

<b><u>No:</u></b>	<b>BH2023/03396</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>St Nicholas Church, Church Street, Brighton BN1 3LJ</b>		
<b><u>Proposal:</u></b>	<b>Installation of external architectural and pedestrian lighting scheme including new and improved lighting columns with luminaire heads, luminaire spotlights, ground mounted luminaires, replacement wall mounted luminaires.</b>		
<b><u>Officer:</u></b>	Steven Dover	<b><u>Valid Date:</u></b>	18.01.2024
<b><u>Con Area:</u></b>	Montpelier and Clifton Hill Conservation Area	<b><u>Expiry Date:</u></b>	14.03.2024
<b><u>Listed Building Grade:</u></b>	<b>II*</b>	<b><u>EOT:</u></b>	11.10.2024
<b><u>Agent:</u></b>			
<b><u>Applicant:</u></b>	Brighton And Hove City Council Hove Town Hall Norton Road BN3 3BQ		

## 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	NIC-DKA-ZZ-DR-Y-1001		23-Jan-25
Report/Statement	EXTERIOR ARCHITECTURAL LIGHTING DESIGN STATEMENT	NIC-DKA-ZZ-DR-Y-1001	12-Aug-24
Location Plan			22-Dec-23

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. Prior to the installation of the development hereby approved (including demolition and all preparatory work), a scheme for the protection of the retained trees, in accordance with BS 5837:2012, including a tree protection plan(s) (TPP) and an arboricultural method statement (AMS) shall be submitted to and

approved in writing by the Local Planning Authority. The development thereafter shall be implemented in strict accordance with the approved details.

**Reason:** As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and for biodiversity and sustainability reasons, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10 and CP12/CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

4. No installation of the development hereby approved (including demolition and all preparatory work), shall take place until an ecological design strategy (EDS) addressing ecological compensation and enhancement measures, including any soft landscaping and the provision of bird and bat boxes, has been submitted to and approved in writing by the local planning authority.

**Reason:** To ensure that the measures considered necessary to compensate for the loss of habitats and enhance the site to provide a net gain for biodiversity as required by Section 40 of the Natural Environment and Rural Communities Act 2006, paragraphs 180 and 186 of the NPPF and local policy, Policy CP10 of the City Plan Part One and Policy DM37 of the City Plan Part Two.

5. No development shall take place, including any replacement or installation of any lighting hereby approved, until a sensitive lighting strategy has been submitted to and approved in writing by the local planning authority. The strategy shall:

- i) identify those areas/features on site that are particularly sensitive for bats, including for potential roosting and commuting and foraging; and
- ii) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit (above current levels) will not disturb or prevent bats using any key habitat features. All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the planning authority; and
- iii) notwithstanding the details already provided, identify the proposed hours of use, spectrum and intensity of emissions for each element of lighting and how they will be controlled; and
- iv) Specify the dates and hours proposed for any use of the lighting in a manner which emits anything other than "warm white light" to commemorate or celebrate any special days or events proposed.

The development shall be carried out and completed fully in accordance with the approved details and maintained and retained as such thereafter.

**Reason:** Many species active at night (e.g. bats) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and /or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation, and ensure the satisfactory preservation of this listed building and other surrounding heritage assets, to comply with policies DM20, DM22,

DM26, DM27, DM28, DM29 and DM37 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One

6. No development shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policies DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

7. The archaeological work shall be carried out in accordance with the approved written scheme of investigation and a written record of all archaeological works undertaken shall be submitted to the Local Planning Authority for approval in writing within 3 months of the completion of any archaeological investigation unless an alternative timescale for submission of the report is agreed in advance and in writing with the Local Planning Authority.

**Reason:** To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policies DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

8. Prior to the first use of the development hereby permitted, the columns and lighting structures shown on the approved plans shall have been painted or finished in black and shall thereafter be retained as such.

