

<u>No:</u>	BH2025/00889	<u>Ward:</u>	Hanover & Elm Grove Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	The FreeButt 1 Phoenix Place Brighton BN2 9ND		
<u>Proposal:</u>	Change of use of former Public House (Sui-Generis) to create replacement commercial use at ground floor (Class E), 7no bedroom house in multiple occupation at first floor (Sui Generis), 2no two bedroom flats at second floor and 1no three bedroom flat at third floor level (Class C3). Alterations include erection of additional storey with dormers to north, south, east and west elevations, revised fenestration and associated works.		
<u>Officer:</u>	Michael Tucker, tel: 292359	<u>Valid Date:</u>	31.03.2025
<u>Con Area:</u>		<u>Expiry Date:</u>	26.05.2025
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Absolute Town Planning Ltd C/o Parkers At Cornelius House 178-180 Church Road Hove BN3 2DJ		
<u>Applicant:</u>	One Phoenix Place C/o Absolute Town Planning Ltd C/o Parkers - Church Road Hove BN3 2DJ		

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 and block plan	TA1119/01	A	31-Mar-25
Proposed Drawing	TA1419/10	E	05-Jun-25
Proposed Drawing	TA1419/11	H	31-Mar-25
Proposed Drawing	TA1419/12	G	05-Jun-25
Proposed Drawing	TA1419/13	D	31-Mar-25
Proposed Drawing	TA1419/14	E	05-Jun-25
Proposed Drawing	TA1419/15	E	05-Jun-25
Proposed Drawing	TA1419/16	E	05-Jun-25
Proposed Drawing	TA1419/17	D	31-Mar-25

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. Notwithstanding any details shown on the approved plans, no development above the existing roof level of any part of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):
- a) Details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
 - b) Details of the proposed window, door and balcony treatments
 - c) Details of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM18, DM21 and DM26 of Brighton & Hove City Plan Part 2 and CP12 and CP15 of the Brighton & Hove City Plan Part One.

4. The commercial space shown on the approved ground floor plan hereby approved (ref. TA1419/11 rev. H received on 31 March 2025) shall be used for purposes within Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), save for the following uses which shall be expressly excluded:
- Class E(b) (food and drink for consumption on the premises),
 - Class E(d) (indoor sport, recreation and fitness), and
 - Class E(f) (day nurseries).

5. 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: To safeguard the amenities of local residents and because 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, to comply with Policy DM20 of the Brighton & Hove City Plan Part Two.

6. The large House in Multiple Occupation (sui generis) hereby approved shall only be occupied by a maximum of seven (7) persons.

Reason: To ensure a satisfactory standard of accommodation for future occupiers and to comply with Policies DM1 and DM20 of the Brighton & Hove City Plan Part Two.

7. The large HMO (Sui Generis) hereby approved shall be implemented in strict accordance with the internal layouts detailed on the approved first floor plan (ref. TA1419/11 rev. H received on 31 March 2025). 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.

8. No development in relation to the new and replacement windows and doors hereby permitted shall take place until full details of:
 - all new sliding sash windows and their reveals and cills
 - all new external doors
 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 windows shall be painted timber double hung vertical sliding sashes with hidden trickle vents. The doors shall be painted four panel timber doors. The works shall be carried out and completed fully in accordance with the approved details and shall be retained as such thereafter.
Reason: To ensure a satisfactory appearance to the development and to comply with policies DM26 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

9. Notwithstanding the approved drawings, the relief sign reading "Tamplin's Entire" in situ on the western elevation of the building shall be retained hereafter.
Reason: In the interests of preserving the historic association between the application site and the neighbouring listed building and to comply with Policy CP15 of the City Plan Part One and Policy DM29 of the City Plan Part Two.

10. Notwithstanding any details shown on the approved plans, the development hereby permitted shall not be 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.

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. Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. These can be found in the Environment Act 2021.

