

<u>No:</u>	BH2022/02562	<u>Ward:</u>	Regency Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Montpelier Inn 7-8 Montpelier Place Brighton BN1 3BF		
<u>Proposal:</u>	Conversion of existing public house (sui generis) and maisonette (C3) to form 5no flats and maisonettes (C3) with associated alterations.		
<u>Officer:</u>	Emily Stanbridge, tel: 293311	<u>Valid Date:</u>	11.08.2022
<u>Con Area:</u>	Montpelier and Clifton Hill	<u>Expiry Date:</u>	06.10.2022
<u>Listed Building Grade:</u>		<u>EOT:</u>	
<u>Agent:</u>	Lewis And Co Planning SE Ltd Lewis & Co Planning 2 Port Hall Road Brighton BN1 5PD		
<u>Applicant:</u>	Mr Hafez F Barakat C/o Lewis And Co Planning 2 Port Hall Road Brighton BN1 5PD		

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 **REFUSE** planning permission for the following reasons:

1. 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. Therefore the proposals are contrary to Policy DM10 of the Brighton and Hove City Plan Part 2.

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. This decision is based on the drawings received listed below:

Plan Type	Reference	Version	Date Received
Location and block plan	TA1341/01	A	11 August 2022
Proposed Drawing	TA1341/10	F	11 August 2022
Proposed Drawing	TA1341/11	E	11 August 2022
Proposed Drawing	TA1341/12	E	11 August 2022
Proposed Drawing	TA1341/13	F	11 August 2022
Proposed Drawing	TA1341/14	F	11 August 2022
Proposed Drawing	TA1341/15	E	11 August 2022

Proposed Drawing	TA1341/16	E	11 August 2022
Proposed Drawing	TA1341/17	B	11 August 2022
Proposed Drawing	TA1341/18	D	11 August 2022
Proposed Drawing	TA1341/19	E	11 August 2022
Proposed Drawing	TA1341/20	F	11 August 2022
Proposed Drawing	TA1341/28	A	11 August 2022
Proposed Drawing	TA1341/29	A	11 August 2022
Proposed Drawing	TA1341/30	C	11 August 2022
Proposed Drawing	TA1341/31	A	11 August 2022
Proposed Drawing	TA1341/32	A	11 August 2022
Proposed Drawing	TA1341/33	A	11 August 2022
Proposed Drawing	TA1341/34	A	11 August 2022
Proposed Drawing	TA1341/35		11 August 2022
Proposed Drawing	TA1341/36		11 August 2022
Proposed Drawing	TA1341/37		11 August 2022
Proposed Drawing	TA1341/40	E	11 August 2022
Report/Statement	Marketing report		24 October 2022

2. SITE LOCATION

- 2.1. The application site relates to a three storey over basement property. The property is grade II listed and comprises a vacant public house known as the Montpelier Inn. The property has been vacant since December 2020. The building is situated on the corner of Montpelier Place and Borough Street and is located within the Montpelier and Clifton Hill Conservation area.
- 2.2. The site is also within the setting of a number of listed buildings and non-designated heritage assets, including the grade II* listed First Base Day Centre opposite.

3. RELEVANT HISTORY

- 3.1. **BH2022/02563:** (Listed Building Consent) Internal and external alterations to facilitate the conversion of public house (sui generis) and maisonette (C3) into 5no flats and maisonettes (C3). Approved.
- 3.2. **BH2021/04378:** (LBC) Internal and external works associated with the conversion of existing public house and maisonette into 2no. two bedroom maisonettes and 3no. one bedroom flats, and the creation of a ground floor commercial unit. Withdrawn
- 3.3. **BH2021/04377** (FP) Conversion of existing public house (sui generis) and maisonette (C3) into 2no. two bedroom maisonettes and 3no. one bedroom flats (C3) with associated alterations. Incorporates creation of 1no. commercial (Class E/F.1/F.2) unit on the ground floor. Withdrawn

