

<b><u>No:</u></b>	<b>BH2011/03785</b>	<b><u>Ward:</u></b>	<b>REGENCY</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>11 Dyke Road, Brighton</b>		
<b><u>Proposal:</u></b>	<b>Change of Use from nightclub Sui Generis to indoor recreation maze (D2) for a 5 year temporary permission and incorporating revised side entrance, external lanterns, and associated works.</b>		
<b><u>Officer:</u></b>	Clare Simpson	<b><u>Valid Date:</u></b>	09/12/2011
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	03 February 2012
<b><u>Listed Building Grade:</u></b>	Grade II		
<b><u>Agent:</u></b>	Wayne Gander, Architectural Technician, 98 Durrington Lane, Worthing		
<b><u>Applicant:</u></b>	Liquid Lounge UK Limited, 31 Chatsworth Road, Worthing		

## 1 RECOMMENDATION

That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and the policies and guidance in section 7 of this report and is **MINDED TO GRANT** planning permission subject to a revised elevation of the proposed courtyard roof to be formed below the eaves of the existing roof detail and subject to the following Conditions and Informatives:

### Regulatory Conditions:

- 1) The use hereby permitted shall be discontinued and the land reverted to its former use and the following features shall be permanently removed from the site within five years of the date of this permission.
  - I. The ground floor timber stairs, stair partition wall and balustrade,
  - II. Entrance counter
  - III. Maze partitioning at ground and first floor
  - IV. Removal of soundproofing works undertaken in accordance with condition 5 below

**Reason:** The applicant has applied for a temporary change of use and several elements of the proposed internal alterations are not suitable as permanent structures within the listed building, and in order to comply with policy HE1 of the Brighton & Hove Local Plan.

- 2) The development hereby permitted shall be carried out in accordance with the approved drawings no.BT/DR/02B and 'staircase alterations' received on the 20<sup>th</sup> March 2012 and revised courtyard roof (details awaited)

**Reason:** For the avoidance of doubt and in the interests of proper planning, to secure adequate protection of the listed building in compliance with policy HE1 of the Brighton & Hove Local Plan.

- 3) The use hereby granted a five year temporary consent shall be for a indoor recreation maze 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 any provision equivalent to that class in any statutory instrument revoking and/or re-enacting that order, with or without modification).

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**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.

- 4) No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway. Existing redundant cabling shall be removed from elevations fronting the highway before the use of the building is commenced.

**Reason:** To safeguard the appearance of the building and the visual amenities of the locality and to comply with policies QD1 and HE1 of the Brighton & Hove Local Plan.

### Pre-Commencement Conditions:

- 5) No works shall commence until full details of the proposed soundproofing and noise mitigation measures for the property are submitted to and approved by the Local Planning Authority in writing. The submitted details shall show compliance with section 5 in the Acoustic Associates report dated 18<sup>th</sup> January 2012 and approved details shall be carried out in their entirety and retained as such for the duration of the use.

**Reason:** In order to prevent noise breakout and to protect the amenity of neighbouring occupiers in accordance with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.

- 6) No works shall take place until 1:10 scale sample elevations and 1:1 scale joinery profiles of the proposed external double doors with door surround to match the existing have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

**Reason:** As insufficient information has been submitted, to ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.

- 7) No works shall take place until 1:5 scale elevations and profiles of the proposed lanterns, including details of fixtures, have been submitted to and approved by the local planning Authority in writing. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

**Reason:** As insufficient information has been submitted, to ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.

- 8) No works shall take place until 1:10 scale sample elevations and 1:1 scale joinery profiles of the proposed internal doors have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

**Reason:** As insufficient information has been submitted, to ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.

- 9) No works shall take place until details of the proposed new stair balustrade have been submitted to and approved in writing by the Local

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Planning Authority. The works shall be carried out in accordance with the approved details.

**Reason:** As insufficient information has been submitted, to ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.

- 10) No works shall take place until the method statement for the removal of paint on the existing painted areas and brick restoration and details of new paintwork for the existing rendered areas have been submitted to and approved by the Local Planning Authority in writing. The works shall be implemented in strict accordance with the agreed details and maintained as such thereafter.