**Reason:** In the interests of the character and appearance of the development and the visual amenities of the area and to comply with policies DM26 and DM27 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. The applicant is reminded that all species of bats are fully protected under the Wildlife and Countryside Act 1981, as amended, and The Conservation of Habitats and Species Regulations 2017, as amended, making them European Protected Species. Under the Regulations, it is an offence to: deliberately kill, injure, disturb or capture bats; damage or destroy their breeding sites and resting places (even when bats are not present); or possess, control or transport them (alive or dead). Under the Act, it is an offence to intentionally or recklessly: disturb bats while they occupy a structure or place used for shelter or protection; or obstruct access to a place of shelter or protection. Planning consent for a development does not provide a defence against prosecution under these Regulations or this Act.

## 1.2. Biodiversity Net Gain

- 1.3. Based on the information available, this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements are considered to apply. These can be found in the legislation.
- 1.4. The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that, unless an exception or a transitional arrangement applies, the planning permission granted for the development of land in England is deemed to have been granted subject to the condition ("the biodiversity gain condition") that development may not begin unless:
  - (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
  - (b) the planning authority has approved the plan.
- 1.5. The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan in respect of this permission would be Brighton & Hove City Council.

## **2. SITE LOCATION**

- 2.1. The application relates to St Nicholas Church which is Grade II\* Listed and lies within the Montpelier and Clifton Hill Conservation Area. The grounds, which also form part of the application, are designated as a locally listed heritage asset, open space and a nature improvement area.
- 2.2. There are numerous listed features within the vicinity of the site, including the Grade II Listed 1&2 Mount Zion Place to the north, fronting Church Street. To the west is the locally listed St Nicholas' Rest Garden, containing listed features including the Grade II listed kiosk and entrance, and to the south are the Grade II listed Wykeham Terrace buildings.
- 2.3. The nearest residential properties are in Church Street to the north, located on the opposite side of the road from the Church.

## **3. RELEVANT HISTORY**

- 3.1. **BH2023/03397** Installation of external architectural and pedestrian lighting scheme including new and improved lighting columns with luminaire heads, luminaire spotlights, ground mounted luminaires, replacement wall mounted luminaires. (Concurrent Listed Building Consent application). Pending decision
- 3.2. **BH2021/03494** Installation of external lighting scheme. Full Planning Withdrawn 17.11.2021.
- 3.3. **BH2021/03495** Installation of external lighting scheme. Listed Building Consent Withdrawn 17.11.2021.

## **4. APPLICATION DESCRIPTION**

- 4.1. The application seeks approval for works to the existing lighting columns through refurbishment and new luminaire heads; the installation of two new lighting columns with luminaire heads; new ground based luminaires to illuminate the church elevations; and column-mounted spotlights to illuminate the church tower.
- 4.2. It is also proposed to upgrade the existing power system, by using the existing ducting as far as possible.
- 4.3. Since submission of the application, changes to the proposal have been made with regards to the amount of lighting, and the form, to ensure that the light spill and effects are minimised, to reduce ecological impacts on bats particularly. The amount of proposed new columns has been reduced to ensure that adverse impacts on the existing root structures of trees is minimised. The design of the ground lighting has also been amended to improve its appearance and reduce prominence. All lighting has been removed from the northern elevation to reduce impacts on the neighbouring properties in Church Street to the north.

## 5. REPRESENTATIONS

### Original Scheme:

- 5.1. **Objections** from **five (5)** individuals have been received raising the following issues:
  - Adverse impact on listed building
  - Adversely affects Conservation Area
  - Poor design
  - Adverse effect on wildlife
  - Loss of mature trees
- 5.2. **Objection** from, **The Montpelier and Clifton Hill Association (MCHA)**, has been received raising the following issues:
  - Adverse impact on listed building
  - Adversely affects Conservation Area
  - Poor design
  - Minor public benefit
  - Maintenance of existing pathways should take priority
- 5.3. **Support** from **nine (9)** individuals have been received raising the following issues:
  - In keeping with Listed Building
  - Respects and highlights the Heritage assets
  - Good design
  - Security and safety
  - Prefer white lighting only

### Revised Scheme:

- 5.4. **Support** from **three (3)** individuals have been received raising the following issues:

