policies DM27 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.
9. No works shall take place to the doors until full details of the proposed new doors including 1:20 scale sample elevations and 1:1 scale joinery profiles have been submitted to and approved in writing by the Local Planning Authority. New doors shall be of traditional timber panel construction.  
**Reason:** To ensure the satisfactory preservation of this listed building and to comply with policies DM27 of Brighton & Hove City Plan Part 2 and CP15 of the Brighton & Hove City Plan Part One.
10. If during construction, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning Authority), shall be carried out until a method statement identifying and assessing the risk and proposing remediation measures, together with a programme for such works, shall be submitted to the Local Planning Authority for approval in writing. The remediation measures shall be carried out as approved and in accordance with the approved programme.  
**Reason:** To safeguard the health of future residents or occupiers of the site and to comply with policy DM41 of City Plan Part 2, and SU11 of the Brighton & Hove Local Plan.
11. The development hereby approved shall not be occupied until a report and scheme for the proposed Soundproofing the Party Walls/Floors between the ground floor public house the first floor ancillary residential unit and the party walls of No.63 Albion Hill has been submitted to and approved in writing by the Local Planning Authority.  
Unless otherwise agreed in writing, the submitted scheme shall demonstrate it would achieve a minimum of 5dB(A) better than Approved Document E in terms of horizontal and vertical airborne sound insulation performance. The approved scheme shall be permanently maintained thereafter. The developer shall certify to the Local Planning Authority that the noise mitigation measures agreed have been installed.  
**Reason:** To safeguard the amenities of the occupiers of future occupants and neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.
12. Prior to first use of any plant or machinery associated with the approved development an acoustic report should be submitted to the Local Planning Authority demonstrating that noise associated with 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, and retained as such thereafter. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS4142:2014-A1:2019 (or the relevant updated Standard). In addition, there should be no significant low frequency tones present.

**Reason:** To safeguard the amenities of future occupants and neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

13. The development hereby approved shall be implemented in strict accordance with the internal layouts detailed on the proposed floorplans (124-01PR-101) received on 03/05/2024. The internal layouts shall be retained as first implemented thereafter.

**Reason:** To ensure an acceptable standard of accommodation for future occupiers is provided and maintained thereafter and to comply with policy DM1 of the Brighton and Hove City Plan Part Two.

14. The ground floor outdoor area to the rear of the public house as detailed 'Pub Private Access/Store' and 'Accommodation External Storage' on approved plan reference number: 124-01PR-101 received on the 3rd May 2024, shall only be used for storage and access, and not as outdoor amenity space for users of the building or staff at anytime.

**Reason:** To safeguard the amenities of future occupants and neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

15. The development hereby permitted shall incorporate at least three (3) swift bricks within the external walls of the development and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with Policy DM37 of Brighton & Hove City Plan Part 2, Policy CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

16. One or more bee bricks shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with policies CP10 of the Brighton & Hove City Plan Part One, DM37 of the Brighton & Hove City Plan Part Two, and Supplementary Planning Document SPD11: Nature Conservation and Development.

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. Where asbestos is found/suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: [www.hse.gov.uk/asbestos](http://www.hse.gov.uk/asbestos).
3. The applicant should be aware that the site may be in a radon affected area. If the probability of exceeding the Action level is 3% or more in England and Wales, basic preventative measures are required in new houses, extensions, conversions and refurbishments (BRE2011). Radon protection requirements should be agreed with Building Control. More information on radon levels is available at <https://www.ukradon.org/information/ukmaps>
4. The applicant is advised that advice regarding permeable and porous hard surfaces can be found in the Department of Communities and Local Government document 'Guidance on the permeable surfacing of front gardens'.
5. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height of approximately 5 metres above ground level, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place where appropriate.
6. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level.
7. The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: [ehl.licensing@brighton-hove.gov.uk](mailto:ehl.licensing@brighton-hove.gov.uk), website: [www.brighton-hove.gov.uk/licensing](http://www.brighton-hove.gov.uk/licensing)).
8. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the department from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.