**Reason:** As insufficient information has been submitted, to ensure the satisfactory preservation of this listed building and to comply with policy HE1 of the Brighton & Hove Local Plan.

### Pre-occupation Conditions:

- 11) Prior to the premises coming in to use as a indoor recreation maze, a revised management plan shall be submitted to and approved by the Local Planning Authority in writing. The plan shall outline how outdoor queuing will be addressed in order to minimise noise and disturbance to neighbouring occupiers. The management plan shall be brought in to operation on commencement of the use and reviewed annually in consultation with the Local Planning Authority.

**Reason:** To protect the amenity of neighbouring occupiers in accordance with policies QD27, SU9 and SU10 of the Brighton & Hove Local Plan.

### Informatives:

1. NOTICE is given that Section 35 of the East Sussex Act 1981 may apply to this development. This gives Local Authorities the power to reject applications deposited under the Building Regulations, unless after consultation with the fire authority they are satisfied that the plans show adequate means of access for the fire service. NOTE: This decision does not give approval of plans for the purposes of the Building Regulations 1991. If an application for such approval has been made a decision has or will be given separately.
2. The applicant is advised that no consent is issued for the signage to the front elevation of the property which may require consent under The Town and Country Planning (Control of Advertisements) (England) Regulations 2007.
3. This decision to grant Planning Permission has been taken:
  - (i) having regard to the policies and proposals in the Brighton & Hove Local Plan set out below, 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 proposal is for a new recreation facility which would be unique to the

city and which should contribute positively to the city's leisure and tourism industry. The proposed change of use is compliant with Local Plan Policy. Much of the internal works are limited to temporary partitioning which is acceptable and would cause no demonstrable harm to the historic character of the listed building. Subject to compliance with conditions, the works would have no demonstrable harm on neighbouring occupiers by way of noise and disturbance.

## **2 THE SITE**

The building is listed Grade II, it is a Victorian neo-gothic style former school building. It was designed by George Summers Clarke for the Swan Downer School for poor girls and built in 1867. The brickwork of the lower walls has been painted and the windows over-boarded. It is not clear when this was done or whether it had listed building consent or planning permission.

There is a modern flat roofed extension to the rear over what would have been the schoolyard. It appears that the first floor had one large hall, which would have been open to the rafters with large roof trusses in the manner of a medieval great hall. There is presently a false ceiling concealing this. The ground floor appears to have had two and possibly three rooms. The interior has much modern partitioning. The principal surviving feature is the solid concrete staircase.

The property is set within a relatively busy commercial area close to Churchill Square Shopping Centre. Adjoining the property to the southeast is Norwood House (9 Dyke Road) which has a ground floor beauty studio and offices above. The closest residential premises on the opposite side of Dyke Road in Wykeham Terrace which is Grade II listed.

## **3 RELEVANT HISTORY**

**BH2011/03785:** Listed building consent under consideration.

**BH2002/01995/LB:** Replacement of flat roof to rear with shallow monopitch roof – approved 09/09/2002

**BH2000/01261/LB:** Internal alterations to form balcony over first floor and new wall at ground floor level - approved 13/07/2000

**BH2000/01264/LB:** Internal alterations to provide disabled toilet, relocation of bar and removal of timber posts and addition of steel beams to ground floor – approved 30/06/2000

## **4 THE APPLICATION**

Planning permission is sought for the change of Use from nightclub Sui Generis to indoor recreation maze (D2) for a 5 year temporary permission and incorporating revised side entrance, external lanterns, and associated works.