- In keeping with Listed Building
- Respects and highlights the Heritage assets
- Good design
- Security and safety
- Prefer white lighting only

5.5. **Comment** from, **The Montpelier and Clifton Hill Association (MCHA)**, raising the following issues:

- Welcome efforts for revised scheme and new and refurbished lampposts
- Lighting is still cluttered at ground level and does not respect the listed setting
- Maintenance of existing pathways should take priority

5.6. Full details of representations received can be found online on the planning register.

## 6. CONSULTATIONS

### Internal:

6.1. **Arboricultural Officer:** No objection

Initial concern over location of columns in existing trees. With revised scheme the installation of a new lamp column within the existing tree canopy has been removed from the application, and hand dig for all excavation works with the emphasis upon air spade whenever suitable is also supported.

6.2. Conditions will be imposed in relation to tree protection and method statements.

6.3. **Heritage Officer:** No objection (revised scheme - one less new column)

The light fittings themselves would be fixed into the ground at low level away from the Church itself and would not interfere with any of the listed monuments or the historic paths within the locally listed churchyard. Initial revision showed reduction in light to north elevation and loss of base lights acceptable. Direct spotlights to tower south and south west not ideal but if focused acceptable. Amenity lighting to replicate existing columns acceptable.

6.4. No objection (First Response - original scheme)

### External:

6.5. **Brighton and Hove Archaeological Society:** Refer to County Archaeologist

6.6. **Conservation Advisory Group:** No objection:

- If not previously undertaken, the Group recommends an archaeological survey where the burial ground is to be disturbed.
- It is pleasing to note that the applicant has addressed, to a large extent, the CAG's previous objections.
- The proposed new lampposts are welcomed as is the retention and refurbishment of the existing ones.

- 6.7. **County Ecologist:** No objection subject to conditions  
The information provided is satisfactory and enables the LPA to determine that whilst the proposed development could have an impact on biodiversity, those impacts can be mitigated through the application of planning conditions which are outlined in this response.
- 6.8. Conditions requested in respect of a pre commencement condition for an Ecological Design Strategy (EDS) and a Sensitive Lighting Strategy (SLS) to be submitted and approved by the LPA.
- 6.9. **County Archaeologist:** No objection subject to conditions  
The information provided has not met the requirement of Policy 220 of the NPPF. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions in relation to a written scheme of investigation to be submitted to the LPA prior to commencement of development for approval, and then to be implemented in accordance with. A written record of all works undertaken shall be submitted to the LPA with 3 months of completion.
- 6.10. **Historic England:** Comment  
Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.
- 6.11. We suggest that you seek the views of your specialist conservation and archaeological advisers.
- 6.12. Full details of representations received can be found online on the planning register.

## 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, updated October 2024);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Harbour JAAP (adopted October 2019).

## 8. RELEVANT POLICIES & GUIDANCE

## The National Planning Policy Framework (NPPF)

### Brighton & Hove City Plan Part One:

SS1	Presumption in Favour of Sustainable Development
CP2	Sustainable economic development
CP5	Culture and tourism
CP8	Sustainable Buildings
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP16	Open space
CP18	Healthy city

### Brighton & Hove City Plan Part Two:

DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM26	Conservation Areas
DM27	Listed Buildings
DM28	Locally Listed Heritage Assets
DM29	The Setting of Heritage Assets
DM31	Archaeological Interest
DM37	Green Infrastructure and Nature Conservation
DM43	Sustainable Drainage
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM44	Energy Efficiency and Renewables

### Supplementary Planning Documents:

SPD03	Construction & Demolition Waste
SPD06	Trees & Development Sites
SPD09	Architectural Features
SPD11	Nature Conservation & Development
SPD16	Sustainable Drainage
SPD17	Urban Design Framework

### Other Documents:

Montpelier and Clifton Hill Conservation Area Character statement

## **9. CONSIDERATIONS & ASSESSMENT**

- 9.1. The main considerations in the determination of this application relate to the principle of the development, design appearance and heritage impacts; impacts on ecology, and on arboriculture.

