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| <b><u>No:</u></b>                    | <b>BH2017/02113</b>  | <b><u>Ward:</u></b>        | <b>Regency Ward</b> |
| <b><u>App Type:</u></b>              | <b>Full Planning</b>   |                            |                     |
| <b><u>Address:</u></b>               | <b>33 Upper North Street Brighton BN1 3FG</b>  |                            |                     |
| <b><u>Proposal:</u></b>              | <b>Change of use of tattoo studio (Sui Generis) to leisure use as escape rooms (D2).</b> |                            |                     |
| <b><u>Officer:</u></b>               | Wayne Nee, tel: 292132   | <b><u>Valid Date:</u></b>  | 22.06.2017          |
| <b><u>Con Area:</u></b>              |  | <b><u>Expiry Date:</u></b> | 17.08.2017          |
| <b><u>Listed Building Grade:</u></b> |  | <b><u>EOT:</u></b>         |                     |
| <b>Agent:</b>                        | DOWSETTMAYHEW Planning Partnership 63A Ship Street Brighton BN1 1AE                      |                            |                     |
| <b>Applicant:</b>                    | Phil Harris C/o Agent Anthony Foster 63A Ship Street Brighton BN1 1AE                    |                            |                     |

## 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 Plan        |           |         | 22 June 2017  |
| Floor Plans Proposed |           |         | 22 June 2017  |
| Floor Plans Proposed |           |         | 22 June 2017  |

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. No development shall commence until a scheme for the soundproofing of the building has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.  
**Reason:** To safeguard the amenities of the occupiers of adjoining properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.
4. The premises shall be used as an escape room (Use Class D2) only and for no other purpose (including any other purpose in Class D2 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). 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:** 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 and to comply with policy QD27 of the Brighton & Hove Local Plan

- 5 The use hereby permitted shall not be open to customers except between the hours of 10am-8pm Monday-Sunday.  
**Reason:** To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

- 6 The development shall be implemented in accordance with the submitted Noise Management Statement received on 29 November 2017, and shall maintained as such thereafter.  
**Reason:** To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.

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 The applicant is advised 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 & APPLICATION DESCRIPTION**

- 2.1 The application relates to the basement and ground floor of a three storey mid-terraced property on the southern side of Upper North Street which is within the Montpelier and Clifton Hill Conservation Area.
- 2.2 Since 2007, the property has been in use as a tattoo studio (Class Use Sui Generis) and is currently vacant. The upper floors are in use as a residential maisonette (33A Upper North Street) which has a separate entrance within the shopfront.
- 2.3 The southern side of Upper North Street is a mixture of commercial and residential uses at ground floor level, with the northern side residential. Commercial properties are primarily retail with a number of A4 and A5 premises also present.

- 2.4 Planning permission is sought for the change of use of tattoo studio (Sui Generis) to leisure use as escape rooms (D2).
- 2.5 During the course of the application, the applicant submitted a Noise Management Statement, and proposed to reduce the opening hours, to now close at 20.00 Monday-Sunday.

### 3. RELEVANT HISTORY

BH2007/01158 Change of use of ground and lower ground floors from A1 retail to tattoo parlour (sui generis) - Approved 10/07/2007

### 4. REPRESENTATIONS

4.1 Eleven (11) letters have been received objecting to the proposed development for the following reasons:

- Use is not suitable in this predominantly residential area
- Proposed use would result in excessive noise and disruption
- Would attract ant-social behaviour
- Large groups of people in comparison to a shop
- Congestion on footpath
- Opening hours will increase in the future
- Increase the parking problem
- Loss of viable retail unit
- Works without planning permission are taking place on the upper floor flat

4.2 One (1) letter has been received supporting the proposed development for the following reasons:

- Upper North Street has a mixture of commercial and residential uses
- Proposed noise would not cause any more noise and disturbance than the nearby shops and pub
- Would contribute to the city economy

4.3 One (1) letter of comment has been received commenting as follows:

- Opening hours should be reduced to 9pm

### 5. CONSULTATIONS

5.1 **Sussex Police:** Comment

Sussex Police do not have any concerns over the design and layout of the application other than to recommend that all existing external doors and windows are checked to ensure they are adequate and fit for purpose, with locks that conform to BS 3621 / BS 8621 as a minimum standard.