## **5 CONSULTATIONS**

### **External**

**Neighbours: Thirteen (13)** letters of representation have been received from **first floor office 9 Dyke Road, 9 Dyke Road, Norwood House 9 Dyke Road (x2), Century House 15-19 Dyke Road (x2), 1(x2) 2a, 7, 9(x2) 10,**

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**Wykeham Terrace**, objecting to the application for the following reasons:

- a lack of consultation with neighbouring occupiers,
- this property cannot be used for nightclub and recreation maze,
- as a grade 2 listed building, the widening of the door, installation of a canopy imitation corpse,
- Wykeham Terrace is grade II listed and subject to restrictions,
- People will congregate under the canopy causing smoking and causing noise and disturbance,
- Noise and disturbance from people screaming
- Possibility this is an application which would give the nightclub a smoking shelter,
- Historically there have been issues with noise from the nightclub use, and restrictions were in place to ensure all entrance doors were kept shut,
- Teenage clients causing obstructions to pavement
- Litter and vandalism,
- Increased levels of traffic and problems with adjacent bus parking area,
- Congested roads from car drop-offs,
- The area is unsuitable for a tourist attraction and should be on West Street or the seafront,
- The workforce of adjoining offices would be disturbed,
- Loss of business as tenants will not want to locate adjacent to a tourist attraction,
- Loss of jobs as staff from the offices would be made redundant,
- Problems with construction period and traffic and car parking,
- What is the purpose of a temporary change of use?
- Young people would pass the building and find the images disturbing,
- Children living opposite and those walking past the site on the way to neighbouring schools would be disturbed
- The site would be a magnet for anti-social behaviour,
- The noise report submitted outlined the breakout of noise from site. The council should undertake their own assessment
- It would adversely affect the Clifton Hill Conservation Area,

**Six (6)** letters of representation have been received from **82 High Street Shoreham, 28 Ashcroft Close, 101 Conway Street, Brighton Domestic Appliances Regent Row, Panasonic 11 Imperial Arcade, 73b St James Street** supporting the application for the following reasons:

- the applicants are highly regarded in the industry,
- it would be an excellent addition to the area,
- the development would promote leisure and tourism in the city,
- it would be unique to the city,
- the building is an eyesore,
- it can only improve the looks and cleanliness of the area,

**Sussex Police** No objection.

**Internal:**

**VisitBrighton: Support.**

We welcome the above application which we believe has merit and will positively enhance the City's leisure facilities, both for residents and tourists. The Horror Maze is a unique offering and will attract and support tourism outside of the main season.

In the face of current economic uncertainty it is critical that we continually innovate the City's leisure facilities in order for our tourism offer to remain competitive.

**Environmental Health: Comment**

I have looked at the application, noting that the plans involve a few internal and external changes in order for it to be used as a 'horror maze' during the day. Additionally, I note that this venue has been functioning as a nightclub and wants to continue to retain this function and the associated hours that go with it.

However, I have checked our noise complaint records for this venue and note that in addition to historical complaints about its night time use as a club, in May 2010 there were complaints about loud music being played during the day at the club. Additionally, there was a complaint in September 2010 that the club was not using the noise limiter that had been installed to control noise. Therefore I have concerns that the change of use to a horror maze may involve loud noise from 'horror type' sound effects, such as loud screaming and possibly music. I also have concerns that there will be significant noise from customers shouting and screaming as they progress through the maze. Consequently, I feel that an acoustic report showing that this venue is suitable for this type of activity should have been included with the application.

Therefore, I am currently unable to fully comment on this application but if new information about noise was provided, I will happily re-assess this application.

Second Comments Following my memo of 4<sup>th</sup> January 2012, Acoustic Associates Sussex Ltd. have undertaken an assessment of the building in accordance with the proposed use of a horror maze.

The assessment is satisfactory and the proposed noise mitigation measures appear to be reasonable. Therefore I recommend that the mitigation measures outlined in this report are followed.

**Heritage: Comment**

The building is currently empty and bringing it back into use would be welcome. It is preferable that the first floor hall remains unsubdivided. However the change of use of the building and its associated subdivision to form a maze would be acceptable under Local Plan policy HE1 provided that:-  
i) the necessary partitioning for the maze is of a lightweight ephemeral nature and easily reversible,

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- ii) it does not require other associated internal or external alterations that are harmful to the character of the building,
- iii) there are associated compensatory and mitigation works including the removal of the paint from the brickwork, removal of the overboarding of the windows and repair and reinstatement of the leaded lights, repairs to the building's external stonework and removal of the false ceilings internally.

