

ITEM G

5 Steine Street, Brighton

BH2013/02747
Full planning

30 OCTOBER 2013

BH2013/02747 5 Steine Street, Brighton



**Brighton & Hove
City Council**



Scale : 1:1,250

<u>No:</u>	BH2013/02747	<u>Ward:</u>	QUEEN'S PARK
<u>App Type:</u>	Full Planning		
<u>Address:</u>	5 Steine Street Brighton		
<u>Proposal:</u>	Change of use from nightclub (Sui Generis) to 7 unit student accommodation (Sui Generis) incorporating alterations to fenestration and installation of railings to glazed floor panel lightwell.		
<u>Officer:</u>	Jonathan Puplett Tel 292525	<u>Valid Date:</u>	12/08/2013
<u>Con Area:</u>	East Cliff / adjoining Valley Gardens	<u>Expiry Date:</u>	07 October 2013
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	Dowsett Mayhew Planning Partnership, Pelham House 25 Pelham Square Brighton BN1 4ET		
<u>Applicant:</u>	Oazo Ltd, c/o Agent		

1 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 11 and the policies and guidance in section 7 and resolves to **REFUSE** planning permission for the reason set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application relates to a two storey building with a basement level below situated on the western side of Steine Street. The building adjoins single storey buildings to either side, and is also partially connected to no. 25 Old Steine to the rear of the site which is a Grade II listed building. The property is sited within the East Cliff Conservation Area; the border of the East Cliff Conservation Area runs along the rear boundary of the site, with the Valley Gardens Conservation Area to the other side of the boundary.
- 2.3 The property was most recently in use as a venue for music, cabaret and comedy nights; this use commenced in 2011. Prior to this it appears that the property was in use as a bar / nightclub. The most recent permission for the use of the property was for a private members club, granted in 1985. Based upon the available information the established use of the property is considered to be as a bar / nightclub. The current premises licence permits sale of alcohol until 02.00 Monday to Thursday, until 03.00 on Friday and Saturday, and until 00.30 on Sunday. Various licensable activities (musical performance- live and recorded, dancing, exhibition of a film) are permitted until 03.00 Monday to Sunday.

3 RELEVANT HISTORY

- BH2010/01338:** Alterations to frontage (Retrospective). Approved 22/03/2011.
BH2008/01188: Internally illuminated hanging sign (retrospective). Approved 12/12/2008.

- BH2008/01183:** Alterations to frontage (retrospective). Refused 12/12/2008.
BH2007/00693: Display of internally illuminated sign. Approved 17/04/2007.
BH2007/00684: Modifications to frontage and entrance of club. Withdrawn 15/06/2007.
BH2006/03714: Display of internally illuminated hanging sign. Refused 25/01/2007.
BH2005/01778/AD: Display of non-illuminated fascia signs. Approved 10/08/2005.
BH1999/02904/FP: Site 2 no. mechanical extraction motors at rear roof level (retrospective). Approved 23/02/2000.
BN85/832F: Alterations to front elevation to include shutters to all windows and erection of canopy blind. Approved 13/08/1985
BN85/165F: Change of use from restaurant to private members club. Approved 02/04/1985.

4 THE APPLICATION

- 4.1 Planning permission is sought for the change of use of the property from a nightclub to an HMO comprising 7 bedrooms with en-suite bathrooms and a communal kitchen / living room at basement level. The proposed use is described as student accommodation.
- 4.2 Alterations to the ground floor front elevation of the building are proposed, a basement lightwell is proposed to the front of the building with a pavement light and railings in front. Blocked up windows to the front side and rear of the building would be reinstated and a small side window is proposed to the northern side of the building just above ground level. It is proposed that both sides of the building would be repaired and re-rendered with a lead capping to the top of the walls.