2. SITE LOCATION

- 2.1. The application relates to a two-storey building on the southwest corner of the junction of Albion Street and Phoenix Place. The FreeButt was last in use as a public house and music venue but has lain vacant since 2010, when this use ceased due to noise complaints. It is a two-storey rendered building, with a later two-storey extension to the southern and eastern sides. The roof is pitched towards the original northwest corner of the building, but is flat to the rest of the building across the later extensions.
- 2.2. The majority of the site lies within the Valley Gardens Conservation Area, and the grade II listed former brewery office at 2 Phoenix Place is immediately to the west.
- 2.3. Neighbouring uses are mainly residential, with terraced houses and flats on Albion Street to the south, Tamplin Terrace to the north and Phoenix Rise to the east. Number 2 Phoenix Place is a community building but has recently had planning permission granted for offices on the first floor.

3. RELEVANT HISTORY

- 3.1. **BH2024/01283** - Change of use of former public house (Sui-Generis) to create replacement commercial use at ground floor (Class E), 7no bedroom house in multiple occupation at first floor (Sui Generis) and 2no one bedroom flats at roof level (Class C3), with dormers to North, South, East and West elevations and associated alterations. Approved 31/10/2024
- 3.2. **BH2019/00161** - Change of use from Public House (A4) to provide residential accommodation comprising 3no purpose built wheelchair accessible units on the ground floor (C3) and 3no Houses of Multiple Occupation (HMOs) with 23 bedspaces on the first, second and third floors (Sui Generis). Remodelling and alterations incorporating erection of additional storey and roof alterations including raising of ridge height and formation of mansard roof with revised fenestration and associated works. Refused 15/06/2020, appeal dismissed 07/09/2021 The reasons for refusal were:
 1. *The proposal has not demonstrated that the site is not needed for its existing use and for other types of community use, and accordingly would result in the loss of a community facility, contrary to Policy HO20 of the Brighton & Hove Local Plan.*
 2. *The proposal, by reason of its scale, bulk, form, style of architecture and appearance, would be inappropriate resulting in harm to the character and appearance of the Valley Gardens Conservation Area and the setting of the Grade II listed buildings at 2 Phoenix Place and 1-3, 4, 5, 6 and 7 Richmond Terrace, contrary to Policies QD14, HE3 and HE6 of the Brighton & Hove Local Plan and CP12 and CP15 of the Brighton & Hove City Plan Part One.*
 3. *The standard of accommodation provided for the occupants of the HMOs would not be of an acceptable level due to insufficient communal space provision, especially the limited kitchen space / facilities which together with the need to provide sufficient circulation space in order to access the kitchen areas is likely to further diminishes the usability of the limited*

communal area available. Accordingly it is considered that the proposal is contrary to Policy QD27 of the Brighton and Hove Local Plan.

4. APPLICATION DESCRIPTION

- 4.1. The current application seeks planning permission for a change of use with external alterations.
- 4.2. The proposed external alterations comprise of:
- The erection of an additional storey with a hipped roof over
 - Revised fenestration
 - Eight dormers across the north, south, east and west elevations
 - A balcony to the south roofslope
- 4.3. Since submission the application has been amended to omit a second balcony to the southern roofslope.
- 4.4. The change of use from a public house to a mixed use comprising the following:
- A commercial unit (E) at ground floor;
 - A seven-bedroom House in Multiple Occupation (HMO) (Sui Generis) at first floor; and
 - Two two-bedroom flats on the second floor
 - One three-bedroom flat in the loftspace
- 4.5. The proposals are similar to the recently approved application BH2024/01283. The primary differences are that now one additional storey and one additional flat (C3) is proposed.

5. REPRESENTATIONS

- 5.1. **Nine (9)** representations have been received, objecting to the application for the following reasons:
- Overdevelopment
 - Additional noise
 - Harm to listed building and conservation area
 - Additional traffic
 - Overshadowing
 - Overlooking
 - Parking issues
 - Similar to previous refused application
 - Additional pressure on local services due to increased residential units
 - Enough HMOs are in the area already
- 5.2. **Councillor Rowkins** has objected to the application. A copy of the representation is attached to this report.

- 5.3. Full details of representations received can be found online on the planning register.