- 5.2 The opening times are given as 10:00-22:00 daily. According to the planning statement accompanying the application, there could be some 30 plus persons with the property at any given time. Due consideration should be given so that the proposed timings do not negatively impact upon the amenity of the immediate residents. (NB – this opening time reflects the scheme as originally submitted but was reduced to a closing time of 20.00 Mon-Sun during the course of the application).
- 5.3 **Environmental Health: Comment**  
The application is for the change of use from a tattoo studio to Escape Rooms in Upper North Street, Brighton which will be open from 10:00am until 10:00pm. Upper North Street is a mixed residential / commercial area.
- 5.4 Escape rooms attract groups of people coming for a social event full of high spirits and there is the potential for large groups of people waiting outside to create a noise disturbance. It is noted there have been objections to the application on the grounds of noise. There is a lobby area where customers could wait until they enter the games areas. It is suggested that there are conditions to prevent groups congregating outside and soundproofing inside to prevent noise from activities inside causing a noise disturbance to neighbouring residents
- 5.5 **Sustainable Transport: No objection**  
Recommended approval as the Highway Authority has no objections to this application.
- 5.6 The proposed change of use from a tattoo parlour (Sui Generis) to a leisure use as escape rooms (D2) may result in additional trips to the site however, it is not considered that this will have an adverse impact upon surrounding highway and transportation networks in this instance.
- 5.7 The applicant appears to be proposing no cycle parking. However it is unlikely that such parking could be provided due to site constraints and therefore the Highway Authority does not wish to object on these grounds.

## 6. MATERIAL CONSIDERATIONS

- 6.1 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
- 6.2 The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - 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);

6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 7. **POLICIES**

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

- SS1 Presumption in Favour of Sustainable Development
- CP4 Retail provision
- CP9 Sustainable transport
- CP15 Heritage
- CP17 Sports Provision
- CP18 Healthy City

#### Brighton & Hove Local Plan (retained policies March 2016):

- TR4 Travel plans
- TR7 Safe Development
- TR14 Cycle access and parking
- SU9 Pollution and nuisance control
- SU10 Noise Nuisance
- QD27 Protection of amenity
- SR8 Individual shops
- HE6 Development within or affecting the setting of conservation areas

#### Supplementary Planning Documents:

- SPD14 Parking Standards

## 8. **CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations in the determination of this application are the principle of the change of use together with the impact of the proposed activities on the neighbouring properties, and traffic implications.

8.2 There are no external alterations proposed under this application. Therefore the development is not considered to have an impact on the street scene or the wider Montpelier and Clifton Hill Conservation Area

### 8.3 **Planning Policy:**

The site is not part of the regional shopping centre, but is in close proximity to it. Over time some of the commercial units in this part of the street have been converted into residential uses. Although not an A1 or A3 use, it is accepted that the existing use of the site makes a contribution to the vitality of the street and the wider city centre.

8.4 The existing tattoo studio use (Sui Generis) is not protected by any local policy and the principle of its loss is considered acceptable in this instance, providing

the new use would also contribute to pedestrian activity and encourages combined visits.

