

<b><u>No:</u></b>	<b>BH2023/02994</b>	<b><u>Ward:</u></b>	<b>West Hill &amp; North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>38 Cheltenham Place Brighton BN1 4AB</b>		
<b><u>Proposal:</u></b>	<b>Replacement of existing roof with fibre cement slate tiles and reinstatement of historic rooflight openings with conservation rooflights.</b>		
<b><u>Officer:</u></b>	Matthew Gest, tel: 292525	<b><u>Valid Date:</u></b>	22.11.2023
<b><u>Con Area:</u></b>		<b><u>Expiry Date:</u></b>	17.01.2024
<b><u>Listed Building Grade:</u></b>		<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Stickland Wright Ltd 23 Vine Street Brighton BN1 4AG		
<b><u>Applicant:</u></b>	Moretons Investment 16 Ship Street Brighton BN1 1AD		

## 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>
Proposed Drawing	22042B-P-010	F	13 September 2024
Location and block plan	22042B-P-001	C	9 November 2023
Proposed Drawing	22042B-P-015	A	13 September 2024

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. The rooflight(s) hereby approved shall have steel or cast metal frames colour-finished black or dark grey, fitted flush with the adjoining roof surface and shall not project above the plane of the roof. The rooflights shall be fixed shut.

**Reason:** To ensure a satisfactory appearance to the development, to protect neighbouring residential amenity and to comply with policies DM20 and DM26 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

### 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. SITE LOCATION**

- 2.1. The building is situated in the centre of Brighton, on the eastern side of Cheltenham Place. This building is not listed and lies within the North Laine Conservation Area. Cheltenham Place is a quiet, predominantly residential street, largely characterised by two storey terraced housing.
- 2.2. The site of 38 Cheltenham Place comprises a two and three-storey U-shaped building constructed around an inner courtyard. The building is enclosed and without a direct street frontage as it is sited at the rear of the properties along Cheltenham Place to the west and the Rox (former Astoria) development to the east.
- 2.3. The existing building (including no.34 and no.36 Cheltenham Place) has undergone significant changes in the past, resulting in the creation of access for commercial purposes which are located at the rear on the ground floor with residential uses on the upper level.
- 2.4. Currently the ground floor commercial spaces are being used as a printing shop and photography studio. It is understood that the residential use located on the first floor is currently vacant.

## **3. RELEVANT HISTORY**

- 3.1. **BH2023/00461** Internal alterations to the existing first floor and alterations and extension to roof to provide additional accommodation to form 13no. bedroom House in Multiple Occupation (Sui Generis). Formation of ground floor entrance incorporating storage for bikes and bins. Withdrawn 24 August 2023
- 3.2. **BH1998/02466/FP** 38 Cheltenham Place, Brighton, BN1 4AB (38 Cheltenham Place & 34-37 Cheltenham Place Brighton East Sussex) Retention of change of use of premises from studio workshops with residential, to residential unit. Approved 17 February 1999

## **4. APPLICATION DESCRIPTION**

- 4.1. Planning permission is sought for the replacement of the existing corrugated roof with fibre cement slate tiles and the insertion of conservation rooflights on the south and east roof slopes.

## 5. REPRESENTATIONS

### 5.1. North Laine Community Association: Comment

- Historically, there have not been rooflights in the roofslope so this is not a reinstatement of a historical feature
- The rectangular areas seen on the photos are areas of previous repair
- The rooflights would overlook neighbouring properties
- Rooflights could cause noise and disturbance
- Concerns this represents an expansion to a large HMO
- Use of roofspace would be an overdevelopment
- Red line of site location plan does not include access to Cheltenham Place

### 5.2. Sixteen (16) letters of representations have been received, objecting to the proposal on the following grounds:

- Adversely impacts the conservation area
- Inappropriate Height of Development
- Overdevelopment
- Overshadowing
- Poor design
- Restriction of view
- Too close to the boundary
- Lack of detail on drawings
- Rooflights not needed
- Additional traffic
- Decrease in property value
- Properties already impacted by HMOs
- Insufficient details on the replacement structure
- Concerns over the address of the property and extent of the works
- Application attempts to secure the development of the roofspace which was not considered acceptable.

## 6. CONSULTATIONS

### 6.1. **Heritage:** No objection

The information provided is satisfactory for us to determine that the development is acceptable in relation to impacts on heritage. The proposal should have no significant visual impact on any public areas within the conservation area.

## 7. MATERIAL CONSIDERATIONS

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

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

## 8. **POLICIES**

### The National Planning Policy Framework (NPPF)

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

SS1	Presumption in Favour of Sustainable Development
CP15	Heritage

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

DM1	Housing, Quality, Choice and Mix
DM18	High quality design and places
DM20	Protection of Amenity
DM21	Extensions and alterations
DM26	Conservation Areas
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM44	Energy Efficiency and Renewables

#### Supplementary Planning Document

SPD12	Updated Design Guide for Extensions and Alterations
SPD11	Biodiversity and Nature Conservation
SPD17	Urban Design Framework

- 8.1. North Laine Conservation Area Character Statement

## 9. **CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the visual impact of the works and the impact on the historic character and appearance of the wider conservation area, and any impact on the residential amenity of neighbouring occupiers.
- 9.2. It is noted that the representations received have raised concerns that the property is operating as an unauthorised HMO and that the application would facilitate an expansion of the HMO. There is no planning history for the use of the property as an HMO. The applicant has provided some information indicating that an HMO use has been operating at the site for some time, however, the information provided is not considered to meet any necessary burden of proof or balance of probability in order to confirm it's lawfulness. It is however noted that an HMO licence for 6 person occupancy of the unit is in place. Whilst there

remains ambiguity in regards to the lawful use of the site, the application will be considered on the basis of the external appearance only.