6. CONSULTATIONS

- 6.1. **Arts & Culture:** No comment
- 6.2. **Conservation Advisory Group:** No objection
- 6.3. **Economic Development:** No comment
- 6.4. **Environmental Health:** No comment received
- 6.5. **Heritage:** No objection
The reduced scale from the previous refused application limits the impact on the listed building and therefore is an improvement in conservation terms.
The relief sign should be retained.
- 6.6. **Housing:** No comment received
- 6.7. **Planning Policy:** No objection
The principle of the loss of the public house has already been accepted as part of the previous application. The provision of 3 residential units would make a welcome contribution to the housing target. The proposal to provide 2 and 3 bedroom properties is welcomed and helps to meet local demand.
- 6.8. **Private Sector Housing:** No objection
An HMO licence will be required.
- 6.9. **Southern Water:** No objection
Standing advice relating to sewer connections.
- 6.10. **Sustainable Transport:** No comment received
- Comment from BH2024/01283 – No objection
- 6.11. The location and position of the first Sheffield stand under the stairs is not ideal. Cycle parking for the commercial use should be secured by condition as none is currently proposed. There will be an increase in trips to the site due to the development, but those are unlikely to generate a reason for objection.

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, revised October 2024);
 - 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
CP1	Housing delivery
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP21	Student housing and Housing in Multiple Occupation

Brighton & Hove City Plan Part Two

DM1	Housing Quality, Choice and Mix
DM7	Houses in Multiple Occupation
DM11	New Business Floorspace
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM26	Conservation Areas
DM29	The Setting of Heritage Assets
DM33	Safe, Sustainable and Active Travel
DM36	Parking and servicing
DM37	Green Infrastructure and Nature Conservation
DM44	Energy Efficiency and Renewables

Supplementary Planning Documents:

SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD14	Parking Standards
SPD17	Urban Design Framework

9. **CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the principle of the development, the design and appearance of the proposed

external alterations, including on heritage assets, and the impact upon neighbouring amenity. The standard of accommodation to be provided and sustainable transport matters are also material considerations.

Background

- 9.2. The site has historically been in use as a public house, which also functioned as a live music venue. This use however ceased in c. 2010. The reason for this is understood to have been noise complaints from nearby residential dwellings. The site has since then been vacant and is in a poor state of repair.
- 9.3. A previous proposal for the redevelopment of the site to provide three wheelchair units and three large HMOs (BH2019/00161) was refused permission and subsequently dismissed at appeal.
- 9.4. More recently, a scheme for the redevelopment of the site to provide a commercial unit at ground floor, a seven-bedroom HMO at first floor and two one-bedroom flats within the converted loftspace (BH2024/01283) has been approved.
- 9.5. The current application is similar to BH2024/01283, but includes additional/altered elements:
- An additional storey with a hipped roof over, with eight dormers
 - Two-bedroom units at second floor
 - An additional three-bedroom flat within the loftspace

Principle of Development:

Loss of Public House

- 9.6. The proposals would involve the permanent loss of the Public House. Although it is recognised that the pub has been closed for a substantial period, the Inspector for the previous appeal on the site (relating to application BH2019/00161) considered that it remained a community facility, and it is therefore appropriate to apply Policy DM10 of the City Plan Part Two. This policy sets out that loss of a pub will only be permitted where the following two criteria are met:
- "1a) It has been demonstrated that use as a public house is not economically viable now and could not be made viable in the future; and*
- 1b) It has been demonstrated that the local community no longer needs the public house and alternative provision meeting a similar need is available in the locality."*
- 9.7. DM10 goes on to state that where these criteria are satisfied and an alternative use can therefore be justified, priority will be given to the re-use of the premises or site for alternative community use.
- 9.8. This element of the scheme was considered in detail as part of BH2024/01283, which included a report on the future viability of the site as a pub and a report of marketing exercises. These supporting documents were independently reviewed for the Council by independent consultants, and the conclusion of this review was that whilst the marketing exercise was imperfect and the refurbishment costs were likely an overestimate, even if these points were to be

addressed it was still unlikely that a prospective operator would achieve a return on their investment to refurbish the building for pub use.

- 9.9. It was therefore considered that DM10(a) had been met as part of the previous application. With respect to DM10(b), there are a number of alternative pubs within the local area and as such no concerns are held in this regard.
- 9.10. Whilst updated reports have not been provided as part of this application, BH2024/01283 was only recently approved (October 2024) and it is considered that the reasoning and conclusions reached would still hold and are material considerations to which weight should be given, in the determination of the current application. It should also be noted that the loss of the public house use under BH2024/01283 is extant and could be implemented at any time.