Unfortunately, the current proposals do not satisfy these conditions. Whilst the removal of the paintwork is shown on the drawings, the other mitigations are not and there are other associated internal alterations that are not acceptable i.e. the full height partition at the rear of the first floor, and the alterations to the main staircase at ground floor level and partitioning across the front main entrance hall and the diagonal partition across the side entrance lobby. The other internal alterations are minor and acceptable subject to details.

The widening of the side entrance would be acceptable if it is necessary for means of escape and to secure a viable use of this building, and its door surround moulding details were recreated and the doors were timber ones to match the original gothic style front doors. As there are no details of the doors, it is not possible to say that the latter of these conditions have been met. A 1:10 scale elevation and section of the new door are required. 1:1 scale joinery and moulding sections are also required, but could be dealt with under a condition.

The construction of a large pentice roof canopy on the side elevation is not acceptable. This feature is poorly related to the building and is out of character with it.

It is not possible to say whether the proposed lamps would be acceptable as there are no details.

### Second comments

I note that the canopy to the side has now been deleted.

There is still not enough detail of the widened side door – its surround should be indicated on the elevational drawing and a larger scale elevation at 1:10 scale would also be needed.

The direction of the diagonal boarding of the front door would need to be checked to see if the boarding of the proposed doors is right. It may be that the left-hand door's boarding should be angled to the right.

The section through the main staircase and entrance lobby does not appear to correspond with the plan. It appears that an additional escape stair serving the escape door leading into the front entrance lobby is shown on the section, but this does not appear on the plan. However, in any case, I consider that these alterations to the staircase and entrance hall are not acceptable in principle.

With regards to the alterations to the interior spaces, I note that they are now

proposing to retain the existing false ceiling on the first floor. There is no information about whether they are to expose and restore the windows and how. In view of this I consider that there are insufficient benefits to the building to outweigh the harmful impacts.

**Sustainable Transport: Comment**

There is no cycle parking proposed on site. There should be secure, convenient, well lit, and wherever practical, sheltered cycle parking should be located close to the main entrance of the premises to comply with Local Plan Policies TR14, TR19 and SPG4. As it stands this Planning Application does not meet these Policies.

The adopted parking standards set within SPG4 state that this development should provide suitable secure cycle parking for the storage of at least 2 bicycles. We have considered that due to the constrained nature of the site and the building being listed it would be extremely difficult to provide acceptable cycle parking facilities on-site.

Local Plan Policy TR14 states "where the need generated by the development cannot be met on site, the planning authority will negotiate with the applicant for the provision of cycle parking facilities nearby on the public highway or for a contribution to improvements to the cycling infrastructure: - in either case to be reasonably related to the demand generated by the development."

We would prefer that the Local Planning Authority negotiate with the applicant to provide a contribution toward the provision of suitable cycle parking. This would bring the scheme inline with Local Plan Policies TR14, TR19 and SPG4. On street cycle parking could be provided on the highway opposite the site within the footway adjacent to Wykeham Terrace.

We do however understand that due to the temporary nature of this permission and the site constraints, the Local Planning Authority may not feel it appropriate to negotiate with the applicant to contribute towards off-site cycle parking.

The applicant has provided information in the form of a business plan which provides an estimate on the likely number of people that would be attracted to the proposed 'Horror Maze'. This gives us an indication on the number of people that they expect to visit.

Given the specialist nature of the use there is not any comparable sites within the available traffic survey databases that will give us a robust understanding of the likely travel patterns of the proposal, or allow us to compare against the provided estimate. It has been brought to my attention that the existing use will cease while the proposed use is in operation.

Given that the facility proposed is of a leisure nature and located centrally within the City I would anticipate that a significant proportion of the visitors will be linked with other trips within the City. I would also anticipate that the

visitors using the proposed site would likely make up existing leisure trips within the highway network already. Given this and that the site has existing consent to operate a nightclub I do not believe there will be a net increase in primary trips to the development. A financial contribution towards transport improvements would therefore not be required.

