

ITEM D

8 Richardson Road, Hove

BH2014/00178
Full planning

14 MAY 2014

BH2014/00178 8 Richardson Road, Hove



**Brighton & Hove
City Council**



Scale: 1:1,250

PLANNING COMMITTEE LIST- 14 MAY 2014

<u>No:</u>	BH2014/00178	<u>Ward:</u>	WESTBOURNE
<u>App Type:</u>	Full Planning		
<u>Address:</u>	8 Richardson Road		
<u>Proposal:</u>	Change of use from retail (A1) to public house (A4)		
<u>Officer:</u>	Andrew Huntley Tel 292321	<u>Valid Date:</u>	07 February 2014
<u>Con Area:</u>	N/A	<u>Expiry Date:</u>	04 April 2014
<u>Listed Building Grade:</u>	N/A		
<u>Agent:</u>	N/A		
<u>Applicant:</u>	Mr David White, 30 Titian Road, Hove BN3 5QS		

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 **GRANT** planning permission subject to the Conditions and Informatives set out in section 11.

2 SITE LOCATION & DESCRIPTION

- 2.1 The application site relates to a retail unit on the western side of Richardson Road, which is located in a Local Centre as designated by policy SR6 of the Brighton & Hove Local Plan. The centre comprises of predominantly A1 uses. The premise is currently an A1 retail unit (wine shop) with a storage rooms to the rear, which can be accessed separately from Lion Mews. The upper floors of the property are in use as self-contained residential accommodation.

3 RELEVANT HISTORY

- 3.1 None.

4 THE APPLICATION

- 4.1 Planning permission is sought for the change of use from retail (A1) to public house (A4). A supporting statement submitted with the application states the pub will be a micro-pub and describes the micro-pub concept as far removed from the modern concept of a pub. The model for a micro-pub is small in size with no music or gaming machines, no food is served (other than possibly bar snacks such as crisps, peanuts); there is no bar. Drawing number 8RR – P2 shows seating for approximately 34 people. Customers are served at the table so there is no 'vertical drinking' on the premises. The intention is to serve locally sourced beers and ales (no keg beers or lagers).
- 4.2 The hours of opening would be 12.00 to 21.00 on Mondays to Thursday and 12.00 and 23.00 on Friday and Saturdays and 12.00 and 14.00 on Sundays.

- 4.3 The only external alteration is for an air-conditioning outlet on the external wall of the property.

5 PUBLICITY & CONSULTATIONS

External

- 5.1 **Neighbours: Thirty Eight (38)** letters of representation have been received from **35 Derek Avenue, 287 Hangleton Way, 54, 55, 58, 76 and 76a Lawrance Road, 1, 2, 4, 6, 7, 8 (x2), 9, 10, 11, 12 and units 2-7 Lion Mews, 76 Newmarket Road, 6, 7 Richardson Court, 1, 3, 4, 9a, 9 (upper flat), 12-16 and 15 Richardson Road, 12 Spencer Avenue, 1 St Philips Mews, and 43 Westbourne Villas** objecting to the application for the following reasons:

- Lack of parking and additional traffic.
- Additional noise and disturbance from customers.
- Smoking outside on the road and in the mews and the problem of second hand smoke.
- There are enough pubs and cafes in the area.
- Additional noise from the air conditioning.
- Increase in anti-social behaviour and crime rates.
- Loss of privacy and overshadowing.
- The mews would be used as a dog toilet.
- Additional litter.
- Unpleasant smells.
- Lack of information on sound proofing.
- Will become a full public house.
- Proposal does not comply with local plan policy.
- Letters of support are from people not near the proposal and should be ignored.
- Lack of consultation with all the properties in the area.

- 5.2 **Twenty (20)** letters of representation have been received from **24 Aymer Road, 111 Becket Road, 32 Berriedale Avenue (x2), 25 Bishopstone Road, 13 (x2) Braemore Road, 46 Brittany Road (x2), 151 Elm Drive, 11 Gail Close, 129 Hangleton Road, 44 Hogarth Road, 59 Langdale Road, 52 Lawrence Road, 58b and 218 New Church Road, 5 Scott Road, 59 St Aubyns Road, 7 Tennis Road and 2 (x2), 13, and 31 Titian Road** supporting the application for the following reasons:

- Would add to the mix of amenities within the area.
- Would retain the vitality and strengthen the viability of Richardson Road.
- Enhance the community spirit within the area.
- Small business should be supported and encouraged.

