

<b><u>No:</u></b>	<b>BH2023/03397</b>	<b><u>Ward:</u></b>	<b>West Hill &amp; North Laine Ward</b>
<b><u>App Type:</u></b>	<b>Listed Building Consent</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, tel:	<b><u>Valid Date:</u></b>	15.01.2024
<b><u>Con Area:</u></b>	Montpelier and Clifton Hill Conservation Area	<b><u>Expiry Date:</u></b>	11.03.2024
<b><u>Listed Building Grade:</u></b>	<b>II*</b>		
<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** Listed Building Consent subject to the following Conditions and Informatives.

### Conditions:

1. The works hereby permitted shall be commenced before the expiration of three years from the date of this consent.  
**Reason:** To comply with Sections 18 (as amended) and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. 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

- 3. 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 DM29 of Brighton & Hove City Plan Part 2 and CP15 of the Brighton & Hove City Plan Part One.

Informatives:

- 1. This decision is based on the drawings listed below:

Plan Type	Reference	Version	Date Received
Location Plan			22 December 2023
Proposed Drawing	NIC-DKA-ZZ-DR-Y-1001		23 January 2025
Report/Statement	EXTERIOR ARCHITECTURAL LIGHTING DESIGN STATEMENT	NIC-DKA-ZZ-DR-Y-1001	12 August 2024

**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. **BH2023/03396** 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 Full Planning 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 listed building consent for works to the existing lighting columns with refurbishment and new luminaire heads, 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. **Objection** from **one (1)** individual have been received raising the following issues:
  - Adverse impact on listed building
  - Adversely affects Conservation Area
  - Poor design
  - Adverse effect on wildlife
  - Waste of power
  - Light pollution

- 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 **eleven (11)** individuals have been received raising the following issues:
- In keeping with Listed Building
  - Respects and highlights the Heritage assets
  - Good design
  - Security and safety
  - Easy to turn lights off

**Revised Scheme:**

- 5.4. **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

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

**6. CONSULTATIONS**

**Internal:**

**Heritage Officer:**

- 6.1. **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.

- 6.2. **No objection** (First Response - original scheme)

**External:**

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

**Conservation Advisory Group:** **No objection** with the following comments:

- 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.

6.4. **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.

6.5. We suggest that you seek the views of your specialist conservation and archaeological advisers.

6.6. 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  
CP15           Heritage

Brighton & Hove City Plan Part Two:

DM26        Conservation Areas  
DM27        Listed Buildings  
DM28        Locally Listed Heritage Assets  
DM29        The Setting of Heritage Assets

Supplementary Planning Documents:

SPD09       Architectural Features

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.

**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.

**Principle of development**

- 10.4. 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:**

- 10.5. In considering whether to grant listed building consent 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. 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.

10.8. 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.

10.9. Turning to each element in turn:

New Church lighting:

- 10.10. 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.
- 10.11. 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.
- 10.12. 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.
- 10.13. 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.

- 10.14. 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;

- 10.15. 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.
- 10.16. 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.
- 10.17. 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.
- 10.18. 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.
- 10.19. 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.
- 10.20. 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."*
- 10.21. 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."*



10.22. 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

**Conclusion and Planning Balance:**

10.23. 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 the 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.

10.24. 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.

10.25. 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 DM26, DM27, DM28, DM29 of City Plan Part Two and CP15 City Plan Part One.

10.26. The application is therefore recommended for approval.

**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.

11.3. 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.