New commercial space at ground floor

- 9.11. This matter was also considered in detail as part of BH2024/01283 and the same reasoning is considered to apply. The extant permission is also given significant weight.
- 9.12. It is somewhat regrettable that the proposal is not for a dedicated community use for this space, as this was identified at pre-application stage as being the Council's preference for this space and is given priority within Policy DM10. It also formed part of the reasoning for a previous application in 2019 being refused and dismissed at appeal. However, the application must be assessed on its own merit against the current development plan, and the proposal is for a commercial use (Class E) at ground floor.
- 9.13. The introduction of a commercial use at ground floor level in this location would help to activate the street scene as well as potentially provide services to the nearby residential community, and there are therefore no significant concerns regarding the introduction of an E use class in this location in principle.
- 9.14. Policy DM11 would be relevant in the event that the commercial space is used for offices. However, in this case given that the proposal is not for a purpose-built office and that it relates to a relatively small unit, it is considered that applying the letter of this policy by, for example, requiring the proposed commercial space to be suitable for subdivision may not be reasonable. It is also noted that the proposal is for Class E use, whereas Policy DM11 refers to units also being suitable for non-E class industrial use. In this location however this may not be desirable with residential dwellings in such close proximity. The use would be restricted by condition to ensure it was compatible with nearby residents, as noted in more detail below.
- 9.15. It is also noted that there is an existing community facility at the neighbouring building at 2 Phoenix Place.

New HMO

- 9.16. The proposed new seven-bedroom House in Multiple Occupation (HMO) (Sui Generis) would engage the requirements of Policy CP21 of the City Plan Part One and Policy DM7 of the City Plan Part Two.

- 9.17. Policy CP21 of the Brighton and Hove City Plan Part One specifically addresses the issue of changes of use to planning use class C4, a mixed C3/C4 use or to a sui generis House in Multiple Occupation (HMO) and states that:
"In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in Multiple Occupation) use, a mixed C3/C4, or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:
- *More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use."*
- 9.18. An up-to-date mapping exercise has been undertaken which indicates that there are 84 properties within a 50m radius of the application property, zero (0) of which have been identified as being in HMO use. The percentage of neighbouring properties in HMO use within the radius area is thus 0%.
- 9.19. Based on the existing percentage of neighbouring properties in HMO use, the creation of a seven-bedroom HMO (Sui Generis) would be in accordance with the aims and criteria of policy CP21.
- 9.20. Policy DM7 of CPP2 includes additional criteria to those set out in Policy CP21, and states the following:
"Applications for new build HMOs, and applications for the change of use to a C4 use, a mixed C3/C4 use or to a sui generis HMO use, will be permitted where the proposal complies with City Plan Part One Policy CP21 and all of the following criteria are met:
a) *fewer than 20% of dwellings in the wider neighbourhood area are already in use as HMOs;*
b) *the proposal does not result in a non-HMO dwelling being sandwiched between two existing HMOs in a continuous frontage;*
c) *the proposal does not lead to a continuous frontage of three or more HMOs;*
d) *the internal and private outdoor space standards provided comply with Policy DM1 Housing Quality, Choice and Mix;*
e) *communal living space and cooking and bathroom facilities are provided appropriate in size to the expected number of occupants."*
- 9.21. Criterion a) has been assessed and the percentage of dwellings in the wider neighbourhood area has been calculated at 3.4%. In relation to criterion b), the area has been assessed and it is confirmed that the proposal would not 'sandwich' a non-HMO between two existing HMOs; nor would it lead to a continuous frontage of three or more HMOs so would accord with criterion (c).
- 9.22. Considerations regarding amenity space and communal living (criteria d) and e)) are set out below.

- 9.23. On this basis, the proposed creation of a new seven-bedroom HMO would be in accordance with policies CP21 and DM7. It is noted that the site will require an HMO licence.

