

<b><u>No:</u></b>	<b>BH2023/03393</b>	<b><u>Ward:</u></b>	<b>Regency Ward</b>
<b><u>App Type:</u></b>	<b>Householder Planning Consent</b>		
<b><u>Address:</u></b>	<b>45 Norfolk Road Brighton BN1 3AB</b>		
<b><u>Proposal:</u></b>	<b>Part-retrospective application for the erection of single storey rear extension at second floor level and creation of roof terrace at roof level, with A/C unit. (Amended description)</b>		
<b><u>Officer:</u></b>	Jack Summers, tel: 296744	<b><u>Valid Date:</u></b>	08.02.2024
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	04.04.2024
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	05.04.2024
<b><u>Agent:</u></b>	Jason Wren Basin Road north Maritime House Hove BN2 1WR United Kingdom		
<b><u>Applicant:</u></b>	Mr Usman Ahmad 45 Norfolk Road Brighton Brighton & Hove BN1 3AB		

## 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.

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	SU001	-	8 February 2024
Proposed Drawing	PL003	B	5 April 2024
Proposed Drawing	PL004	C	5 April 2024
Proposed Drawing	PL005	C	5 April 2024
Proposed Drawing	PL006	E	14 May 2024
Proposed Drawing	PL007	A	5 April 2024
Proposed Drawing	PL008	C	5 April 2024
Proposed Drawing	PL009	-	8 April 2024
Block Plan	PL050	-	5 April 2024
Detail	Samsung WindFree 1-Way Cassette	-	8 February 2024

2. The relevant external finishes of the development hereby permitted shall be as follows:
- External walls of stair core in lead.
  - External walls of rear extension in painted render to match the appearance of the existing property.
  - Safety railings in metal colour-finished black or grey.

- Windows upon the rear elevation with timber frames, with a sliding sash opening method.

**Reason:** To ensure a satisfactory appearance to the development and to comply with policies CP12 and CP15 of the Brighton & Hove City Plan Part One; and DM18, DM21, DM26 and DM29 of the Brighton & Hove City Plan Part Two.

3. Prior to the first use of the rooftop for amenity purposes, the stair core and safety railings as shown on approved drawing PL004 Rev C shall be fully installed. Access to areas of the flat roof beyond the safety railings and/or stair core structure shall be for maintenance or emergency purposes only and said areas shall not be used as roof gardens, terraces, patios or similar amenity areas. The stair core and safety railings shall thereafter be maintained in perpetuity.

**Reason:** In order to protect adjoining properties from overlooking and noise disturbance and to comply with policy DM20 of the Brighton & Hove City Plan Part Two.

4. One or more bee bricks shall be incorporated within the external wall of the development hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with policies CP10 of the Brighton & Hove City Plan Part One, DM37 of the Brighton & Hove City Plan Part Two, and Supplementary Planning Document SPD11: Nature Conservation and Development.

5. Three or more swift bricks/boxes shall be incorporated within the external surface of the development hereby approved and shall be retained thereafter.

**Reason:** To enhance the biodiversity of the site and to comply with policies CP10 of the Brighton & Hove City Plan Part One, DM37 of the Brighton & Hove City Plan Part Two, and Supplementary Planning Document SPD11: Nature Conservation and Development.

6. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises shall not exceed the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS4142:2014-A1:2019 (or the relevant updated Standard). In addition, there should be no significant low frequency tones present.

**Reason:** To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of the Brighton & Hove City Plan Part Two.

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. Where possible, bee bricks should be placed in a south facing wall in a sunny location at least 1 metre above ground level and preferably adjacent to pollinator friendly plants.
3. Swift bricks/boxes can be placed on any elevation, but ideally under shade-casting eaves. They should be installed in groups of at least three, at a height above 5m height, and preferably with a 5m clearance between the host building and other buildings or obstructions. Where possible avoid siting them above windows or doors. Swift bricks should be used unless these are not practical due to the nature of construction, in which case alternative designs of suitable swift boxes should be provided in their place.
4. The applicant should be aware that whilst the requisite planning permission may be granted, this does not preclude the Council from carrying out an investigation under the Environmental Protection Act 1990, should any complaints be received.
5. Where asbestos is found/suspected on site, it will fall under the Control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: [www.hse.gov.uk/asbestos](http://www.hse.gov.uk/asbestos)

## **2. SITE LOCATION**

- 2.1. The application site is a three-storey historic attached dwelling on the east side of Norfolk Road within the Montpelier & Clifton Hill Conservation Area. It features a large flat roof with parapet walls at the front and rear. The majority of properties fronting Norfolk Road feature pitched or butterfly roof-forms, with the application site being one of the notable exceptions.
- 2.2. The application site adjoins no.44 Norfolk Road which, together with no.43, is a grade II listed building. There are multiple other heritage assets in the vicinity, including (but not limited to) nos.7 and 8 opposite the site, no.47 to the south, and no.3 Borough Street to the southeast.