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours: One (1)** letter has been received from **no. 4 Dolphin Mews** objecting to the application for the following reasons:
- The proposed first floor windows to the front of the building will overlook the properties opposite resulting in a loss of privacy.
 - Future occupiers could congregate outside the front of the building to smoke and this could cause noise disturbance.
 - The air conditioning unit on top of the building should be removed or alternatively should be soundproofed / enclosed.
 - The roof of the property should not be used as a terrace as this would cause overlooking.
- 5.2 **Nine (9)** letters of representation have been received from **nos. 1A and 10 Steine Street. Nos. 2, 3, 6 Dolphin Mews Manchester Street, Brighton Dental Clinic St James's Mansions Old Steine, 'Redroaster' 1d St James's Street, The European School of Animal Osteopathy Ltd 25 Steine Street, and from the Kingscliffe Society** supporting the application for the following reasons:

- The building is at present run-down / in a poor condition. The proposed development would result in a more appropriate appearance.
- Previous uses of the building have failed; the commercial viability in Steine Street has noticeably declined.
- The proposed use would be beneficial for businesses in the neighbourhood.
- The previous use as a nightclub caused noise and disturbance for neighbouring occupiers. The proposed use would not be disruptive to neighbouring occupiers.
- The proposed use will help to address the demand for student accommodation, and specifically could provide housing for students of the European School of Animal Osteopathy.

Internal:

- 5.3 **Heritage (comments based upon the drawings originally submitted):** Object. The proposal to set the ground floor of the property back from the pavement alongside would not be characteristic of the street; a strong building line at the back of the pavement should be maintained. Revisions to the proposals at ground floor level are therefore required. The North elevation of the property is of prominence in the street scene and is in poor condition; the opportunity should be taken to improve the appearance of this elevation. Further details of the proposed windows and their reveals are required and should be secured by planning condition.
- 5.4 **Heritage (verbal comments based upon amended drawing received 10/10/2013):** Support. The revisions to the proposed alterations to the ground floor frontage of the building address the concerns previously raised. The window proposed alongside the entrance door should be set away from the door. All proposed windows to the eastern and northern sides of the building should be set within appropriate reveals, should have traditional cill details, and all windows and doors should be of appropriate joinery detailing. Such details and revised positioning of the window alongside the entrance door should be secured by planning condition.
- 5.5 **Transport:** Comment. The proposed use is unlikely to result in an increased trip generation. The proposed development should be secured as car-free by planning condition to comply with Policy HO7. The proposed cycle storage provision is not ideal, it is however considered acceptable in this case and further details should be secured by condition.
- 5.6 **Private Sector Housing:** Comment. The proposed use would require an HMO licence and would be required to comply with the Council's standards for HMO licensing.

6 MATERIAL CONSIDERATIONS

- 6.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 states that "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be

made in accordance with the plan unless material considerations indicate otherwise.”

- 6.2 The development plan is:
- Brighton & Hove Local Plan 2005 (saved policies post 2007);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (Adopted February 2013);
 - East Sussex and Brighton & Hove Minerals Local Plan (November 1999); Saved policies 3,4,32 and 36 – all outside of Brighton & Hove;
 - East Sussex and Brighton & Hove Waste Local Plan (February 2006); Saved Policies WLP 7 and WLP8 only – site allocations at Sackville Coalyard and Hangleton Bottom and Hollingdean Depot.
- 6.3 The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is a material consideration which applies with immediate effect.
- 6.4 Due weight should be given to relevant policies in the development plan according to their degree of consistency with the NPPF.
- 6.5 The Brighton & Hove City Plan Part One (submission document) is an emerging development plan. The NPPF advises that weight may be given to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies to the policies in the NPPF.
- 6.6 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

The National Planning Policy Framework (NPPF)

Brighton & Hove Local Plan:

TR1	Development and the demand for travel
TR7	Safe development
TR14	Cycle access and parking
TR19	Parking standards
SU2	Efficiency of development in the use of energy, water and materials
QD1	Design – quality of development and design statements
QD2	Design – key principles for neighbourhoods
QD27	Protection of Amenity
HO5	Provision of private amenity space in residential development
HO7	Car free housing
HO13	Accessible housing and lifetime homes
HO14	Houses in multiple occupation (HMOs)
SR13	Nightclubs

Supplementary Planning Guidance:

SPGBH4	Parking Standards
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Supplementary Planning Documents:

SPD08 Sustainable Building Design
SPD09 Architectural Features

Brighton & Hove City Plan Part One (submission document)

SS1 Presumption in Favour of Sustainable Development
CP21 Student Accommodation and Houses in Multiple Occupation

8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main issues of consideration in relation to the proposed development are the principle of the change of use from nightclub to HMO, the standard of accommodation which the proposed development would provide future occupiers, neighbouring amenity, visual impact and impact upon the conservation area setting, transport and sustainability.