## **2. SITE LOCATION**

- 2.1. The application site relates to 62 Albion Hill which is a two storey locally listed Public House considered of significant architectural value sited within a residential area typified by two storey Victorian terraced housing,
- 2.2. The site is located on the corner of Montreal Road and Albion Hill and as well as being locally listed, it has also been designated as an Asset of Community Value (ACV) since 13th May 2022 where it was listed as such by the Brighton & Hove

City Council, following nomination on the 1st April 2022 by a group called the 'Friends of the Montreal Arms'.

### **2.3. Statement of Significance**

- 2.3. This is an historic building at the junction of Montreal Road and Albion Hill, close to Queens Park. It is a two-storey corner property, built as a public house within a residential area, typified by two storey Victorian terraced housing. The property has decorative tiling to the ground floor, with render at first floor and a tiled hipped roof with deep eaves. It has a corner entrance, with further doors and two windows to the front and side elevation. It is likely that the windows originally contained stained glass (such as that to the Horse & Groom, Islingword Road or Rose Hill Tavern, Rose Hill Terrace), which no longer survives.
- 2.4. The fascia refers to the 'United' Brewery (the Portsmouth & Brighton United Breweries Ltd). This brewery was formed by the merger of the Portsmouth United brewery and Brighton's Rock brewery in 1927. The green-tiled frontage is typical of that company's design.
- 2.5. This property was included in the Council's list of buildings of local historic interest in 2015 under the following criteria:
- A. Architectural, design and artistic interest - As a good example of a regional approach to public house frontage design.
  - B. Historic and evidential interest - The green-tiled frontage is indicative of the 'United Breweries', a local brewery company who owned a number of pubs in the area, including for example the Heart & Hand, North Road and Horse & Groom, Islingword Road.
  - C. Townscape interest - It is not within a conservation area, the building contributes greatly to the streetscene
  - F. Intactness - The building retains its design integrity, despite replacement windows

## **3. RELEVANT HISTORY**

- 3.1. **ENF2022/00113** - Change of Use - HMO and Removal of Green Tiles from Exterior. Enforcement Notice issued 20/04/2022
- 3.2. **BH2024/00583** - Change of use from public house (sui generis) to create a new commercial unit (E) and 1no first floor flat including part demolition and erection of ground floor and first floor extensions, replacement windows and doors, revised fenestration, facade alterations, roof alterations including raising the roof ridge height and all associated works. Refused 03/05/2024 for the following reasons:
- R1:*
- It is considered that the proposed external alterations would diminish the architectural, design and artistic interest, historic and evidential interest, and also the historic intactness of the building and would then result in such loss that the significance of the locally listed asset is entirely lost in heritage terms contrary to policies CP12 and CP15 of the City Plan Part One and policies DM10 and DM28 of City Plan Part Two.*

R2:

*Insufficient details and information have been provided to demonstrate that robust attempts have been made to secure an on-going public house use, and to demonstrate that the public house use is not economically viable and could not be made viable in the future. Further, no alternative community use is proposed resulting in the loss of an Asset of Community Value (ACV). The proposals are therefore contrary to Policy DM10 of the Brighton and Hove City Plan Part 2.*

- 3.3. **PRE2023/00196** - Advice in relation to potential redevelopment works to the Public House - Advice issued 05/12/2023
  - 3.4. **BH2021/03967** - Display of 2no externally illuminated fascia signs, 1no externally illuminated hanging sign, 2no non-illuminated fascia boards, 1no non-illuminated gable board and 2no non-illuminated poster cases. Approved 20/12/2021
  - 3.5. **BH2021/03131** - Display of 2no. externally illuminated fascia signs, 1no. externally illuminated hanging sign, 2no. non-illuminated fascia boards, 1no. non-illuminated gable board and 2no. non-illuminated poster cases. Withdrawn 26/10/2021
  - 3.6. **BH2021/03130** - Erection of single storey rear extension. Withdrawn 26/10/2021
  - 3.7. **BH2021/03088** - Removal of existing external ceramic tiles, replacement of existing ground floor windows with new bi fold windows, replacement lighting, re-rendering and redecoration works. Withdrawn 26/10/2021
  - 3.8. **BH2010/03442** - Installation of trellis and barrier to restrict access to smoking shelter. Approved 24/12/2010
  - 3.9. **BH2010/01815** - Variation of condition 1 of approved application BH2008/00356 to state that the garden area must be screened off and closed from 10:00pm until 10:00am Monday to Sunday. A maximum of 5 smokers will be permitted to use the concrete area directly outside the back door of the pub from 10:00pm until 12:30am Monday to Thursday, until 1:30am on Friday and Saturday and until 12:30am Sundays (retrospective). Refused 31/08/2010
  - 3.10. **BH2008/00356** - Erection of smokers shelter to rear - retrospective. Approved 10/06/2008
- Asset of Community Value**
- 3.11. CR/2022/0007 - First-tier Tribunal appeal against the listing as an Asset of Community Value (ACV). Appeal dismissed 6th November 2023.