- 9.3. The applicant has further stated that the unit is currently vacant and whilst there remains doubt over the lawful use of the unit the application relates solely to the replacement roof and installation of rooflights and any proposed use of the unit above or beyond a C3 residential occupancy falls to be considered within a separate application or through Planning Enforcement action.

#### Visual Impact and Heritage Considerations

- 9.4. In considering whether to grant planning permission for development which affects a conservation area, or the setting of a listed building, 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. Case law has held that the desirability of preserving a conservation area or any features of special architectural or historic interest it possesses should be given "*considerable importance and weight*".
- 9.5. The existing building is not of individual merit and the roof, although in need of updating, is of a scale and form which relates adequately to the host property. This application does not propose to change the roof profile, the proposal is to change the roof covering. The existing sloping roof is largely formed of a corrugated sheet material. The proposed fibre cement dark grey slates would give an acceptable finish to the new roof. The roof is clearly not of architectural merit and in need of update and repair and the Heritage Team have not objected to the proposal.
- 9.6. In regard to the proposed roof lights, these would be located on the roof of the south and east parts of the building, both on the inner and outer facing roof slopes and would be conservation style. A number of representations received on this application have argued that the roof of the property never contained rooflights and therefore the description of the application, which refers to 'reinstatement' of rooflights misleading. The applicant has stated the chamfered roof joists, and evidence of old voids demonstrate the presence of historical openings and a photograph has been submitted to support this. Notwithstanding this, the proposal for rooflights must be assessed on its merits and against current planning policy and current site constraints. For this reason, the rooflight openings are considered as proposed.
- 9.7. The roof slope is not readily visible from public vantage points in the Conservation Area. The proposed roof lights are considered to be well positioned on the roof slopes. The size and numbering of the roof lights would not be excessive given the scale of the roofslopes and the roof would not appear cluttered. Given the building is located within a conservation area, the number of openings proposed, and the fact they would be viewed prominently from neighbouring properties, conservation style roof lights are recommended to be secured by condition. The Heritage Officer has not objected to the proposed rooflights.

- 9.8. Overall, the proposed works to the roof of the property would not harm the historic character of the property the street scene or wider conservation area in accordance with policy CP15 of CPP1 and DM26 of CPP2

Impact on Residential Amenity:

- 9.9. Policy DM20 of the City Plan Part 2 states that planning permission for development will be granted where it would not cause unacceptable loss of amenity to the proposed, existing and / or adjacent users, residents, occupiers or where it is not liable to be detrimental to human health.
- 9.10. The works to the roof proposed would not extend the roof, nor change the profile. Therefore, the development would not cause a loss of light or overshadowing.
- 9.11. The rooflights would be positioned within the roofslopes to provide angled views skywards rather than any horizontal views. It has been confirmed, and a section drawing provided, that the height between the first-floor level to the ceiling above is approximately 2.45 / 2.28m and the rooflights would be within the pitched roof, above, therefore no direct overlooking would occur from the existing or proposed openings with no horizontal views achievable from below the skylights. It is noted that to the east the rooflights would face onto a blank west facing wall and any views to the west would be set considerably away from the nearest properties and would cause no harm over and above the existing situation to warrant refusal. To the north and south, due to the raised level of the building and the setting of rooflights into the pitched roof structure, no harmful views would be created.
- 9.12. In regard to potential for noise and disturbance as raised in representations, in this relatively urban setting, there is often breakout noise between properties in close proximity to one another however domestic uses are not considered particularly noise generating. Whilst there remains doubt on the lawful use of the site a condition shall be imposed to secure the rooflights as fixed shut in order to ensure protection of neighbouring amenity.
- 9.13. For the reasons above and subject to the conditions recommended, no harm to neighbouring residential amenity is considered to occur from the proposal and therefore the development is in compliance with policy DM20 of the Brighton and Hove City Plan Part Two.

Biodiversity and Sustainability

- 9.14. The proposed development is likely to give the property improved thermal performance through a more energy efficient roof covering. This is welcome and in accordance with national and local policies including DM44 of CPP2.
- 9.15. In regard to nature conservation and biodiversity, due to the nature of the development, it is not considered justifiable to seek the provision of bee bricks or swift bricks in this instance. No additional floor space would be created by the development and there would be no conflict with policy DM37 of CPP2.

Conclusion

- 9.16. The replacement roof and proposed rooflights are considered acceptable in regards to their visual impact upon the building and Conservation Area. There would no demonstrable harm from the rooflights upon neighbouring amenity and subject to the conditions recommended the scheme is otherwise acceptable and in accordance with policy CP15 of the Brighton and Hove City Plan Part One and policies DM20, DM21, DM26, DM37, DM40 and DM44 of the Brighton and Hove City Plan Part Two.

## **10. EQUALITIES**

- 10.1. 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.
- 10.2. 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.

## **11. COMMUNITY INFRASTRUCTURE LEVY**

- 11.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23rd July 2020 and began charging on all CIL liable planning applications on and from the 5th October 2020. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as is practicable after the issuing of planning permission.