Internal:

- 5.3 **Environmental Health: Support**

To date no approach regarding this proposal has been made to the council's Licensing section.

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- 5.4 A presumption within the licensing regime is that there shall be inaudibility between licensed premises and adjacent residential accommodation not in the control of the licensed premises. This represents a very high standard of acoustic separation and should be the guide for compliance with the recommended soundproofing condition.
- 5.5 Licence Requirement: The applicant is advised that this planning permission does not override the need to obtain a licence under the Licensing Act 2003. Please contact the Council's Licensing team for further information. Their address is Environmental Health & Licensing, Bartholomew House, Bartholomew Square, Brighton BN1 1JP (telephone: 01273 294429, email: ehl.safety@brighton-hove.gov.uk, website: www.brighton-hove.gov.uk/licensing)
- 5.6 Approve with the conditions restricting the opening hours; soundproofing the building; scheme for odour control system; soundproofing of equipment and restricting deliveries.
- 5.7 **Sustainable Transport**: Support
Recommended approval as the Highway Authority has no objections to this application.
- 5.8 The proposal is for a change of use from an A1 retail store to an A4 public house. The overall floor area is remaining the same at 78m². The overall trip generation is not considered to significantly increase above existing levels. In light of this, together with the fact that the scale of the application is below the temporary recession measures threshold the Highway Authority would not ask for a S106 contribution in this instance.
- 5.9 It appears that the applicant is intending deliveries to take place from Lion Mews. The Highway Authority has no objections to this.

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) is a material consideration.
- 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
SU10	Noise nuisance
SU13	Minimisation and re-use of construction industry waste
QD14	Extensions and alterations
QD27	Protection of Amenity
SR6	Local centres

Supplementary Planning Guidance:

SPGBH4	Parking Standards
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Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD12	Design Guide for Extensions and Alterations

Brighton & Hove City Plan Part One (submission document)

SS1	Presumption in Favour of Sustainable Development
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8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the impact of the change of use upon the vitality and viability of the Richardson Road local shopping centre; the impact on neighbouring amenity and the transport impact of the change of use. The development does not propose any external physical alterations to the premises apart from a flue extract onto Lion Mews.

Policy:

- 8.2 The property is located within a 'Local Centre' as designated by Policy SR6 of the Brighton & Hove Local Plan. The term local centre describes a small grouping of small shops of a local nature. As such any change of use from A1 to another use designated as acceptable (A2, A3, A4, A5 or D1) within the policy must meet the criteria of Policy SR6.
- 8.3 The change of use of existing Class A1 use shops to Class A2, A3, A4 or A5 uses will be permitted, provided that all of the criteria, a) to e), are met:
- it would not result in either the number of non-retail units or the proportion of frontages exceeding 35% of the centre;
 - it has been adequately demonstrated that a Class A1 retail use is no longer economically viable in that particular unit or the centre as a whole;
 - the proposed use would attract pedestrian activity (particularly in the daytime) which would make a positive contribution to the vitality and viability of the centre;
 - the development would not be significantly detrimental to the amenities of occupiers of nearby residential properties or the general character of the area; and;
 - the location and prominence of the proposed use would not lead to a significant break of more than 10 metres in the frontage.
- 8.4 Having identified the uses within the local centre, the proposed change of use would not result in either the number of non-retail units or the proportion of frontages exceeding 35% of the centre. Of the fifteen units that make up the Richardson Road Local Centre, only two units are in non-retail (A1) uses, which include an estate agents and a vacant unit, which is unclassified on the Councils retail survey. This proposal would result in 20% of the commercial units being in non A1 retail uses and an even lower proportion of the frontage being non A1. Therefore, the proposal is in accordance with policy SR6 (a) of the Brighton & Hove Local Plan.
- 8.5 The application states that the retail unit has been marketed since the end of March 2010. While the marketing appears to have been concentrated in 2010 and 2011, there has also been a mailing campaign. The report from Parsons Son & Basley LLP states that they received the following enquiries:
- 8.6 2010: Seven enquiries and only one showed further interest but no offer was made.
2011: Three enquiries and all three showed no further interest.
2012: Nine enquiries and two arranged inspections but showed no further interest.
2013: Four enquiries and two showed positive interest (one being the applicant).
- 8.7 The report states that only one acceptable offer has been received and that was subject to a change of use to an A4 use being secured. The report states that the property will be difficult to let as an A1 retail unit, as it is located in a parade of shops where almost every type of local retail outlet is already represented, the current owner is struggling to sustain a profitable business, ongoing

reduction in the sustainability of small local parades in the area and that the long marketing and advertising campaign has produced little serious interest.