The proposal does not include car parking on-site and is located within Zone Z of the CPZ. Staff and visitors seeking to access the development by car will therefore be required to park within a local public car park. I do not anticipate that the development will create demand for car parking that will have a material impact on local public parking provision.

## **6 MATERIAL CONSIDERATIONS**

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.”

The development plan is the Regional Spatial Strategy, The South East Plan (6 May 2009); East Sussex and Brighton & Hove Minerals Local Plan (1999); East Sussex and Brighton & Hove Waste Local Plan (February 2006); Brighton & Hove Local Plan (21 July 2005).

## **7 RELEVANT POLICIES & GUIDANCE**

### Planning Policy Statements (PPS):

- PPS 1: Delivering Sustainable Development
- PPS 4: Planning for Sustainable Economic Growth
- PPS 5: Planning for the Historic Environment

### 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
- SU13 Minimisation and re-use of construction industry waste
- QD1 Design – quality of development and design statements
- QD2 Design – key principles for neighbourhoods
- QD3 Design – efficient and effective use of sites
- QD4 Design – strategic impact
- QD27 Protection of Amenity
- SR17 Smaller scale sporting and recreational facilities
- HE1 Listed Buildings
- SU9 Pollution and noise nuisance
- SU10 Noise nuisance

### Supplementary Planning Guidance:

- SPGBH4 Parking Standards

Supplementary Planning Documents:  
SPD08 Sustainable Building Design

**8 CONSIDERATIONS**

The main considerations in the determination of this application relate to the principle of the change of use of the premises from planning policy perspective, the impact of the proposed use on neighbouring occupiers including noise and disturbance, traffic and transport implications, design issues relating to the impact on character for the area and historic character of the listed building.

**Planning Policy and principle of the development:**

The existing use of the property is as night-club. It is a Sui-generis use class and is being currently being marketed for let. The building is understood to have been vacant for about a year and last operated as the New Hero nightclub. As a nightclub use, the building has attracted some noise complaints in the past and nightclub uses are not afforded any protection within the Local Plan.

The application was originally submitted for a change of use to a recreation maze for daytime hours only. It was clear however that the alterations proposed to facilitate the recreation maze would not be removed in the evening to facilitate the nightclub use. The applicant subsequently revised the planning application and now seeks consent for a temporary five temporary period. The applicant has chosen to submit the application in this way as they would like to run the proposed facility with the security of a retained nightclub use should the indoor recreation business not succeed.

Policy SR17 of the Brighton & Hove Local Plan relates to smaller scale sporting and recreational facilities and applies to this application. This policy states that planning permission will be granted for smaller scale new sporting and

recreation facilities provided that:

- a. it involved either the expansion of existing facilities or the provision of new facilities located close to the communities that they are intended to serve;
- b. they have good pedestrian and cycle links and are well served by public transport; and
- c. intensification of facilities would not have a harmful impact on the local environment either visually (including artificial lighting), through additional noise and disturbance or impact on the natural environment.

In regard to criteria (a) of the policy, this application proposes a new recreation facility in a central location. The policy specifies that new facilities should be close to the communities it serves. It is generally considered that the recreation maze would be attractive to visitors to the city. A central location in the city in the facility is therefore most practical. The applicant has also stated that they believe the application would be attractive for school children. Again, it is considered that a central location for this would be appropriate. Visit Brighton, the tourism arm of the council, has written in

support of the application. Overall it is considered that Local plan policy is supportive to the principle of a recreation facility in this location.

In regard to criteria (b) of policy SR17 which relates to access, and criteria (c) of policy SR17 which relates to amenity, these will be addressed in the corresponding sections of the report below.

### **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.

The proposal has attracted objections from neighbouring occupiers concerned about the principle of a horror maze close to commercial and residential accommodation and issues relating to noise and disturbance.