- 3.4. **BH2021/02388** (LBC) Conversion of pub (A4) and maisonette (C3) to create 2no one-bedroom and 3no two-bedroom flats (C3). Refused October 2021. This application was refused on the following grounds:
- Insufficient information has been submitted to justify and inform the proposed layout changes to the listed building, particularly with reference to the removal of the existing staircase and its proposed repositioning at lower ground and ground floor level. The proposal would therefore not preserve the historic character of the Grade II Listed Building and would be contrary to Policies CP15 of the Brighton and Hove City Plan Part One and HE1 of the Brighton and Hove Local Plan.
- 3.5. **BH2021/02387** (FP) Conversion of existing public house (sui generis) and maisonette (C3) into 3no two bedroom maisonettes and 2no one bedroom flats (C3) with associated alterations. Refused October 2021 .This application was refused on the following grounds:
- Insufficient information has been submitted to demonstrate that the loss of the public house, as a community facility, is acceptable by virtue of not being needed, or that provision would be made elsewhere to compensate for its loss. Detail has not been provided to show that the public house is not economically viable and could not be made viable in the future; or that the local community no longer needs the public house or an alternative community facility. The proposed scheme would therefore be contrary to policies H020 of the Brighton Local Plan and DM10 of the emerging City Plan Part 2 which aim to protect community facilities.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the conversion of the existing public house and above maisonette to form 5 units of residential accommodation with associated alterations.

5. REPRESENTATIONS

- 5.1. **Nineteen (19)** letters of representation have been received supporting the proposed development on the following grounds:
- Good design
 - The use of the building as a pub has resulted in antisocial problems
 - The community will not miss the use of the pub
 - There are several other pubs close by
 - The conversion to residential will uplift the area
 - The removal of the pubs licence has stopped problems in the area
 - The works are in keeping with the listed building
 - The previous pub attracted drugs and violence
 - The proposals provide much needed housing
 - The direct surrounding area is residential so the proposals would be in keeping

- The property has now fallen into disrepair and is detrimental to the area
 - The re-opening of the pub will draw custom away from other existing local struggling businesses
- 5.2. **Two (2)** letters of representation have been received objecting to the proposed development on the following grounds:
- Prior to lockdown the building was a lively sports bar and an asset to the neighbourhood
 - The proposals should include a commercial property to create a lively neighbourhood
 - The pub was successful prior to the issues which saw it close
 - The building should be used as a family run pub
 - The pub should not be lost to make way for housing
- 5.3. **Councillors Tom Druitt and Alex Philips** support the proposed development. Please see comments attached.

6. CONSULTATIONS

- External
- 6.1. **Conservation Advisory Group** Recommend approval
- Internal
- 6.2. **Environmental Health** No comment
- 6.3. **Heritage** Seek further information 08.09.2022 Further information required regarding parking forecourt to the front of the property.
- 6.4. Further comments following submission of further information 30.09.2022 The information provided has addressed previous concerns and the scheme is now acceptable subject to conditions.
- 6.5. **Policy** Objection Policy DM10 criterion (a) has not been satisfied and it is not accepted that the problems associated with the former operations of the pub justify its permanent loss. It is not concluded that robust attempts have been made to secure an ongoing public house use and therefore the loss of the public house is contrary to Policy DM10 of the City Plan Part 2.
- 6.6. **Sustainable Transport** No objection subject to conditions.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report

- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove City Plan Part Two (adopted October 2022)
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour Joint Area Action Plan (adopted October 2019).

8. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part 2

DM1 Housing Quality, Choice and Mix

DM10 Public Houses

DM18 High quality design and places

DM20 Protection of Amenity

DM26 Conservation Areas

DM27 Listed Buildings

DM33 Safe, Sustainable and Active Travel

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP1 Housing delivery

CP2 Sustainable economic development

CP8 Sustainable buildings

CP9 Sustainable transport

CP12 Urban design

CP14 Housing density

CP15 Heritage

CP19 Housing mix

Supplementary Planning Documents:

SPD12 Design Guide for Extensions and Alterations

SPD14 Parking Standards

9. **CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the principle of the change of use, the impact on the historic character and appearance of the listed building, streetscene and surrounding conservation area, impact on neighbouring amenity, standard of accommodation and impact on the highway network.
- 9.2. 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. The local housing need figure for Brighton & Hove using the standard method is 2,311 homes per year. This includes a 35% uplift applied as one of the top 20 urban centres nationally.

- 9.3. The council's most recent housing land supply position is published in the SHLAA Update 2021 which shows a five-year housing supply shortfall of 6,915 (equivalent to 2.1 years of housing supply).
- 9.4. 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).