Principle of development:

- 8.2 The established use of the property is as a private members club / nightclub. Such a use is not protected by local planning policies and the loss of this use is not objected to. The proposed use as a house in multiple occupation must be considered having regard to policy HO14 of the Brighton & Hove Local Plan and policy CP21 of the Brighton & Hove City Plan Part One (submission document).
- 8.3 The Brighton & Hove Local Plan makes specific reference to houses in multiple occupation. The sub-text of policy HO14 details that:

'It is recognised that in some areas of the city, a concentration of HMOs can cause various problems arising from heavy concentrations of people living within a small geographical area. Appropriate policies elsewhere in the Plan aimed at protecting amenities will also be important factors in assessing new proposals in respect of new HMOs and the loss of existing HMOs. Particularly important in this respect are policies QD27 and HO4.'

- 8.4 Policy CP21 of the Brighton & Hove Draft City Plan Part One specifically addresses the issue of changes of use to 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 use 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.'

- 8.5 This policy at present has significant weight as the adopted Local Plan is silent on the issue. The site is located within the recently introduced Article 4 Direction area which removes permitted development rights under Class I (b) of Part 3 of

Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995, to change from a C3 (dwellinghouses) Use to a C4 (houses in multiple occupation) Use, which came into effect from 5 April 2013.

- 8.6 A mapping exercise has taken place which indicates that there are 120 separate residential properties which fall within a 50 metre radius of the site. Of these 120 residential properties, 11 have been identified as being in Class C4, mixed C3/C4 or other types of HMO in a sui generis use. This represents a percentage of 9.2%; the proposed HMO use would therefore not be contrary to policy CP21. The existing concentration of HMO uses is not considered to be at a harmful level.
- 8.7 Overall there is no objection to the principle of the loss of the existing use and the proposed HMO use of the property.

Standard of accommodation:

- 8.8 The proposed HMO layout comprises:
- Basement level: Communal kitchen and living room and one bedroom with en-suite bathroom.
 - Ground floor: Cycle and refuse / recycling store and two bedrooms with en-suite bathrooms.
 - First floor: Four bedrooms with en-suite bathrooms.
- 8.9 The bedrooms are annotated in the submitted drawing as 'studios', it does not however appear that self contained units are proposed, future occupiers would share use of the communal kitchen / living room.
- 8.10 Local planning policies do not set out minimum standards for residential accommodation and room sizes. Policy QD27 of the Brighton & Hove Local Plan does however seek to protect the amenity of future occupiers and therefore an assessment of the acceptability of the standard of accommodation which would be provided is required.
- 8.11 At basement level the property currently consists of W.C. facilities and a number of storage rooms. To make the basement level habitable it is proposed that the ground floor level would be raised slightly to provide usable ceiling heights at basement level. The rear basement window faces into a lightwell between the application property and no. 25 Old Steine behind. To the front of the property it is proposed that a lightwell would be excavated to form a pavement light, a very small north-facing high level window is proposed to the side of the building at ground level. The communal kitchen / living room would be reliant upon natural light from these two sources and would not have any significant outlook.
- 8.12 The standard of accommodation which this room would provide is considered to be unacceptably poor. A number of the bedrooms proposed are very small; bedroom sizes proposed (excluding shower rooms) are as follows:
- Basement bedroom: 15.2m².

- Ground floor bedrooms: 9.1 m² and 14.2 m².
- First floor bedrooms: 7.7 m², 7.8 m², 10.2 m² and 11 m².