New dwellings

- 9.24. Policy CP1 in City Plan Part One sets a minimum housing provision target of 13,200 new homes for the city up to 2030. However, on 24 March 2021 the City Plan Part One reached five years since adoption. National planning policy states that where strategic policies are more than five years old, local housing need calculated using the Government's standard method should be used in place of the local plan housing requirement. Changes to national planning policy in December 2024 mean that the local housing need figure for Brighton & Hove using the standard method is now 2,498 homes per year. A 20% buffer is applied to this figure to reflect the most recent Housing Delivery Test measurement (published in December 2024) for the council being less than 85%.
- 9.25. The council's most recent housing land supply position is published in the SHLAA Update 2024 which shows a five-year housing supply shortfall of 10,643. This is equivalent to 1.4 years of housing supply and is a reduction in supply compared to the previous application.
- 9.26. As the council is currently unable to demonstrate a five-year housing land supply, increased weight should be given to housing delivery when considering the planning balance in the determination of planning applications, in line with the presumption in favour of sustainable development set out in the NPPF (paragraph 11).
- 9.27. In principle, the creation of three new dwellings is therefore given increased weight as the LPA does not currently have a five-year supply of housing land.

Design and Appearance, Heritage:

- 9.28. 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.
- 9.29. 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".
- 9.30. The proposed external alterations comprise:
- Removal of the three existing chimney stacks
 - An additional storey with a hipped roof over
 - Eight dormer windows, two to each roofslope
 - Revised fenestration and elevation detailing to the north and east elevations

- 9.31. No objection is raised to the proposals on design or heritage grounds. The building is not listed but is partially within the Valley Gardens Conservation Area and adjacent to a listed building of similar bulk. There are other listed buildings on Richmond Terrace but these are at a greater distance and the site was noted by the previous Inspector to be on the periphery on their settings.
- 9.32. The proposal would increase the scale of the building, however it would not undermine what survives of its historic character, subject to the retention of the 'Tamplins Entire' relief sign. The proposal would improve the appearance of the northern and eastern facades which are currently marred by the unsympathetic two-storey extension. The dormers would be modestly sized and well aligned within the roof slopes.
- 9.33. Notwithstanding its increased height, the proposed building would remain of a comparable scale and bulk to the listed building next door, with a similar eaves height and ridge line, and would not be considered to result in an unacceptable impact on its setting. The impact is considered to be markedly less than the scheme refused at appeal in 2019, which included a significantly higher eaves height and a mansard type roof.
- 9.34. The Heritage consultee has raised no objection to this proposal, subject to the retention of the previously mentioned relief sign which can be secured by condition, as well as conditions securing details of the new windows and doors.
- 9.35. A condition is recommended to secure final details of the external finishes including the slates and render mix.

Impact on Amenity:

- 9.36. Policy DM20 of the City Plan Part Two 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.
- 9.37. The return of the building to active use following an extended period of vacancy may result in some increased activity, however compared to its historic use as a public house and live music venue the proposals are unlikely to have an increased impact in terms of noise disturbance. The proposed residential uses on the upper floors would be compatible with the residential character of the area. Class E use on the ground floor could encompass a wide variety of uses, some which would not be considered neighbourly adjoining residential dwellings. A condition is therefore recommended to exclude uses within Class E(b) (sale of food and drink for consumption on the premises), (d) (indoor sport, recreation and fitness), and (f) (day nurseries) and this is consistent with the extant permission.
- 9.38. The proposed physical alterations would not directly overshadow neighbouring properties, as the closest neighbours are on Albion Street which is due south of the site. The eastern of the two dormers to the southern roofslope would have a modestly sized balcony, but this would face onto the front roofslopes of the terrace on Albion Street and is not considered to give rise to significant concerns

regarding privacy or noise. The originally proposed balcony to the western dormer was more problematic and has been omitted from the proposals.

- 9.39. In terms of overlooking there would be some views from the upper floors eastwards onto the rear of properties on Phoenix Rise (at a distance of approximately 15m), however these rear facades are already prominent in views from the Albion Street/Tamplin Terrace and the additional impact from the proposal, particularly compared to the extant permission, is unlikely to be significant. The increased height of the building would be visible in views from the rear of properties on Phoenix Rise, and the enlarged building would also be more prominent in views from the rear rooflights of neighbours on Albion Street and Phoenix Place. However no significant impact is anticipated in terms of loss of outlook or increased overbearingness.

