

<b><u>No:</u></b>	<b>BH2018/00295</b>	<b><u>Ward:</u></b>	<b>Regency Ward</b>
<b><u>App Type:</u></b>	<b>Listed Building Consent</b>		
<b><u>Address:</u></b>	<b>33 Oriental Place Brighton BN1 2LL</b>		
<b><u>Proposal:</u></b>	<b>Internal and external alterations incorporating new mansard roof to create additional floor with associated alterations to layout and other works.</b>		
<b><u>Officer:</u></b>	Helen Hobbs, tel: 293335	<b><u>Valid Date:</u></b>	30.01.2018
<b><u>Con Area:</u></b>	Regency Square	<b><u>Expiry Date:</u></b>	27.03.2018
<b><u>Listed Building Grade:</u></b>	Listed Building Grade II*		
<b><u>Agent:</u></b>	CDMS Architects 1st Floor Montpelier House 99 Montpelier Road Brighton BN1 3BE		
<b><u>Applicant:</u></b>	01 Hostels Ltd The Old Factory 30-31 Devonshire Place Brighton BN2 1QB		

**Councillors Phillips and Druitt have requested that the application is deferred to Committee for determination.**

## **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 **REFUSE** Listed Building Consent for the following reasons.

- The proposed roof extension to the property is considered unacceptable in principle as it would result in the loss of the existing historic roof form and disrupt the unifying composition of the terrace where the majority of buildings do not have visible roof forms. The proposed design and form of the roof extension is not traditional, and would lack continuity with the differing non-historic and harmful roof extensions to the adjoining buildings, thereby further adding to their prominence at roof level to the detriment of the significance of the existing Grade II\* listed building and wider listed terrace. The proposal is therefore contrary to policies HE1 and HE3 of the Brighton and Hove Local Plan.

### Informatives:

- This decision is based on the drawings listed below:

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Floor Plans Proposed	2196(21)100		30 January 2018
Floor Plans Proposed	2196(21)101		30 January 2018
Elevations Proposed	2196(31)100		30 January 2018
Elevations Proposed	2196(31)101		30 January 2018
Sections Proposed	219(41)100		30 January 2018
Location and block plan	2196(51)100		30 January 2018

## 2. SITE LOCATION & APPLICATION DESCRIPTION

2.1 33 Oriental Place is a grade II\* listed building in the Regency Square Conservation Area. It forms part of a terrace of similar Regency townhouses, set opposite another terrace of almost matching design. The Regency Square Conservation Area Character Statement describes the development of Oriental Place as:

'far more uniform [than Bedford Square]: palace-fronted terraces of 3-4 storeys with rusticated stucco to the ground floor, first floor balconies and pediments on ammonite-topped pilasters above.

2.2 There is some variation in individual building designs along the length of the terrace, which combine to make a single architectural composition. The majority of buildings appear to have been built such that their roof is not visible from the street. This is a unifying part of the composition.'

2.3 The building operates as 'Baggies' backpacker hostel. It is understood that this has been in operation since around 1995. The application site is located just outside of the Hotel Core Zone.

2.4 Listed Building Consent is sought for the erection of a new roof to create additional floor with associated internal alterations to ground, first and third floors and internal and external repair works.

## 3. RELEVANT HISTORY

**BH2016/05444** LBC New roof to create additional floor with associated internal alterations and internal and external repair works. Refused 7/03/2017.

*The proposed roof extension to the property is considered unacceptable in principle as it would result in the loss of the existing historic roof form and disrupt the unifying composition of the terrace where the majority of buildings do not have visible roof forms. The proposed design and form of the roof extension is not traditional, and would lack continuity with the differing non-historic and harmful roof extensions to the adjoining buildings, thereby further adding to their prominence at roof level to the detriment of the significance of the existing Grade II\* listed building and wider listed terrace. The proposal is therefore contrary to policies HE1 and HE3 of the Brighton and Hove Local Plan.*

**BH2015/03462 & BH2015/03463** Erection of mansard roof to create additional floor with associated internal alterations to ground, first and third floors and internal and external repair works. Refused 22/01/16 and appeal dismissed 25/10/2016. The LPA's reason for refusal was as following:

*The formation of a mansard roof to the property is considered unacceptable in principle as it would result in the loss of the existing historic roof form and disrupt the unifying composition of the terrace where the majority of buildings do not have visible roof forms. The proposed design and form of the mansard roof extension is not traditional, and would lack continuity with the differing non-*

*historic and harmful roof extensions to the adjoining buildings, thereby further adding to their prominence at roof level to the detriment of the significance of the existing Grade II\* listed building and wider listed terrace. Furthermore the proposal would result further internal partitioning and a loss of hierarchy to the original plan form of the building. The proposal is therefore contrary to policies HE1 and HE3 of the Brighton and Hove Local Plan.*

**BH2013/02037 & BH2013/02036** Creation of additional floor at third floor level with mansard roof incorporating internal alterations to facilitate creation of additional floor. Refused 14/08/2013 for the following reason:

*The formation of a mansard roof to the property would result in the loss of the existing historic roof form and create an inappropriate addition to the Grade II\* building which would harm the historic character of the building. The proposal would detract from the significance of the heritage asset by adding a prominent roof form with no historical justification. Furthermore the proposal would result further internal partitioning and a loss of hierarchy to the original plan form of the building. The proposal is contrary to policies HE1 of the Brighton and Hove Local Plan.*

#### **4. REPRESENTATIONS**

4.1 One (1) letter has been received from Regency Society of Brighton & Hove commenting on the proposal for the following reasons:

- The roof level would be similar to those on both neighbouring properties
- The proposals to reinstate the first floor balconies would be welcomed
- Repairs should be undertaken to the whole façade and later additions removed

4.2 Cllr Alex Phillips and Cllr Tom Druitt support the application (comments attached).

#### **5.0 CONSULTATIONS**

##### **5.1 Heritage: Objection**

The refusal of application BH2016/05444 and recent appeal decision in respect of applications BH2015/03462 and BH2015/03463 is very relevant to the consideration of this application. The Inspector notes that the existing roof "has one key feature which would also been a feature of the original. That is its low pitch, which ensures that it is concealed behind the parapet when seen from the street". He goes on to consider that the roof extension "would be an uncharacteristic addition to a property which was designed to have a concealed roof. It would only add to the harm which has already occurred". He concludes that it would harm the listed building, would harm the setting of other listed buildings in the same terrace and in a more limited way would harm the character of the conservation area. The Inspector acknowledged that there would be an economic benefit to the proposal in that it would support tourism in Brighton but concludes that this would not outweigh the harm to the heritage assets.

This current application is for a very similar proposal to the previous applications, with the only real differences being that the new roof extension would have a dip in the centre of its roof to echo the original M-shaped roof and that the outer pitches would be set at a slightly less steep angle (c75° rather than 80°), which is more akin to the lower pitch of a traditional true mansard and which would make it slightly less prominent. However, the proposal would still result in a roof extension that would be very clearly visible above the parapet and which, as the appeal Inspector noted, would be an uncharacteristic addition to a property which was designed to have a concealed roof. It would compound the harm caused by the existing mansard extensions either side. It is therefore considered that the roof extension would harm the architectural and historic interest of the listed building, and therefore its significance, and fail to preserve the setting of the other listed buildings in Oriental Place and, to a lesser extent, would harm the appearance and character of the conservation area.

5.2 CAG: The Group recommends refusal. As was the case with a previous similar application the proposed extension would destroy the original roof structure of this Grade II \* terrace which remains more or less symmetrical despite some unfortunate early and mid C20th extensions. It notes that views from Montpelier Road would also be harmed.

## **6. MATERIAL CONSIDERATIONS**

6.1 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

6.2 The development plan is:

- Brighton & Hove City Plan Part One (adopted March 2016);
- Brighton & Hove Local Plan 2005 (retained policies March 2016);
- 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);

6.3 Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## **7. POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part One

SS1 Presumption in Favour of Sustainable Development

CP15 Heritage

Brighton & Hove Local Plan (retained policies March 2016):

HE1 Listed Building Consent

HE4 Reinstatement of original features on Listed Buildings

HE6 Development within or affecting the setting of conservation areas

Supplementary Planning Guidance:  
SPGBH11 Listed Building Interiors

Supplementary Planning Documents:  
SPD09 Architectural Features

## **8.0 CONSIDERATIONS & ASSESSMENT**

8.1 The main considerations relate to the impact of the proposed development on the historic character and appearance of the Grade II\* listed building.