#### **4. APPLICATION DESCRIPTION**

- 4.1. Planning permission is sought to remodel the existing property, incorporating the renovation of the existing public house (sui generis), including internal

alterations to the existing first floor ancillary landlords/Managers accommodation (sui generis). The proposed works include part demolition and erection of a ground floor and first floor extensions, replacement windows and doors, facade alterations, and roof alterations including raising the roof ridge height with changes to the existing pitch.

- 4.2. The application has been amended during the course of the application to retain the public house use and ancillary accommodation, with minor internal changes to the layout, due to officer concerns regarding the loss of the public house use without justification, and the loss of the Asset of Community Value (ACV). The current application therefore seeks no change of use from the current use as a Public House with Ancillary First Floor Accommodation (Sui Generis Use Class).
- 4.3. The application as submitted sought the refurbishment of the existing public house use at ground floor (sui generis) and creation of 1no first floor flat (C3) with the loss of the Landlord/Manager Flat, the external changes were the same as currently considered,

## 5. REPRESENTATIONS

- 5.1. **Five (5)** comments (excluding repeats from same interested parties) received objecting and raising the following issues (**prior to amended plans with no change of use proposed**):
- Adverse effect on the Listed Building
  - Adversely affects Conservation Area
  - Applicant trying to reduce cost by using cheap replacement tiles, high standard tiles should be used
  - Pub is an Asset of Community Value (ACV) and applicant is trying to bypass legislation
  - Can't apply for change of use until the Pub is marketed for 2 years
  - Public House use is Sui Generis Use Class with no Permitted Development Rights
  - Seeks to convert first floor accommodation into a luxury flat
  - Roof increase in height is to provide another flat at a later date
  - Why does the roof need to be raised
  - Applicant has other properties which have caused concern to the public
  - No affordable housing provided
  - Poor design
  - No marketing of pub to support its loss
  - Residential amenity
  - Overdevelopment
  - Building should be restored to original condition
  - No confidence in developer due to past actions
  - False statements in the supporting documents
- 5.2. **Two (2)** further comments received objecting and raising the following issues (**Post amended plans with no change of use proposed**):

- Applicant should be made to adhere to enforcement notice prior to any new planning applications being approved
  - Public house should be restored and then marketed properly
  - Why does the roof need to be raised
  - Heritage tiles should be properly sourced so the pub looks the same as previously
- 5.3. **One (1)** comment received commenting on the following issues:
- Any new development should ensure that adequate soundproofing is provided between party walls to protect surrounding residents
  - Hope that a solution to remove an empty and decaying/degrading property can be resolved soon

## 6. CONSULTATIONS

### Internal

- 6.1. **Economic Development:** No comments to make in relation to the application
- 6.2. **Environmental Health:** Approve subject to conditions March 2024  
If approved the public house will remain. The applicant must ensure that there is adequate sound proofing to ensure that noise on ground does not impact on the residential area on first floor and surrounding residents.
- 6.3. **Heritage:** No objection in principle - subject to conditions 25th March 2024  
The information provided is satisfactory for us to determine that the development can be made acceptable in relation to impacts on heritage provided that the retention of all intact tiles, and tiles with surface scuffing and / or minor damage, which are not required to be removed to enable the repair of structural steelwork is secured.
- 6.4. Various pre commencement conditions are required in relation to the proposed building materials and detailed drawings of the fenestrations.
- 6.5. **Policy:** Support 9th May 2024  
The renovation of the building and retention of the bar area at ground floor level to allow for continued pub use is supported. The amended plans which retain the upstairs accommodation as ancillary accommodation, as opposed to the formerly proposed change of use to private residential accommodation, is also supported as this should help to maintain the desirability of the pub to new operators.
- 6.6. **Private Sector Housing:** No comments to make in relation to the application
- 6.7. **Transport:** No objection March 2024  
No objection subject to cycle condition and provision of 2 spaces for the commercial floorspace and 1 space for residential floorspace.
- 6.8. Changes of use raises no concerns and development unlikely to have any significant increase in trips over the existing use. Although timings may change.