Principle of development

- 9.5. The Local Planning Authority recognises the importance of social and community facilities which make a vital contribution to the well-being of the community and the 'quality of life' of neighbourhoods. Community facilities, such as public houses, are therefore protected under policy DM10 of the City Plan Part 2.
- 9.6. Policy DM10 of the City Plan Part Two specifically relates to Public Houses. This policy requires it to be demonstrated that the existing use as a public house is not economically viable now and could not be made viable in the future; and that the local community no longer needs the public house and alternative provision meeting a similar need is available in the locality. The application submission does not address the requirements of Policy DM10.
- 9.7. Policy DM10 states:
Planning permission will not be granted for development that would result in the loss of a pub except where:
- a) *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*
 - b) *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...*
... Where an alternative use can be justified, priority will be given to re-use of the premises or site for alternative community facilities.
- 9.8. It is noted that the former pub has not reopened since its enforced temporary closure in December 2020 following persistent public order incidents and mismanagement and consequently the decision of the Licencing Panel in December 2020 to revoke the premises' license for three months, evidence of which is set out in the appendices to the Planning Statement in support of the application.
- 9.9. With regard to Policy DM10, as noted above, it appears that the pub under its former management was not generally valued by the local community and no significant objection is raised in relation to criterion (b) of Policy DM10 given the

provision of quite a number of alternative pubs in the vicinity, which was a conclusion reached in refused application BH2021/02387.

- 9.10. This previous application was refused (BH2021/02387) in relation to the conversion of the public house to residential use on the grounds that the application did not meet criterion (a) of Policy DM10.
- 9.11. It remains the case that it is not accepted that the problems associated with the former operations of the pub justify its permanent loss. A change of management and refocussing of the pub to attract a different clientele would stand a good chance of restoring a viable public house use in this densely populated, city centre location. This has been successfully achieved by other pubs in the city. Robust marketing focussed on achieving this aim must be demonstrated before the permanent loss of the public house can be accepted.
- 9.12. The supporting text to Policy DM10 in para. 2.90 sets out marketing requirements that are necessary in seeking to maintain a public house use. The site/premises must be appropriately and prominently marketed for a period of at least 24 months at an independently verified fair price for ongoing use as a public house, with both freehold and leasehold options available without a 'tie'. This avoids the unnecessary loss of pubs due to short term fluctuations in demand, particularly given the difficulty in re-providing pubs in established residential areas.
- 9.13. It is noted that additional marketing of the premises has occurred since the last application, with the marketing particulars indicating an opportunity for a restaurant/bar with accommodation. Further information has been submitted during the lifetime of this application in October 2022 to demonstrate that the premises has been marketed since February 2022 and that there has been little interest in the property owing to the level of investment and work needed, the current unstable economic climate and given the secondary location.
- 9.14. However, the marketing approach is not in accordance with that required by the policy as set out above, and it cannot be concluded that robust attempts have been made to secure an ongoing public house use.
- 9.15. It is also the case that if the marketing was satisfactorily proven, and an alternative use could be justified, Policy DM10 states that priority should be given to re-use of the premises for alternative community facilities, which is not the case with this residential conversion. No information has been submitted in relation to the presence of other community uses in the vicinity or to demonstrate that an alternative community use is not feasible.
- 9.16. The proposed development cannot therefore be supported and as such the proposals are contrary to Policy DM10 of the Brighton and Hove City Plan Part 2.

Design and appearance

- 9.17. 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.

- 9.18. 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 area should be given "considerable importance and weight".
- 9.19. The proposal includes a modest extension to the rear of the building at second floor level and the removal of a rear terrace. The extension would remove an original mono-pitched roof at first floor to then continue the line of the elevation up to roof level finished with a flat roof. The Heritage officer has confirmed there is no objection to this element of the scheme as the works are confined to the less significant rear elevation.
- 9.20. The proposal also includes a number of minor external alterations to the fenestration, for which appropriate details have been submitted. The alterations are welcomed and make a positive contribution to the building and would preserve the character and appearance of the listed building and the surrounding conservation area.
- 9.21. The Heritage officer noted that the change of use from commercial to residential has the potential for harmful car parking on the front forecourt. During the lifetime of this application further information has been submitted by the applicant to state that the existing black and white tiling installed in the early 21st Century will be removed and replaced with either red brick or York stone slabs and cast iron bollards installed to prevent illegal parking. This is considered acceptable by the Heritage team subject to a condition were the application otherwise acceptable to secure further details.
- 9.22. The external appearance of the application would therefore accord with policies CP12 and CP15 of the City Plan Part One and policies DM18, DM26 and DM27 of the City Plan Part 2.

Standard of accommodation

- 9.23. The proposals to convert the existing building into residential use would result in the provision of 5 units of accommodation (net gain of 4 units). The building would create 3no. one-bedroom units, 1no. 2-bedroom unit and 1no. 3-bedroom unit.
- 9.24. Each of the units proposed would meet or exceed the minimum national space standards in accordance with policy DM1 of the City Plan Part 2. The layout of the units is broadly similar to that proposed under application BH2021/02387, the standard of accommodation was considered acceptable in this scheme.
- 9.25. The proposals would comprise a mix of maisonettes and flats. The lower-level maisonettes (units 1 and 2) would suffer from some lack of light due to the siting

of the lower ground floor. Bedrooms have been positioned within the lower ground floor and whilst their basement siting might restrict light and outlook, it is considered that these rooms would still be acceptable. The primary living rooms for these units would be located on the ground floor and would be served by the large bay window openings, and therefore adequate light and outlook would be achieved in these rooms. It is acknowledged that these are street level windows and therefore may be overlooked from the pavement.