- 8.8 Overall, it is considered that the applicant has demonstrated that the retail unit has been adequately marketed and that the unit is not economically viable as a A1 retail unit. Therefore, the proposal is in accordance with policy SR6 (b) of the Brighton & Hove Local Plan.
- 8.9 The proposed micro-pub would attract pedestrian activity which would make a positive contribution to the vitality and viability of the centre. Therefore, the proposal is in accordance with policy SR6 (c) of the Brighton & Hove Local Plan.
- 8.10 The proposals impact on neighbouring amenity is considered later in the report. The proposed change of use would not result in a significant break of more than 10 metres in the frontage. Therefore, the proposal is in accordance with policy SR6 (d) of the Brighton & Hove Local Plan.
- 8.11 Overall, there is no policy objection to the proposed micro-pub use, which would serve a niche market, in keeping with the character of other small-scale, retail uses on Richardson Road.

Visual Amenity:

- 8.12 The existing traditional shopfront is timber framed, sub-divided by mullions, above a tiled stall-riser and tiled recessed entrance, which serves the ground-floor shop unit. No alterations to the existing shopfront are proposed and it is not considered that there would be any harm to the character or appearance of the street scene. The only external changes would be the introduction of an air conditioning vent on the external wall onto Lion Mews and that 3 existing windows on the southern elevation windows would be sealed shut with obscure glazing or would be blocked up. While no details have been provided of the extract vent and the sealing up of the windows, these are considered to be minor external alterations to the retail unit and could be satisfactorily addressed via suitably worded conditions in the event planning permission was granted.

Impact on Amenity:

- 8.13 There is a recognised potential conflict between residential uses and drinking establishments (Class A4) which can give rise to noise and disturbance through late night activity as well as anti-social behaviour. In this case there is a residential flat on the upper floors of the application property and residential use of the upper floors of neighbouring properties. At ground-floor the proposed micro-pub adjoins an A1 shop to the north (No.10) and the entrance to Lion Mews to the south. However, the proposed micro-pub concept is aimed at a specialist market and the nature of the use clearly differs from the large-scale public houses found in the commercial heart of the town centre or “vertical drinking” establishments generally.
- 8.14 The proposed use would give rise to some noise through increased activity, but this is to be expected in a local centre location due to the differing opening hours of an A4 use compared to an A1 use. The potentially disturbing aspects

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of the use can be controlled by imposing conditions limiting the hours of opening to prevent late evening/night use, stipulating that no music should be played on the premises and no food should be prepared or sold to customers on the premises (other than pre-packed bar snacks such as crisp, peanuts etc.). This is entirely consistent with the micro pub concept as presented. The furniture layout drawing shows seating for approximately 34 people in the distinct areas. In this instance due to the small size of the premises it is not considered necessary to impose a condition on the maximum number of people allowed in the premises at any one time, but to condition the areas to be used by customers as the maximum number that could be seated in the premises would not be significantly higher than shown.

8.15 Environmental Health has not objected to the proposal subject to the imposition of conditions that are recommended. The requested conditions relate to delivery times, opening hours as well as sound proofing to be agreed and installed within the unit. In addition, Environmental Health has requested details of any odour control equipment and treatments for the transmission of sound and vibration from any plant and machinery. However, as recommended by condition, no hot food should be prepared or sold so such conditions would not be necessary.

8.16 The representations received in regard to this proposal have raised additional issues in regard to amenity:

- Smoking outside on the road and in the mews and the problem of second hand smoke.
- Increase in anti-social behaviour and crime rates.
- Loss of privacy and overshadowing.
- The mews would be used as a dog toilet.
- Additional litter.