- 8.5 The proposed D2 recreational use is considered by the NPPF to be a main town centre use. The proposed D2 use would be a leisure use in the form of an escape room. The use would comprise 160sqm of floorspace which is split over the lower ground and ground floor. The proposal would provide employment for up to 5 full-time persons.
- 8.6 The facility would consist of a number of different game rooms. The applicant sets out that the escape room provides opportunity for teams of between 2-6 people to complete a series of puzzles that then allows access into the next rooms which would last 60 minutes per game.
- 8.7 The proposed layout would include a front reception and lobby area at the ground floor front entrance, and then four game areas which are each split into different rooms. There are two rooms for Game 1 on the ground floor and then a staff office at the rear of the ground floor. There are two access stairs which lead down to the lower ground floor level. A small staircase provides access to a central part of the lower ground floor. The second main staircase is to the rear of the ground floor and leads to the rear area of the Lower Ground Floor. The lower ground floor is divided up into individual rooms for the other three games, and a staff room.
- 8.8 The proposal would introduce a non-seasonal leisure use within the city which would generate employment. The proposed use would retain the shopfront window and so would continue to provide an active frontage for passers-by. Thus, it will generate a certain level of activity and help maintain the vibrancy of the area.
- 8.9 Overall, it is considered that the principle of the change of use to D2 is considered acceptable. The impact on neighbouring amenity is considered below.
- 8.10 **Impact on Amenity:**  
Policy QD27 of the Brighton & Hove Local Plan 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.
- 8.11 Upper North Street comprises a mix of commercial and retail units and in this context the proposed use would not be out of character with the surrounding area. The application site is in a predominantly residential part of the street, although there are other commercial uses in close proximity to the site and further along the street. The existing tattoo studio and nearby retail uses are likely to provide a relatively low level of pedestrian activity. The nearby public house to the east of the site results in a higher level of activity from comings and goings of pedestrians, including at later times in the evening.

- 8.12 It is expected that the proposed D2 use, which involves games for groups of people, would mean more comings and goings to the site. This is likely to generate some noise impact in addition to disturbance associated with the general movements and activity from users of the site. There have been public objections received to the application, particularly in respect of increased noise and disturbance.
- 8.13 During the course of the application, the applicant has submitted a Noise Management Statement, which details the actions that will be taken during opening hours to limit the impact of noise and disturbance. The proposed opening hours, which were amended during the course of the application, are 10am-8pm Monday-Sunday.
- 8.14 Within the Noise Management Statement, the applicant states that start time of the four games will be staggered, so no more than two teams would arrive at any one time (a maximum of 12 people). The applicant has also provided occupancy statistics from other escape room operators, which suggests that in most bookings, the groups of people are unlikely to be at maximum levels, and not all rooms are likely to be booked at the same time, especially during weekdays.
- 8.15 The proposed layout provides a lobby area where customers could wait until they enter the game rooms. Although it cannot be assured that this would stop groups of people from standing outside on the highway, a provision of seating space in the lobby would limit the necessity to do this, potentially only for short periods when arriving or waiting to leave the site.
- 8.16 The proposed D2 use could have the potential to disturb adjoining residential occupiers from sound transmission. There is an existing residential maisonette on the upper floors of the application property and adjoining on either side.
- 8.17 The proposed use as an escape room is not likely to result in activities that would be considered to be excessively noisy, and would not involve loud equipment or machinery. Excessive physical movement from customers that would have the potential to cause noise vibrations that would be expected with other types of D2 use are considered unlikely here.
- 8.18 The applicant has stated that low level music will be played to help player immerse themselves into the situation and surroundings. The sound will be limited to background noise only and no high volume sound effects will be used.
- 8.19 The Environmental Health Team has recommended that details of soundproofing should be secured in order to avoid noise impact on the adjacent uses within the building. A condition is recommended to secure these measures.
- 8.20 Amongst other conditions, the Environmental Health Team suggested conditions to restrict the pedestrian use of the highway, that customers should be encouraged to leave the area quietly, that signage should be put up, and that doors and windows should be kept closed. However it is considered that these

are either outside the scope of this planning application, or are considered unenforceable.

8.21 Although there is the likelihood that the proposal would result in some increased noise and disturbance from the comings and goings of small groups of people, taking into account the information within the submitted Noise Management Report, the now significantly reduced proposed opening hours, and with the suggested conditions, it is considered on balance that the proposal would not result in significant noise and disturbance to neighbouring properties.

8.22 **Sustainable Transport:**

The proposed change of use from tattoo parlour (Sui Generis) to an escape rooms leisure use D2 may generate a small increase in trips to the site. However this would not be so significant as to warrant refusal of the application on this basis. Most customers would arrive by foot or be dropped off/picked up by vehicles such as Taxis. Any other vehicle trips would likely be to nearby public car parks.

8.23 No cycle parking is proposed however the site is constrained and satisfactory spaces are unlikely to be accommodated within the site.

**9. EQUALITIES**

9.1 The existing entrance arrangement, which appears to provide adequate access, will not be altered by the proposal.