- 8.13 Future occupiers would therefore be likely to spend a substantial amount of time in the communal room which would not benefit from appropriate natural light levels and the lack of any significant outlook would give the room the feeling of an internal basement store room, representing a poor standard of accommodation leading to a sense of confinement.
- 8.14 In regard to the bedrooms proposed, the basement bedroom and the rear ground floor bedroom are considered to be of a usable size and arrangement. The front ground floor room and the first floor bedrooms proposed are smaller and more awkward. The bedrooms to the front of the building (one at ground floor and two at first floor), and the rear studio with a side window would benefit from acceptable natural light levels and outlook, the three bedrooms solely reliant upon rear windows would have poorer natural light levels and poor quality outlook as they face into a small lightwell with views of the commercial building behind in close proximity.
- 8.15 No private outdoor amenity space is proposed for future occupiers, this is not ideal and does not meet the objectives of policy HO5. It is however accepted that in a city centre location, with a scheme relating to the conversion of an existing building, it is not always possible to achieve such provision. The addition of features such as balconies or roof terrace would be likely to cause harm to neighbouring amenity and would be unlikely to be acceptable in this case.
- 8.16 Cycle storage and refuse / recycling storage are proposed at ground floor level. Access to the cycle store would require going up three steps and through the internal hallway, this is not ideal but is considered acceptable given the constraints of the site.
- 8.17 In regard to access, the proposed layout would not provide compliance with Lifetime Homes Standards. The scheme however relates to the conversion of an existing building rather than a new build, it would not therefore be reasonable to require that such standards be met.
- 8.18 As an overall assessment, having regard to the poor standard of accommodation which the communal basement room would provide, the size and layout of the proposed bedrooms, and the poor quality outlook and light levels available from the rear windows of the building, it is considered that the proposed layout would not provide an acceptable standard of accommodation for future occupiers. The proposal is therefore considered contrary to policy QD27 of the Brighton & Hove Local Plan and warrants refusal on these grounds.

Neighbouring amenity:

- 8.19 In regard to the use which is proposed, a HMO occupied by seven individuals would be an intensive residential use and would be more likely to cause issues such as noise disturbance than a use as a single dwelling would be likely to.

Policy HO14 of the Brighton & Hove Local Plan and policy CP21 of the Brighton & Hove City Plan Part One (submission document) identify that concentrations of such uses in a particular area can cause harm to the amenity of residents.

- 8.20 In this case it has been identified that the concentration of such uses in the vicinity of the application site is not at a level which is considered to be harmful. In isolation, the proposed use is considered to be appropriate; the surrounding area is densely occupied and the proposed use would not be out of character. Refuse and cycle storage is proposed and further details of these provisions could be secured by planning permission were approval to be recommended, these would reduce the possibility of such items cluttering the street in front of the property.
- 8.21 Overall, having regard to immediate neighbours and the wider area, it is considered that the proposed HMO use would not cause significant harm to neighbouring amenity. It is also noted that the current use of the property as a nightclub has the potential to cause significant harm to neighbouring amenity, and that the proposed HMO use is likely to be less harmful than a fully active nightclub use.
- 8.22 In regard to privacy, the reinstatement of windows to the front of the building would not cause harm as they face out over the street and such views would not be harmful to the privacy of residents of the properties on the eastern side of Steine Street. An objection has been received regarding the overlooking which would result, it is however considered that the relationship which would result would be typical of the street and the surrounding area which is of a dense character; significant harm to privacy would not result.
- 8.23 The reinstatement of the north-facing first floor side window would primarily provide views over the roof of no. 7A Steine Street towards the buildings to the north of the site; again harmful overlooking would not result. The proposed small north-facing low level window at floor level window would not cause increased overlooking. To the rear of the property reinstating / uncovering the windows at basement, ground and first floor level would provide views across to the rear of no. 25 Steine Street which is in use as an education facility (The European School of Animal Osteopathy), overlooking of the windows of this property would not cause significant harm.

Visual Impact:

- 8.24 The application property forms a prominent part of the street scene and the East Cliff Conservation Area. As such it is of key importance that external alterations are of a sympathetic nature and that the resulting appearance would preserve / enhance the street scene. At present the building is in poor condition and does not make a positive contribution to the street scene. It is proposed that the building would be renovated and a number of external changes are proposed.
- 8.25 Alterations to the ground floor front elevation of the building are proposed, a basement lightwell is proposed to the front of the building with a pavement light and railings in front. Blocked up windows to the front side and rear of the

building would be reinstated and a small side window is proposed to the northern side of the building just above ground level. It is proposed that both sides of the building would be repaired and re-rendered with a lead capping to the top of the walls.