In regard to noise and disturbance, these premises would have had noise generating activity associated with the nightclub activities. It is acknowledged that this activity would usually arise through night time hours. The proposed activity would also be noise-generating and the main concern is that this would take place in the day time rather night-time hours potentially resulting in additional noise issues. With the neighbouring buildings along Dyke Road in commercial day-time uses, the occupiers have raised concerns over the noise and disturbance. Specifically the concern appears to relate to screaming from the customers, and issues of customers queuing to get in to facility and loitering outside the building.

At the request of the Environmental Health Team, an acoustic report was submitted during the course of the application. Having reviewed the content of the study, the Environmental Health Officer is generally satisfied that the proposed change of use would not result in noise and disturbance to neighbouring occupiers. The upstairs of the building has better sound insulation. Potential noise breakout has been identified for the ground floor rear room. The acoustic report identifies that soundproofing of the building is required for specific areas of the property and should this be undertaken, no noise complaints are likely to arise. Section 5 of the report outlines the suggested soundproofing method and full details will be secured by condition.

In response to some of concerns from neighbouring properties, the applicant has also submitted a management statement. It is predicted that groups 6-10 people would take 8-12 minutes to complete the maze. Normal operating conditions would see a group entering the maze every 8 minutes.

It is anticipated by the applicants that queues of around 20 people would be normal and up to 80 people in high season. There is a proposed queuing area on the first floor of the building. It would appear that this space may be able to accommodate around 40 people at any time and therefore there is potential that at busy periods, customers would be queuing up the stairs or on the

street. Therefore it is considered a more detailed management plan is required to minimise potential for noise and disturbance caused by on-street visitors queuing on the street, this can be secured by condition. The canopy which was originally proposed as part of the application has now been removed from the application for design reasons and this would probably have an impact of limiting numbers loitering outside the building. When exiting the maze on to Dyke Road, the pavement is narrow and will not facilitate customers congregating outside the site. There would be no demonstrable harm caused by litter or vandalism from the proposed use.

In regard to the external appearance of the property, initially a gibbet was proposed for the front elevation, and this caused some concern from neighbouring residents. The detail of this feature was not submitted as part of the application, and has subsequently been removed from this application.

Some residents have expressed concerns that this application seeks to achieve a smoking shelter for the nightclub. This application must be considered on the terms of the submission. The application does not grant any additional floor space or capacity which would result in extended nightclub facilities in the future.

Concerns of neighbouring occupiers are recognised, it is considered that soundproofing would eliminate the potential for noise and disturbance from inside the building. It is acknowledged that good management will be crucial to limit the numbers of customers waiting outside the premises. With planning conditions in place requiring further detail, it is not considered that there will be any demonstrable harm on neighbouring properties.

**Sustainable Transport:**

The property is located centrally in the city with excellent bus services very close on Western Road. The property would also be easily accessible from Brighton Train Station.

The applicant has provided information in the form of a business plan which provides an estimate on the likely number of people that would be attracted to the proposed 'Horror Maze'. This gives us an indication on the number of people that they expect to visit. Given that the facility proposed is of a leisure nature and located centrally within the City the transport team anticipate that a significant proportion of the visitors will be linked with other trips within the City and visitors using the proposed site would likely make up existing leisure trips within the highway network already. Given this and that the site has existing consent to operate a nightclub it is not envisaged that there would be a net increase in primary trips to the development. A financial contribution towards transport improvements would therefore not be required.

The Sustainable Transport Team have raised a concern over the lack of cycle parking on-site and recommended refusal of the application on this grounds. It is not possible to locate any cycle parking provision on site as there is no outdoor space associated with the building.

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The proposal would involve the change of use of 220m<sup>3</sup> of commercial floor space. This is below the size threshold for seeking developer contributions outlined in the current development contribution recession relief measures. Given that there would be no significant increase in trip generation from this development, and that the proposal is for a temporary change of use, it is not considered justifiable that planning permission be refused for a lack of cycle parking facilities.

The proposal does not include car parking on-site and is located within Zone Z of the CPZ. Staff and visitors seeking to access the development by car would therefore be required to park within a local public car park. On site observations indicate that vehicles approaching from the north down Dyke Road often use the highway area in front of Mayo Wynn Baxter solicitors as a drop-off zone before the no-entry restriction prevents motor vehicle accessing the centre of town. Neighbouring occupiers have raised concerns over the impact of additional traffic movements. As noted above, the demand to the facility is likely to be associated with combined trips in the city. The sustainable transport team do not anticipate that the development would create demand for car parking that would have a material impact on local public parking provision.