External

- 6.9. **Conservation Area Group (CAG):** The group recommend approval 2nd April 2024:

The Group noted the ACV status and that it is locally listed. It also noted the Council's policy DM10 regarding the protection of public houses.

- 6.10. **Southern Water:** No objection subject to details of the proposed means of foul sewerage and surface water disposal and a formal connection.

## 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 (JAAP) 2019.

## 8. RELEVANT POLICIES

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP8 Sustainable buildings

CP10 Biodiversity

CP12 Urban design

CP15 Heritage

Brighton & Hove City Plan Part Two

DM10 Public Houses

DM18 High quality design and places

DM20 Protection of Amenity

DM21 Extensions and alterations

DM28 Locally Listed Heritage Assets

DM33 Safe, sustainable and active travel

DM37 Green Infrastructure and Nature Conservation

DM40 Protection of the Environment and Health - Pollution and Nuisance

DM44 Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD09 Architectural Features

SPD11 Nature Conservation & Development

SPD12 Design Guide for Extensions and Alterations

SPD17 Urban Design Framework

**9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the impact of the proposed development on the appearance and character of the locally listed building, the impacts on the Asset of Community Value (ACV), the wider area and the amenities of adjacent occupiers and future residents.

**Principle of development**

Asset of Community Value (ACV)

- 9.2. The building and use as a public house has been confirmed as an ACV and this forms a material consideration in relation to this planning application.
- 9.3. The local community has asserted that the existing building and public house use adds value to the local community, not just in relation to the public house use, but also the appearance of and history of the building itself in the streetscene. An appeal against the ACV was unsuccessful under case reference CR/2022/0777 with the decision issued 6th November 2023.
- 9.4. It should be noted that a listing as an ACV gives no right of access to the land concerned: the only right that follows from a listing is the right of a community interest group to bid to purchase the listed land should the owner intend to sell.
- 9.5. The current application would retain the existing historic building appearance and public house use, which would not undermine the ACV use and the building related to it. This is supported by the LPA.
- 9.6. The scheme as originally submitted proposed loss of the ancillary Landlord/Managers Flat at first floor, with a new residential open market flat proposed to replace it. This would have resulted in the loss of floorspace which is currently used as part of the Public House, with no justification, and no alternative community use as required under Policy DM10 (below). In addition, the loss of the existing ancillary accommodation would adversely affect the future operation of the pub by making it less attractive to prospective operators and would also have undermined the continuance of the public house as an Asset of Community Value. Therefore, amendments were sought from the applicant to the plans and description to keep the existing public house use (Sui Generis), across all the floorspace, with no change of use or new units created.

Policy DM10

- 9.7. As set out above the current lawful use of the property is as a public house which is in a Sui Generis Use Class. Policy DM10 (Public Houses) seeks the protection of Public Houses.

- 9.8. The revised plans and application description are for the retention of the Public House use and the ancillary accommodation at first floor level (Use Class Sui Generis).
- 9.9. Policy DM10 'Public Houses' applies. This policy states:
1. *Planning permission will not be granted for development that would result in the loss of a pub except where:*
    - (a) *it can be demonstrated that the pub is not economically viable now and could not be made viable in the future; and*
    - (b) *it can be demonstrated that the local community no longer needs the pub and alternative provision meeting a similar need is available in the locality.*
  2. *Proposals involving the loss of floorspace (including external areas) and facilities ancillary to the operation of the public house, will not be supported where the operation or customer appeal of the public house will be adversely affected.*

*Where an alternative use can be justified, priority will be given to re-use of the premises or site for alternative community facilities.*

- 9.10. The proposed development seeks no change of use from a Public House and there would be no loss of floorspace. The proposed development would renovate an existing public house and the associated ancillary accommodation. Any subsequent change of use in respect of any part of the development would require planning permission, as the existing use is Sui Generis.
- 9.11. In addition, paragraph 2.93 of policy DM10 states that where the pub is registered as an Asset of Community Value (ACV), that this should be treated as a material consideration, alongside all viability and marketing evidence. The ACV designation provides an indication of local support for the pub's retention which is recognised in the retention of the existing public house and refurbishment.
- 9.12. The proposed development would therefore meet the requirements of Policy DM10 with retention of the existing public house use and no diminishment in value or appeal to the local community.