## **3. STATEMENT OF SIGNIFICANCE**

- 3.1. The building is located in the Montpelier & Clifton Hill Conservation Area. It is a 19th century double-fronted house of formal design, three storeys over basement with a rectangular bay either side of the central entrance, over which is a verandah. The flat roof is obscured from view behind the parapet, which is typical of Norfolk Road.
- 3.2. Adjoining to the north, nos.43 and 44 are grade II listed buildings; terraced houses of early 19th century date in Regency style, 3 storeys over basement with shallow hipped roofs obscured by parapet, faced in stucco with segmental bays.

- 3.3. The Montpelier and Clifton Hill Conservation Area Character Statement notes that "in Norfolk Road, which used to be called Chalybeate Street, the buildings are both two- and three-storey, many with first floor balconies. Of note are the shallow segmental bays of the listed buildings (nos. 1-3), and at the northern end of the street, a group of unlisted houses with particularly fine first floor balconies contribute to the liveliness of the street with their cast iron railings". The Statement goes on to note that the conservation area "is notable for its hilly siting with long terraces of houses dropping down the hill towards Western Road and westwards towards Hove. Long vistas can be obtained towards the sea and views down Norfolk Road and tree lined Montpelier Road are especially important".

#### **4. RELEVANT HISTORY**

- 4.1. **BH2023/02247** Existing ground floor door to rear elevation widened. Approved
- 4.2. **BH2021/04029** Erection of single storey rear extension at second floor level and creation of roof terrace at roof level. Approved

#### **5. APPLICATION DESCRIPTION**

- 5.1. Planning permission is sought part-retrospectively for the erection of a second floor extension to facilitate the creation of a roof terrace, and installation of an air-conditioning (A/C) unit at rooftop level.
- 5.2. The extension would create two ensuite bathrooms and a stairwell leading up to the flat roof; there would be five new windows in the rear (east) elevation, and access to the rooftop would be via a large horizontal roof-light. Balustrading restricts access within approximately 1m of the front and rear rooftop edges. These works were all granted permission under BH2021/04029; the developer commenced the development in 2024 and chose to amend the scheme with the inclusion of the A/C unit in the northeast corner of the rooftop; due to this forming part of the wider rooftop development, retrospective permission is required for the entire schedule of works, but the extant permission BH2021/04029 must be given significant weight in the planning balance.

#### **6. REPRESENTATIONS**

- 6.1. Fourteen (14) representations have been received from seven individuals, objecting to the proposal on the following grounds:
- Detrimental impact on amenity from noise nuisance
  - Detrimental impact on amenity from light nuisance
  - The proposed works are an overdevelopment
  - The A/C unit may be visible from upper floor windows
  - The A/C should have been included in the original permission for the terrace
  - The A/C unit might transfer hot or polluted air into neighbouring properties
  - The use of the terrace should be limited by condition to certain hours

- The application is part-retrospective
- The dwelling might change use in the future
- Query as to whether A/C is necessary
- Query as to what lighting is proposed on the roof terrace
- Query as to whether the terrace will be used for non-ancillary purposes

## 7. CONSULTATIONS

- 7.1. **Environmental Health:** No objection. The Noise Impact Assessment prepared by Evolved Acoustics Ltd. has demonstrated that the proposed A/C unit would have an acceptable impact on neighbouring premises.
- 7.2. **Heritage Officer:** No objection. The information provided is satisfactory for us to determine that the development is acceptable in relation to impacts on heritage.

## 8. MATERIAL CONSIDERATIONS

- 8.1. 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.
- 8.2. 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)

## 9. RELEVANT POLICIES & GUIDANCE

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One (CPP1)

SS1	Presumption in Favour of Sustainable Development
CP10	Biodiversity
CP12	Urban Design
CP15	Heritage

#### Brighton & Hove City Plan Part Two (CPP2)

DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM26	Conservation Areas

DM29	The Setting of Heritage Assets
DM37	Green Infrastructure and Nature Conservation

Supplementary Planning Documents

SPD03	Construction & Demolition Waste
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD12	Design Guide for Extensions and Alterations
SPD17	Urban Design Framework

Conservation Area Character Statements

Montpelier & Clifton Hill (2005)

## 10. CONSIDERATIONS & ASSESSMENT

- 10.1. The main considerations in the determination of this application relate to the design and appearance of the proposed development; and the potential impacts on the amenities of local residents, and on the significance of heritage assets in the vicinity. A site visit was undertaken in July 2024.