There would be no significant increase in trip generation or significant pressure for the highway network and therefore the scheme is considered acceptable in terms of TR1 and TR7.

### **Sustainability**

There has been little information submitted with this application in regard to sustainability. The conversion of the existing building to accommodate the change of use relies on a number of alterations which are generally easily reversible.

The management plan also identifies incentives offered to customers utilising public transport. As noted above, the premise does not have any cycle parking and this is a concern. There is no outdoor space and no opportunity to provide cycle parking facilities within the footprint of the building. However the location of this new recreation facility means that sustainable transport routes would be easily accessible.

### **Design and appearance and listed Building issues**

The proposed alterations to the front and side of the elevations of the property are now limited to proposed new lanterns and new double entrance door on the side elevation. The hanging gibbet and canopy initially proposed have been removed from the application.

There is a separate listed building consent application under consideration as listed in the history section.

Towards the rear of the building there is an enclosed courtyard which is proposed to be re-roofed. This is effectively a passage way 1mx 4m in length. An amended drawing is awaited with revised details of this new roof which

would be required to a flat roof running below the eaves of the existing structure and finished in lead.

Whilst internal alterations do not require planning permission, in the case of this proposed change of use application, the internal alterations are fundamental to the proposed use in so far as they would affect the Listed Building and therefore should be considered in this application.

Discussions have been taking place with the Heritage Team at pre-application stage and during the course of the application. There are means of escape issues with this building, and this appears to be dictating the current layout as proposed. The interior of the building has little merit although the Conservation Officer has identified the merit in the original staircase and suggested that this element of interior should be left unaltered. Amended plans which have been received during the application process do not propose to remove any part of the staircase, but propose some boarding over of the existing steps and sub-division of the existing entrance lobby. Unfortunately, the current proposals do not fully satisfy the Conservation Officer's view that the existing entrance lobby should remain unaltered.

The principal benefit of this application would be the removal of existing exterior paintwork which would be controlled by condition. The paintwork on the side elevation appears also to attract graffiti and the removal is welcome. With regards to the other alterations to the interior spaces, there is no objection to the principle of these structures which are temporary and do not affect historic features

Although this is a finely balanced, it is acknowledged that consent is sought for a temporary period only and that the aspects of the works which are causing some concern are easily reversible. For this reason it is considered that subject to conditions, the proposed works will have no demonstrable harm to the listed building.

**Other Considerations:**

A fire risk assessment was submitted on the 5<sup>th</sup> March 2012 which outlines some the existing features of the property. The applicants have been in discussions with City Council's Building Control Department and Fire Safety Officers in regard to the proposed internal works. These discussions are at pre-application stage and concerns have been raised directly with the applicant over some issues of means of escape. Whilst discussions are on-going on this matter and have yet to be satisfactorily concluded, safety concerns are not a justifiable reason for withholding planning permission. The applicant should however be reminded of fire safety requirements by way of an informative.

**9 CONCLUSION**

The proposal is for a new recreation facility which would be unique to the city and which should contribute positively to the city's leisure and tourism industry. It is considered that the level of information submitted with this application is limited and it should be acknowledged that the application is

somewhat speculative. The applicants want to retain the lawful nightclub use which is an industry with which they are familiar.

Much of the internal works are limited to temporary partitioning which is acceptable. The boarding over of the principal staircase and alterations to the entrance lobby are regrettable but should be balanced against merits of getting the building in to use. Subject to compliance with conditions, the works would have no demonstrable harm on neighbouring occupiers by way of noise and disturbance.

**10 EQUALITIES IMPLICATIONS**

The existing building has narrow corridor widths and access doors which are not proposed to be altered as part of the application. The entrance at the front of the building is stepped.

# BH2011/03785 11 Dyke Road, Brighton.