#### Housing

- 9.13. Since submission of the application the proposal has been amended, as originally a separate new planning unit of residential (C3 Use Class) accommodation was proposed at first floor, which has now been removed, with ancillary accommodation (Sui Generis Use Class) retained at first floor. The proposed development would now result in the renovation of the existing ancillary accommodation (Sui Generis Use Class) located directly above the public house, which would continue to be used as (landlord/Managers flat) accommodation directly related to the public house use.
- 9.14. A new separate planning unit of self-contained C3 use class at first floor was not considered appropriate. It would be contrary to Policy DM10, with the removal of public house floorspace with no substantive justification or marketing

campaign; and the loss of the existing ancillary accommodation would also adversely affect the future operation of the pub by making it less attractive to prospective operators, as well as increasing the potential for noise nuisance complaints from future residents of any new dwelling.

9.14 Any subsequent change of use in respect of any part of the development would require planning permission, as the existing use is Sui Generis.

### **Design, Appearance and Heritage**

- 9.15. This application proposes the replacement of the roof structure, at a steeper pitch, with a raised ridge and eaves to match the neighbouring property, and altered form at the rear, with the addition of eaves brackets. To the three elevations enlargement of the window openings would occur with the installation of white painted timber sliding sash windows (multi paned on the ground floor), and removal of parts of the existing rear extensions and enlargement of others, which would be single storey. The tiles, including the United Brewery's fascia signage, are proposed to be retained and only replaced to match exactly where the existing tile is missing and/or damaged to such a degree that replacement is not possible.
- 9.16. The site is currently subject to an enforcement notice (issued 20th April 2022) that was appealed by the applicant and amendments made by the Planning Inspector (17th July 2023) in relation to the enforcement notice. This notice requires:
- i. Cease the removal of the glazed ceramic tiles from the façade of the building on the Land, except the minimum amount required to be removed to repair the lintels
  - ii. Reinststate glazed ceramic tiles to all elevations where tiles have been removed or damaged as a consequence of the unauthorised works set out in paragraph 3.
  - iii. Reinststate the glazed ceramic tiles removed to repair the lintels.
  - iv. The tiles being reinstated shall match the colours and finish of the tiles that existed before the breach of planning control took place so that the four horizontal bands of colouring on each elevation of the building are replicated, examples of which are shown on the photographs attached at Annex 2
  - v. All moulded details to the fascia and window cills being reinstated shall be replicated in material, colour and finish and reinstated to match those as they existed before the breach of planning control took place, examples of which are shown on the photographs attached at Annex 2
  - vi. The lettering to the fascia being reinstated shall be replicated in font, size, colour, material and finish to match that as it existed before the breach of planning control took place, examples of which are shown on the photographs attached at Annex 2.}
- 9.17. The date for compliance with this notice as given by the Appeal Decision is the 17th July 2024. If the current application was approved than an agreement could be considered by the LPA that if works took place within certain timescales then it would not pursue a prosecution.