## **10. STATEMENT OF SIGNIFICANCE**



- 10.1. The Church of St Nicholas of Myra is Grade II\* listed and lies within the Montpelier and Clifton Hill Conservation Area. It was the original parish church of Brighton, dating to the late 14th century but heavily rebuilt in 1853 by R C Carpenter for the Rev HM Wagner; the choir, vestry and northern approach were added in 1877 by George Somers Clarke junior; the north vestry was added 1892 by Somers Clarke junior, who also renewed the roof and added the clerestory at this date. It is knapped flint with stone dressings and dressed flint to the tower except on the lower part of the south face, which is cobbled. The roofs are in slate.
- 10.2. Although a comparatively small and modest church it occupies a prominent hillside location and is set in its original landscaped churchyard, which is locally listed and contains a number of Grade II listed tombs and monuments. These include the Monument to Nicholas Tattersell, the Monument to P hoe be Hessell and the Monument to Martha Gunn close to the Church to the south, and the Monument to Sake Deen Mahomed and the Monument to Anna Marie Crouch to the north and northeast of the Church respectively. The church yard and monuments contribute greatly to the setting of the Church.
- 10.3. This proposal would have an impact on the setting of all the listed buildings but particularly the St Nicholas Church; the character of the locally listed grounds; and the character and appearance of the Montpelier and Clifton Hill Conservation Area.

## **11. STATEMENT OF SIGNIFICANCE**

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- 11.3. This proposal would have an impact on the setting of all the listed buildings but particularly the St Nicholas Church; the character of the locally listed grounds; and the character and appearance of the Montpelier and Clifton Hill Conservation Area.

### **Principle of development**

- 11.4. The stated intention of the works are to “help create a warm welcome for visitors to the church, provide safe routes for people legitimately using the churchyard as a footpath after dark, to celebrate the architectural heritage of the church building and contribute towards a coherent night-time street scene”. It is considered that the present scheme would highlight the cultural heritage assets by highlighting the facades of the church after dark, improving the grounds and the appearance of the area, while maintaining their use, so in principle is considered acceptable.

### **Design, Appearance and Heritage impacts**

- 11.5. 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.
- 11.6. 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".
- 11.7. As already noted, the Church is Grade II\* listed and the grounds are locally listed. The site lies within the Montpelier and Clifton Hill Conservation Area and within the setting of numerous listed buildings.
- 11.8. The application seeks to highlight the existing church with a new lighting scheme and improve the existing site lighting with refurbishment of the existing columns and new ones provided.
- 11.9. Turning to each element in turn:  
New Church lighting;  
To highlight the existing south, east and west elevation of the church, seven low profile (110mm) luminaires (LED lights) are proposed which will be of a black metal finish and bedded into the ground in proximity to the walls. These will have a steel protective grid attached to them to ensure their protection. These will emit low level light towards their respective elevations. The design is considered relatively low impact with a metal black finish and would not harm the setting or character of the church or grounds given their small scale and location on the ground.
- 11.10. Two of the existing columns to the south and south east of the church tower will each have one new spot light (250mm radius) erected at circa 5m height, directed towards the church tower to highlight the west and south elevation at night. The design is considered acceptable with a black metal finish, and with the limited number is not considered to have any significant detrimental impact on the character or appearance of the church or grounds.

- 11.11. The existing wall mounted luminaires on the Church's eastern elevation, will be replaced with new lamps with a new metal finished design which are acceptable.
- 11.12. The effects of the proposed lighting are that the Church tower will have accent lighting at night on the southern, west and east elevations from the two column spotlights; and the west, east and southern main elevations will be illuminated by the new ground based low level lighting. No new lighting is proposed to the northern elevation. This is considered to enhance the appearance of the listed Church and the churchyard at night with standard warm white lighting modes, drawing attention to the Church's architectural features and its green, garden setting, so that the Church continues to be a local landmark and community focus after dark. The increased levels of lighting in the evening would also contribute to the safety of users of the grounds, reducing opportunities for antisocial behaviour, and the security of the heritage assets themselves.
- 11.13. The new proposed Church lighting is considered to be of appropriate design which complements the cultural status of the Church and the heritage assets that surround it, causing no significant harm and bringing benefits in respect of site security and emphasising the prominence of the listed Church in the area.