- 8.26 The alterations now proposed to the front of the building at ground floor level are considered to be acceptable and address the concerns raised by the Heritage Officer in relation to the original drawings submitted. It is proposed that the existing entrance and window would be replaced by an entrance door and window set in a wall which fronts straight on to the pavement, the remainder of the ground floor would be set back to allow for the formation of a pavement light with railings in front. It is considered that this arrangement would sit comfortably in the street scene. The proposed window alongside the front door should be set away from the door rather than being directly alongside, this minor revision could be secured by planning condition were approval to be recommended.
- 8.27 The windows proposed to be reinstated to the front and side of the building are considered to be appropriate subject to being set in deep reveals in a traditional fashion and subject to appropriate joinery details. These details could be secured by planning condition were approval to be recommended.
- 8.28 The proposed works to the side elevations of the property would improve its appearance and would be of benefit to the street scene. The submitted drawings indicate that additions to the building associated with the commercial use of the building such as condenser units to the southern side of the building and at roof level would be removed, which would also be an improvement. The removal of these items could be secured by planning condition were approval to be recommended.
- 8.29 Overall, subject to the application of appropriate conditions, the proposed development would result in an acceptable appearance. The character of the East Cliff and Valley Gardens Conservation Areas and of the setting of the listed buildings to the rear of the property would be preserved.

Transport:

- 8.30 The proposed use, in comparison to the established nightclub use would not result in a significant increase in trip generation. The application property is in a very well connected location with the city centre and public transport links in close proximity. In such a location, as no off-street vehicular parking is proposed, to ensure compliance with policies TR1 and HO7 it would be necessary to secure the development as car free by condition were approval to be recommended.
- 8.31 In regard to cycle storage, as detailed above the proposed provision is not ideal but is considered to be acceptable in this case subject to securing further detail by planning condition.

Sustainability:

- 8.32 Policy SU2 requires that developments demonstrate efficient use of materials, energy and water. SPD08 provides detailed guidance in this regard. For a

commercial development involving an existing building, SPD08 sets out that development should demonstrate efficient use of energy and water; a specific level of sustainability is not required. A sustainability checklist has been submitted which details some measures to meet these objectives; were approval to be recommended further details could be secured by planning condition.

9 CONCLUSION

- 9.1 The principle of the proposed change of use is considered acceptable in this location. The proposed external changes (subject to securing further details which could be required by planning condition) are considered appropriate. No significant harm to neighbouring amenity would result and other matters could be resolved by the application of planning conditions as detailed above.
- 9.2 It is however considered that the proposed internal accommodation, including a basement level communal room with little natural light and very limited outlook, a number of small bedrooms, and rooms to the rear of the property reliant on a lightwell which would provide limited natural light and poor quality outlook, would not be of an acceptable standard. The proposed development would not provide a suitable standard of accommodation, which would be to the detriment of the amenity of future occupiers and would be contrary to policy QD27 of the Brighton & Hove Local Plan. Refusal of planning permission is therefore recommended.

10 EQUALITIES

- 10.1 The proposed dwelling would not provide full compliance with Lifetime Homes Standards, a flexible approach is however required as the development relates to the conversion of an existing building rather than a new-build.

11 REASON FOR REFUSAL / INFORMATIVES

11.1 Reason for Refusal:

1. The proposed internal accommodation, including a basement level communal room with little natural light and very limited outlook, a number of small bedrooms, and rooms to the rear of the property reliant on a lightwell which would provide limited natural light and poor quality outlook, would not be of an acceptable standard. The proposed development would not provide a suitable standard of accommodation, which would be to the detriment of the amenity of future occupiers and would be contrary to policy QD27 of the Brighton & Hove Local Plan.

11.2 Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One (submission document) 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 decision is based on the drawings listed below:

PLANNING COMMITTEE LIST- 30TH OCTOBER 2013

Plan Type	Reference	Version	Date Received
LOCATION AND BLOCK PLAN	13-013-100		12/08/2013
EXISTING FLOOR PLANS AND ELEVATIONS	13-013-101		12/08/2013
PROPOSED FLOORPLANS ELEVATIONS	13-013-301	C	10/10/2013