Principle of Development

- 10.2. The second floor extension and associated roof terrace benefits from an extant permission under application BH2021/04029; therefore, all aspects of the proposed development, with the exception of the A/C unit, could be undertaken without the need for any further permissions.

Design and Appearance

- 10.3. The second-floor extension and associated roof terrace was found to be acceptable under permission BH2021/04029, which remains extant. The additional A/C unit would be concealed behind the rear parapet wall, with only distant views possible from a very limited number of taller buildings on the west side of Norfolk Road. It is considered that the development including the A/C unit would be acceptable in terms of appearance.

- 10.4. It has been asserted in the representations received that the proposal would be overdevelopment. As has been mentioned, the majority of the works already benefit from planning permission; the additional A/C unit is not considered to make any material difference in this regard.

Impact on Heritage Assets

- 10.5. 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.

- 10.6. 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".
- 10.7. The second-floor extension and associated roof terrace was found to be acceptable under permission BH2021/04029, which remains extant. The additional A/C unit would be concealed behind the rear parapet wall and is anticipated to have a neutral impact on the historic significance of the Montpelier & Clifton Hill Conservation Area, and the surrounding listed buildings; the LPA has no concerns in this regard.

#### Impact on Amenities

##### **Noise Nuisance**

- 10.8. The applicant has submitted a Noise Impact Assessment (NIA) that has found that the A/C unit would have an acceptable impact on the amenities of local residents in terms of noise. Environmental Health Officers agree with the conclusions so there are no concerns in this regard, subject to a condition limiting noise emissions which would also ensure the unit is maintained appropriately with age.
- 10.9. It should also be noted that the council will retain the authority to investigate under the Environmental Protection Act 1990, should any complaints in terms of noise or odour be received.
- 10.10. It has been recommended in the representations received that the terrace should be permitted subject to a condition restricting hours of use. This would be unreasonable since the terrace already benefits from unrestricted hours of use under BH2021/04029, and there have been no material changes in the planning context since that permission was granted.

##### **Loss of Privacy**

- 10.11. As has been mentioned, the terrace benefits from an extant permission; nevertheless, it is worth noting that it has been designed with guard rails set in from the edges of the property which are designed to restrict views down into the gardens of neighbouring properties. The A/C unit is not anticipated to cause any further impact in this regard.

##### **Light Nuisance**

- 10.12. No external light sources are proposed as part of this development. The rear windows and access rooflight may emit light from internal sources but these cannot reasonably be assumed to be more impactful than existing windows in the vicinity, and they benefit from the extant permission BH2021/04029.

##### **Overshadowing/Loss of Light**

- 10.13. The proposed development is not anticipated to result in any further impact in this regard over the approved scheme BH2021/04029.

#### Biodiversity

- 10.14. The Council has adopted the practice of securing minor design alterations to schemes with the aim of encouraging the biodiversity of a site, particularly with regards to protected species such as bumblebees and swifts. A suitably worded condition will be attached to secure an appropriate number of bee bricks and swift bricks within the proposal in order to help meet the requirements of policies CP10 of the CPP1 and DM37 of the CPP2 as well as Supplementary Planning Document 11: Nature Conservation.

#### Other Considerations

- 10.15. To seek planning permission retrospectively is a valid course of action in the development process and has not been weighed against the developer in the assessment of the propriety of this proposal.
- 10.16. It has been alluded to in the objections received that the dwelling may change to a different use class in the future. No evidence has been submitted to support these speculations, and they have been given no weight in the planning balance. A change of use in the future is likely to require a new planning application; which would be assessed on its own merits.
- 10.17. It has been asserted that the A/C unit should have been included in the original permission BH2021/04029, and that the designer should have anticipated the need for ventilation equipment. The LPA understands that developments evolve over time; there are no reasonable grounds to refuse planning permission on this basis.

#### Conclusion

- 10.18. The development, with the exception of the A/C unit, benefits from an extant permission under BH2021/04029. The A/C is considered to be acceptable in terms of appearance and the impacts it is anticipated to have on the heritage setting. It would emit some noise, but this would be within acceptable tolerances as demonstrated in the NIA, and as agreed by the Environmental Health Team. For the foregoing reasons the proposal is considered to be in accordance with policies CP10, CP12 and CP15 of the Brighton and Hove City Plan Part One, and DM18, DM20, DM21, DM26, DM29 and DM37 of the City Plan Part Two.

## **11. EQUALITIES**

- 11.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
    - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
    - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
    - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 11.2. Officers considered the information provided by the applicant, together with the responses from consultees (and any representations made by third parties) and



determined that the proposal would not give rise to unacceptable material impact on individuals or identifiable groups with protected characteristics.