New lighting to grounds:

- 11.14. Refurbishment of the existing lighting columns which currently reside in the grounds is proposed, and the addition of two new columns is proposed. New luminaires would be fitted to all of the columns to improve the efficiency and effectiveness of those currently in situ. The new columns would match the design and appearance of the existing, but have a hinged design close to ground level, allowing ease of future maintenance.
- 11.15. The upgrade and refurbishment of the existing columns is welcomed and acceptable in design, with no fundamental change in appearance. The proposed new columns are acceptable as replicating the existing as far as possible, allowing for the increase in ease of access for maintenance.
- 11.16. The increased levels of lighting in the evening would contribute to the safety of users of the grounds, reducing opportunities for antisocial behaviour, and the security of the heritage assets themselves.
- 11.17. The proposed lighting will make use of the existing ducting and power runs onsite so the degree of disturbance to the existing pathways and grounds is anticipated to be limited.
- 11.18. The applicant has proposed days that the lighting would be altered to reflect the colours associated with commemorative or special days (e.g. King's Birthday). Full details of these will be provided in a Sensitive Lighting Strategy (SLS) to be submitted and approved by the Local Planning Authority, which will ensure any impacts on ecology and the appearance of the Church and surrounding heritage assets are acceptable.

- 11.19. In weighing up the scheme in heritage terms, National Planning Policy Framework (NPPF) paragraph 215 states:  
*“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*
- 11.20. NPPF paragraph 219 states:  
*“Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.”*
- 11.21. It is considered that any harm to the setting of the listed buildings, to the character of the registered grounds itself and to the appearance of the Conservation Area, has been mitigated as far as possible (subject to full compliance with recommended conditions). Any harm is considered 'less than substantial' under the terms of the NPPF and there are heritage, cultural, security and preservation benefits that may be weighed against that harm in accordance with paragraph 215 of the NPPF and in line with paragraph 219.

#### **Amenity Impacts**

- 11.22. Policy DM20 (protection of amenity) of the Brighton and Hove City Plan Part Two states that planning permission for development will not be granted where it would cause unacceptable loss of amenity to the proposed, existing, adjacent or nearby users, residents, occupiers or where it is not liable to be detrimental to human health.
- 11.23. Policy DM40 (Protection of the Environment and Health - Pollution and Nuisance) of the Brighton & Hove City Plan Part Two, which can be given significant weight as a planning consideration, states that proposals for floodlighting will be required to keep to the minimum necessary level of light intensity and to an appropriate number, height, design and size of structures and fittings necessary to minimise light pollution and harm to amenity.
- 11.24. The dwellings in closest proximity to the development are on the opposite side of Church Street to the north. Church Street already has existing street lighting, some of which abuts the boundary with the Church (southern side of road), and some on the (northern) side of the road, adjacent to the residential dwellings. The proposed church lighting would all be directed towards the south, east and west elevations, with no new church lighting proposed on the northern elevation, which faces towards the residential dwellings on Church Street.
- 11.25. Taking these factors into account the impacts from light spill of the proposed lighting design are considered acceptable, taking into account the submitted detail assessing this, and subject to the hours of operation.
- 11.26. The applicant has proposed to limit the hours of use to the following periods in their appendix:

- Accent lighting: dusk to 10pm
  - Baseline architectural lighting: dusk to 11pm @100% intensity and then at 50% intensity from 11pm until dawn (for security)
  - Column lighting: dusk until dawn
  - Wall lighting: dusk until dawn
- 11.27. These hours of use are likely acceptable, subject to the baseline architectural lighting reducing intensity at 10pm, in relation to the impacts on neighbouring amenity and light impacts. However full details of the lighting strategy and the individual hours of operation for each element of the proposed lighting are to be agreed and secured by the Sensitive Lighting Strategy (SLS) condition. This would ensure the impacts on neighbours and ecological impacts are fully assessed and mitigated appropriately, prior to first use.
- 11.28. The provision of more and improved lighting to the grounds during the hours of darkness, should improve the amenity of users, and increase the hours in which the setting and appearance of the church can be enjoyed. The likely increase in users is not considered to cause any significant increase in noise or disturbance to surrounding residents over the existing situation, given the churchyard is already fully publicly accessible, with potential improvements to safety/reduced anti-social behaviour through increased lighting and the resulting increased surveillance.
- 11.29. Subject to full compliance with the details submitted within the lighting specification, and the attached conditions, the development would not give rise to significant harm to occupiers of surrounding residential properties, such to warrant refusal.