- 9.18. Should the current application be approved with conditions, then a full survey of the tiled façade would be carried out by the applicant for submission to the LPA with a report detailing which tiles are to be retained, repaired, or replaced to facilitate the proposed works. The details of any replacement tiles would have to be submitted for approval by the LPA prior to installation and the applicant proposed to use a company which purports to provide almost exact replicas of those removed.
- 9.19. The details of all the incorporated signage within the tiles that forms part of the local listing would also be replicated from pre-existing photos and current appearance. The intention is to reinstate the tiles and signage appearance to that which existed prior to the unauthorised works that were commenced, with improvements where considered appropriate, due to replacement tiles to areas which are too damaged or must be removed to allow any approved works to be implemented, subject to agreement with the LPA.
- 9.20. The window cills that form part of the enforcement notice would be removed as the proposed development has new forms of fenestrations and openings,
- 9.21. Internally the existing public house uses would be retained with a new toilet block and back of house area located in the revised eastern ground floor extension to the rear ground floor. This is considered acceptable as it matches the existing in height and form of roof, with a mono pitch extending from the boundary with No.63 to the east. The footprint increases with it extending further into the rear courtyard area of No.62, but it would bring no harm to the host property of the street scene.
- 9.22. The other existing ground floor/first floor extensions at the rear would be removed to facilitate the revised ground and first floor layout and are considered to bring improvements to the street scene and host property. The current rear elevation extensions are of differing styles and form that bring harm to the appearance of the host and are visible in the public realm.
- 9.23. The first floor would see refurbishment of the existing Landlord/Managers Flat, going from 4 bedrooms/living areas and a kitchen to 2 bedrooms, with a combined kitchen and living area provided. This is considered to bring improvement to the standard of ancillary accommodation that is provided as part of the public house use, with a large open plan living and kitchen area (36m<sup>2</sup>) and two separate double bedrooms providing modern accommodation with good levels of outlook, light and space, particularly in relation to the main living area. It is noted amount of bedrooms/living rooms would reduce by one, but the loss is considered outweighed by the increased outlook, light provision, and size of the living /kitchen room, and the improvements to the rear elevation from the removal of the existing rear extensions.
- 9.24. These proposed works would take cues from the current building with the retention and repair of the existing tile façade at ground floor level. The other works seek to improve the rear elevations with removal and enhancement of the extensions, and windows with a placement and design that brings balance. The internal layout changes enhance the use of the current public house, for future

operators and users, with the private space to the rear allowing space for a kitchen area if desired, and a more rational layout with reduced corridors and doors. The proposed design overall is considered reflective of the building's history and historic interest.

- 9.25. The raising of the roof ridge would be in line with the attached property no.63 to the east and is not considered to bring any harm in isolation due to the matching of height and would not appear incongruous in the public realm. The form would replicate that already exhibited by the host property with a hipped design, although the pitches and layout would differ with some areas steeper and other shallower, but overall no harm would be caused to the host property and the design is acceptable.
- 9.26. It is considered that the proposed external alterations would retain the architectural, design and artistic interest, historic and evidential interest, and also the historic intactness of the building (subject to retaining the existing tiles) resulting in the significance of the locally listed asset remaining undiminished.
- 9.27. DM28 states that: "Alterations and extensions to a locally listed heritage asset, or new development within its curtilage, should be of a high standard of design that respects the special interest of the asset as set out in the Local List entry (or as otherwise identified within a submitted Statement of Heritage Significance)." Heritage Officers have considered that application and they consider that subject to various conditions prior to commencement, and that the retention of existing tiles as far as possible is secured, the proposed alterations to the existing locally listed asset are acceptable, and would not undermine its rationale or reasons for listing. The proposed alterations are now considered to be respectful and retain the special interest of the building in compliance with policy DM28.
- 9.28. Conditions in relation to approval of full details of external finish materials to be used and detailed plans of the fenestrations, prior to their installation are attached.
- 9.29. The overall scale and design of the works are considered appropriate in appearance, relating well to the host property, and not diminishing the locally listed asset due to its design, scale and appearance in accordance with policies CP12 and CP15 of the Brighton and Hove City Plan Part One and DM28 of the Brighton and Hove City Plan Part Two.

#### **Standard of Accommodation**

- 9.30. The 'Nationally Described Space Standards' (NDSS) were introduced by the Department for Communities and Local Government in 2015 to establish acceptable minimum floor space for new build developments. These space standards have now been formally adopted into the Brighton and Hove City Plan, within Policy DM1 of City Plan Part Two.
- 9.31. The NDSS and DM1 identifies a minimum floor space that should be achieved for a single bedroom as measuring at least 7.5m<sup>2</sup>, and a double bedroom should measure at least 11.5m<sup>2</sup>. The minimum floor space requires a head height of

above 1.5m with 75% of the floorspace being 2.3m or higher. Rooms are also assessed for their ability to provide suitable room to circulate within them by future occupants.