- 9.26. However, the building is set back with a forecourt in front and where bedroom windows are located there is a void serving the basement level, providing further separation. On balance it is considered that it is not an uncommon scenario within the locality to have large habitable room openings at street level.
- 9.27. Each habitable room within each of the 5 units proposed would be served by a window providing light, outlook and ventilation. The plans also provide an indicative furniture layout which demonstrates how some furniture items likely to be required by future occupiers could be accommodated and still retain sufficient circulation space.
- 9.28. Whilst it is acknowledged that the units proposed would not benefit from private external amenity space, this is not uncommon for a constrained city centre location such as this. Further the dwellings would be within walking distance of public green open spaces and the beach.
- 9.29. The residential accommodation would therefore comply with policies DM1 and DM20 of the City Plan Part 2.

Impact on amenity

- 9.30. The proposed conversion of the building to residential is considered acceptable in terms of its impact on neighbouring properties. The site is located within a predominantly residential area and therefore the use would have less impact than the existing commercial use.
- 9.31. The proposed rear extension due to its siting and modest scale would not have result in any harm in terms of loss of light, overshadowing or an overbearing impact on neighbouring properties.
- 9.32. New window openings would be positioned on the rear elevation at second floor level within the recess. These would all be modest in scale and would provide similar views as existing openings on this elevation. Therefore, no significant overlooking or loss of privacy would occur.
- 9.33. A small patio area would be created at lower ground floor level. Given its siting and scale, no overlooking or loss of privacy would occur, and any noise increase would be minimal and would not be harmful in this location.
- 9.34. It should also be noted that these external alterations were considered acceptable under previous applications. The alterations proposed are in accordance with policy DM20 of the City Plan Part 2.

Sustainable transport

- 9.35. The site is centrally located and close to bus routes and amenities, where residential use would be appropriate in principle.

Pedestrian access

- 9.36. The applicant is not proposing changes to pedestrian access arrangements onto the public highway, and this is deemed acceptable. Pedestrian access is from street level through the existing main entrance door on Montpelier Place.

Cycle Parking

- 9.37. SPD14 requires a total of 6 cycle parking spaces for this scheme. If the scheme were otherwise considered acceptable, a condition would be sought to secure cycle storage on the front forecourt.

Deliveries/servicing

- 9.38. There are double yellow lines in the vicinity of the site without loading restrictions, as well as shared use parking bays which could be used for general deliveries. If the application were otherwise acceptable a condition would be sought for further details of storage for refuse and recycling.

Car Parking

- 9.39. The application does not propose changes to the existing situation. The proposals would not provide the opportunity to park on site.
- 9.40. The additional 4 units would likely increase demand for on-street parking. The site is located within Controlled parking zone Z which has a high demand of permits. Parking in the local area and limiting the issue of parking permits is already covered through the management of the Controlled Parking Zone and therefore the proposals are considered acceptable in this respect.

Trip generation

- 9.41. It is not anticipated that the additional dwellings will result in an excessive increase in person and vehicle trip and therefore the development will not have a severe impact on the highway.

Climate change/biodiversity

- 9.42. As a conversion/alteration of a listed building, the opportunities to incorporate sustainable or biodiversity measures is somewhat limited. The proposals would however upgrade an existing vacant building and provide residential accommodation in a sustainable location with good access to public transport links. A condition could be imposed to incorporate a bee brick were the proposal to be otherwise acceptable.

10. CONCLUSION

- 10.1. It is acknowledged that the proposals would result in the provision of 5 residential units that provide an acceptable standard of accommodation. However, the proposals for the total loss of the existing public house are contrary to the aims of Policy DM10 of the City Plan Part 2. Insufficient information and detail have

been provided to demonstrate that robust attempts have been made to secure an on-going public house use and that the public house could not be made viable. Further no alternative community use has been proposed in line with policy DM10.

- 10.2. It is recognised that given the council is currently unable to demonstrate a 5-year housing supply, and thus increased weight is given to the provision of residential accommodation in line with the NPPF. However, this does not outweigh the fundamental policy objection in this instance and as such the application is recommended for refusal.

11. EQUALITIES

- 11.1. The application relates to the conversion of a listed building and in this instance step-free access is not achievable.