### **Ecology**

- 11.30. Policy CP10 of the Brighton & Hove City Plan Part One seeks to conserve existing biodiversity, protecting it from the negative indirect effects of development, including noise and light pollution.
- 11.31. Artificial light can negatively impact bats and other species; therefore, information has been submitted (primarily a Bat Emergence and Re-entry Surveys and the Exterior Architectural Lighting Design Statement to enable assessment of the potential impacts of the proposed development on bats and other species, and to inform appropriate mitigation, compensation and enhancement.
- 11.32. Since submission of the application, the plans have been amended to take account of comments from Ecological Officers to mitigate the impacts to protected species, particularly bats. The amendments have reduced the degree of light spill and total light emitted outside of the site, and lowered the wavelength to less than 3,000K, therefore reducing the potential impacts on bats and their foraging activities.
- 11.33. The information provided is satisfactory and the County Ecologist has confirmed that the proposed development is unlikely to have an impact on protected species or habitats. This is subject to provision of a Sensitive Lighting Strategy

(SLS) and an Ecological Design Strategy (EDS) to ensure the provision of bird and bat boxes, with any other soft landscaping improvement to bolster the ecology onsite. These measures can be secured via condition.

### **Arboriculture**

- 11.34. Details of tree protection measures have not been provided with the application and would be secured by condition. Discussions have taken place onsite with the applicant and Arboricultural Officers who are satisfied that the digging needed for installation of the proposed lighting could be done in a manner which does not adversely impact the existing root protection zones of the trees. One of the proposed new lighting columns and luminaire has been removed from the plans, which was not supported by the Arboricultural Officers, due to adverse impacts on the root protection zones of existing mature trees.

### **Biodiversity Net Gain**

- 11.35. This scheme was considered exempt from the need to secure mandatory biodiversity net gain under Schedule 7A of the TCPA because it does not impact a priority habitat or habitat of more than 25sqm or 5m of linear habitat.

### **Archaeology:**

- 11.36. The proposed development would pose some risk of damage to archaeological remains but with a suitably worded condition attached which would require a scheme of investigation to be agreed by the LPA and implemented, the risk of damage is mitigated to an acceptable level, such to prevent refusal.

### **Conclusion and Planning Balance:**

- 11.37. The harm from the new lighting, upon the Grade II\* Listed St Nicholas Church, the Conservation Area and the setting of the surrounding heritage assets is considered limited, while it is considered to improve the setting and prominence of St Nicholas Church and the grounds it occupies. Therefore, any harm is 'less than substantial' under the terms of the NPPF and there are heritage and other public benefits that may be weighed against that harm as per the NPPF.
- 11.38. The development would generate increased accessibility and use of the grounds, during the hours of darkness. The works would increase the significance of the St Nicholas Church and the grounds while helping to preserve and enhance for future generations the existing heritage and cultural assets, with improvements to safety and security of the assets themselves and users.
- 11.39. Given the above and that the development will enhance the cultural and tourism offering of the City, it is considered that the development is in accordance with policies DM18, DM20, DM22, DM26, DM27, DM28, DM29, DM31, DM37, and CP5, CP12 and CP15
- 11.40. The application is therefore recommended for approval.

## **12. EQUALITIES**

- 12.1. 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.
  
- 12.2. 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.
  
- 12.3. The proposal does not impact on the existing access arrangements to the site and the increased lighting would improve accessibility for all during the hours of darkness.