8.17 The Local Planning Authority can not control where members of the public choose to smoke and there is no evidence that a micro pub would result in any significant numbers of people smoking outside. Nor is there any evidence that a micro-pub use would result in anti-social behaviour, additional litter, increased crime rates or result in Lion Mews becoming a dog toilet. Furthermore, it is considered that the proposed use of the existing unit would not result in a loss of privacy. As only very minor external alterations are proposed, there would be not detrimental impact in regard to overshadowing.

8.18 Subject to the controls outlined above, it is considered the proposed use could take place without giving rise to unacceptable detriment to the amenities of neighbouring residential occupiers. Therefore the proposal is in accordance with criteria 'd' of policy SR6 and policy QD27 of the Brighton & Hove Local Plan. In addition, if the proposed use were to result in increased noise and disturbance, Environmental Health have separate legislation which could control this.

Sustainable Transport:

8.19 The Highway Authority has no objections to this application as the overall floor area is remaining the same at 78m² and the overall trip generation is not

considered to significantly increase above existing levels. In light of this and that the scale of the application is below the temporary recession measures threshold the Highway Authority would not ask for a s.106 contribution in this instance. In addition, it appears that the applicant is intending deliveries to take place from Lion Mews and the Highway Authority has no objections to this.

8.20 Therefore, the proposal is considered acceptable in regard to sustainable transport considerations and in accordance with local plan policy.

Other Considerations:

8.21 The representations received have also raised issues in regard to the need for another café/pub in the area, that the site will become a full public house, that the letters of support are from people not near the site and should be ignored and that there has been a lack of consultation. The need for this type of use is not a material planning consideration and therefore, can not be a reason for refusal. A condition is recommended that will ensure that the site can only be used as a micro-pub and for no other use. Therefore, planning permission would be required to turn the unit into a full A4 public house. In any event, the small nature of the unit makes it unsuitable for use as a full public house. Any persons are entitled to comment on planning applications, whether they live near the application site or not. The consultation of this application has been in accordance with Council procedure.

9 CONCLUSION

9.1 The proposed use as a micro-pub is appropriate to the role and function of this part of the town, would contribute towards its vitality of the local centre and help support the local economy. The proposal would not have a detrimental impact in the highway network and subject to conditions, would not have a detrimental impact on the amenity of neighbours.

10 EQUALITIES

10.1 None identified.

11 PLANNING OBLIGATION / CONDITIONS / INFORMATIVES

- 1) 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.
- 2) 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			20.01.2014
Location Plan, Existing & Proposed Floor Plans	8RR – P1		03.02.2014

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Furniture Layout Plan	8RR – P2		25.04.2014
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- 3) The use hereby permitted shall not be open to customers except between the hours of 12.00 and 21.00 on Mondays to Thursday and 12.00 and 23.00 on Friday and Saturdays and 12.00 and 14.00 on Sundays.
Reason: To safeguard the amenities of the locality and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan
- 4) 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.
- 5) No development shall take place until full details of the air-conditioning outlet on the external wall of the property have been submitted to and approved in writing by the Local Planning Authority. 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 QD1 and QD14 of the Brighton & Hove Local Plan.
- 6) No vehicular movements nor any loading or unloading of vehicles shall take place on the site except between the hours of 08.00 and 18.00 on Monday to Friday and 09.00 and 18.00 on Saturdays and not at any time on Sundays, Bank or Public Holidays.
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.
- 7) There shall be no live or amplified music played on the premises at any time.
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.
- 8) The areas of the premises to be used by customers, shall be limited to the areas marked blue and shown as WC and WC lobby as shown on drawing 8RR-P2 hereby approved. Customers shall not be permitted in the other parts of the premises.
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.
- 9) There shall be no preparation/cooking/heating-up of hot or cold food on the premises. No hot or cold food shall be served to customers on the premises (other than bar snacks).

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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.

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 to grant Planning Permission has been taken:
 - (i) having regard to the policies and proposals in the National Planning Policy Framework and the Development Plan, including Supplementary Planning Guidance and Supplementary Planning Documents:
(Please see section 7 of the report for the full list); and
 - (ii) for the following reasons:- The proposed use as a micro-pub is appropriate to the role and function of this part of the town, would contribute towards its vitality of the local centre and help support the local economy. The proposal would not have a detrimental impact in the highway network and subject to conditions, would not have a detrimental impact on the amenity of neighbours.