- 9.32. The minimum gross internal area for a one storey, two (2) bedroom, four (4) person dwelling, as proposed, is described as 70 square metres under policy DM1 and the NDSS. The refurbished ancillary residential unit proposed exceeds this requirement at approximately 79m<sup>2</sup>.
- 9.33. The floor space would be functional with sufficient levels of circulation space, light and outlook and would therefore provide an acceptable standard of accommodation. The double bedrooms proposed meet the minimum space standards required by policy DM1, including with regards to overall size, width and head height and would have good levels of natural light and having windows with unobstructed outlook.
- 9.34. No private outdoor space is provided but this is considered acceptable for a development of this size in this context and is the current situation for the existing four bed ancillary accommodation.
- 9.35. The refurbished residential accommodation would be subject to a condition requiring compliance with the approved floor plans; the LPA would wish to manage the layouts of these buildings to ensure it does not become over-occupied to the detriment to the standard of accommodation.
- 9.36. The revisions to the existing layout of the first floor, changing from a 4 bed to a 2 bed unit, are considered acceptable and the standard of accommodation for future residents is considered acceptable.

#### **Impact on Amenity**

- 9.37. The form of the works extending the existing ground floor extensions to the rear is not considered to increase overshadowing effects or loss of light to the surrounding residents as the height and length would remain the same as the existing to the boundary with no.63, only extending the footprint westward, into the rear courtyard of the host property.
- 9.38. The removal of an existing small two storey extension at the rear may accrue some small benefit to the neighbouring property at 63 Albion Hill from increased light on the boundary, as this extension currently blocks a small amount of sunlight late in the afternoon. The raising and reorientation of the roof is not such a scale that any significant harm would occur to the amenity of surrounding residents due to loss of light or overbearing appearance.
- 9.39. The proposed new windows to the rear at first floor, would afford high level views, but are not considered to cause significant amenity harm due to overlooking in excess of the existing situation, in what is already a dense urban grain with a high degree of mutual overlooking. The other proposed windows and doors are not considered to bring any harm through overlooking as front or side facing over the existing highway.

- 9.40. Noise produced by the refurbished public house is a concern, and conditions would be imposed to ensure that noise would not transmit to the ancillary first floor residential flat and no.63 which is a residential property that shares a party wall with the proposed development.
- 9.41. Similar concerns for noise and disturbance apply to the surrounding residents in relation to plant noise. Conditions again have been attached to mitigate the degree of plant noise emitted.
- 9.42. As no change of use occurs the existing hours of operation and licensing hours are not being altered.

### **Impact on the Public Highway**

- 9.43. The proposed development represents a small increase in Public House floorspace, and it is considered that there would be no significant additional impact on the highway; this view is shared by the Local Highway Authority (LHA).
- 9.44. No on-site parking is proposed but this is acceptable and reflects the current situation. The site is located in a Controlled Parking Zone which would ensure that the proposal does not cause undue stress to the existing on street parking availability as it is controlled via a permit parking scheme, with residents parking only between 9am to 8pm in the majority of nearby parking bays.
- 9.45. The proposed development shows a cycle parking store for the ancillary residential area; but no details are supplied. In addition, cycle parking is required for the public house and this has not been identified on the plans. A minimum of one cycle space is required for the residential unit, and two for the commercial unit. A condition is required for the details of the proposed cycle parking to be submitted too and approved by the Local Planning Authority, prior to first use of the development.

### **Biodiversity**

- 9.46. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bumblebees and swifts. A suitably worded pair of conditions will be attached to secure an appropriate number of bee bricks and swift bricks within the proposal in order to help meet the requirements of policies CP10 of the CPP1 and DM37 of the CPP2 as well as Supplementary Planning Document 11: Nature Conservation.

### **Conclusion**

- 9.47. The proposed development would result in the refurbishment and improvement internally of an existing public house and Asset of Community Value (ACV), which complies with policy DM10 as no change of use is occurring. The form of development would bring no harm to the appearance and intactness of a locally listed heritage asset contrary to Policy DM28, and meet the requirements of

DM18 with a design that brings no harm to the host property or the wider area. Subject to appropriate conditions.

- 9.48. Taking all of these matters above into consideration the proposal is considered to comply with Policies CP12 and CP15 of the City Plan Part One and Policies DM10, DM21 and DM28 of the City Plan Part 2.

## **10. EQUALITIES**

- 10.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
    - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
    - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
    - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.