Standard of Accommodation:

Sui Generis HMO

- 9.40. The proposed HMO would be 155sqm in area, with seven bedrooms between 9.9sqm and 13sqm in area. This is comparable to the extant permission.
- 9.41. Four of the bedrooms would have en-suites, and there would be two communal shower rooms. There would also be a communal kitchen/living/dining room of 28.5sqm.
- 9.42. The bedrooms and communal space would be of regular proportions allowing space for furniture and circulation, and each room would have access to natural light and outlook.
- 9.43. On the basis of seven occupants, there would be just over 4sqm of communal space per occupant which is in accordance with Policy DM7 supporting text. A condition can be attached to limit the HMO to seven occupants as any greater number would reduce the communal space to an unacceptable degree.
- 9.44. No outdoor amenity space would be available for occupants of the HMO, however it is recognised that this is not unusual in the immediate area, there is no space on-site to provide this, and public amenity areas are available nearby at The Level and Victoria Gardens.
- 9.45. Subject to the above-mentioned condition excluding certain Class E uses, it is considered that Building Regulation requirements relating to sound insulation standards between storeys would be sufficient to prevent unacceptable disturbance from the ground floor commercial use to the first floor residential use.

C3 Flats

- 9.46. On the second floor, there would be two two-bedroom units of 77sqm and 75sqm (for four and three occupiers respectively). On the third floor (loftspace) there would be a three-bedroom unit (for five occupiers) of 93sqm, although due to being in the loftspace there would be sloping ceilings and only 73.1sqm (79%) with 2.3m or more of headroom.

- 9.47. All of the proposed flats would both comply with the Nationally Described Space Standard, and each habitable room would provide space for furniture and circulation and access to natural light and outlook.
- 9.48. The proposed loftspace (three-bedroom) unit would have access to a modest balcony of some 3.3sqm. Whilst of only limited practical use due to its size, this would nevertheless provide some form of outdoor space and would be of benefit to occupiers of this unit. Whilst this limited outdoor space, and the absence of private outdoor space of any form for the two second-floor units, is regrettable, it reflects the constraints of the site. It is also noted that there is public outdoor amenity space nearby on the level.

Sustainable Transport:

- 9.49. Whilst no transport comments have been received regarding the current application, it is noted that relating to the previous application the Local Highway Authority raised no objection subject to a condition relating to cycle storage provision.
- 9.50. Any increase in trip generation arising from the development is unlikely to be significant.
- 9.51. The site is well located for sustainable transport modes, with bus stops within walking distance. Brighton railway station is located to the west.
- 9.52. No on-site car parking is proposed, in accordance with SPD14 maximum standards. The site is not located within a Controlled Parking Zone (CPZ) but the local streets do have parking restrictions in the form of double yellow lines, and the wider area is subject to the CPZ regime. Given the relatively central location of the site with good transport links, the lack of on-site parking would not warrant refusal.
- 9.53. The proposed plans indicate eight cycle parking spaces for the residential uses which exceeds the SPD14 minimum requirements of seven (one space per flat, four spaces for the HMO). The shortcomings of the proposed cycle parking are however acknowledged with tight turns and narrow doorways to navigate and the first under-stair stand making the second inaccessible. It is considered that a reduced scheme comprising six spaces (as per the extant permission) would be preferable, notwithstanding that this would be a modest under-provision against SPD14 standards.
- 9.54. The proposed location is secure and covered and there is limited alternative space on-site. It is noted that there are bike-share facilities near to the site and overall this would not warrant refusal of the application.
- 9.55. The plans appear to indicate Sheffield stands by the commercial entrance for use in relation to the floorspace at ground floor. This is supported.

Conclusion

- 9.56. The loss of the (vacant) pub use of the site has previously been satisfactorily justified in accordance with Policy DM10 of the City Plan Part Two and this remains the case.
- 9.57. Some aspects of the proposals are regrettable, particularly the absence of a dedicated community use at ground floor.
- 9.58. However, it is considered that the benefits of the scheme, namely bringing the building back into an active use, the improvements to the appearance of the building, and the provision of three new dwellings (one more than the previous approval BH2024/01283), would outweigh these less than ideal aspects.
- 9.59. Accordingly the application is recommended for approval.

10. COMMUNITY INFRASTRUCTURE LEVY

- 10.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable after the issuing of planning permission.

Biodiversity Net Gain

- 10.2. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because:
- It does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat;

11. EQUALITIES

- 11.1. 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.
- 11.2. 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.