### 8.2 Planning Policy

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in exercising its powers under the planning Acts in respect of listed buildings, the local authority shall pay special attention to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses, (similar provision is made under Section 72 of the act in regard to Conservation Areas). 'Preserving' means doing no harm. There is therefore a statutory presumption, and a strong one, against granting permission for any development which would cause harm to a listed building. This presumption can be outweighed by material considerations powerful enough to do so. Where the identified harm is limited or less than substantial, the local planning authority must nevertheless give considerable importance and weight to the preservation or enhancement of the heritage asset.

8.3 Paragraph 134 of the NPPF states that 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 securing its optimum viable use.

8.4 Policy HE1 of the Brighton & Hove Local Plan states that proposals involving the alteration, extension, or change of use of a listed building will only be permitted where: a. the proposal would not have any adverse effect on the architectural and historic character or appearance of the interior or exterior of the building or its setting; and b. the proposal respects the scale, design, materials and finishes of the existing building(s), and preserves its historic fabric.

### 8.5 History of Site

As detailed above, the site has had a number of refusals for roof extensions to create additional accommodation in the building. The 2015 Listed Building Consent and Full Planning decisions were upheld at appeal (appeal reference APP/Q1445/W/3152050). In this appeal decision, the inspector concluded that the proposed mansard roof extension *'would result in harm to the significance of the listed building as a designated heritage asset. Moreover, it would detract from the settings of nearby listed buildings forming part of the same terrace, thereby harming their significance. There would also be some limited harm to the conservation area. On the other hand the proposal would result in an*

*economic benefit in that it would support tourism in Brighton. However, in my view that benefit would not be so significant as to outweigh the harm to heritage assets which would occur.'* The key differences between the appeal scheme and this current scheme include amending the design flat roof of the mansard to an 'm' shape roof form. The current proposal is identical to the 2016 Listed Building Consent refused on 7/03/2017.

8.6 Design and Impact on the Historic Building

The proposal seeks consent for additional accommodation for the hostel by adding a storey to the roof level of the building. The current proposal is still very similar to the previous appeal scheme and therefore the Inspector's decision carries significant weight in the assessment of this current application. The key difference between the appeal scheme and the current scheme is that the new roof extension would have a dip in the centre of its roof to echo the original M-shaped roof and that the outer pitches would be set at a slightly less steep angle (75 degrees rather than 80 degrees). The proposal would still result in a roof extension that would be very clearly visible above the parapet and which, as the Inspector noted, would be an uncharacteristic addition to a property which was designed to have a concealed roof.

8.7 It is noted that the properties either side of the application site have roof level extensions, these are viewed as harmful additions to the listed terrace and do not set a precedent for the further inappropriate extensions. The proposed extension would closely match the extension at No. 34, however this is not considered justification to allow a further harmful addition and the proposal would compound the harm caused by these existing extensions. It is therefore considered that the roof extension would harm the architectural and historic interest of the listed building, and fail to preserve the setting of the other listed buildings in Oriental Place and, to a lesser extent, would harm the appearance and character of the conservation area.

8.8 The Design and Access Statement refers to the public benefits of the scheme stating that it "*would enable the building to be maintained and to ensure it can be sustained for present and future generations*". The Inspector dismissed this potential benefit in the recent appeal decision as carrying limited weight. No circumstances have changed since then that would suggest greater weight should be attached to this and there is still no mechanism in place which would secure any particular works of renovation or repair.

8.9 In respect of the internal works (which are unchanged from the appeal scheme) the Inspector concluded that "*it is unlikely that the proposed alterations would result in the loss of historic fabric or would harm the ability to interpret the layout of the building.*" The only area where it is considered that this may not be the case is in respect of the proposed alterations at third floor level, as historic documentary evidence suggests that this floor originally had three bedrooms, which would be consistent with the upper floor of other large townhouses of this period in Brighton & Hove. Whether or not the existing partitions are historic has not been established but a change from 3 rooms to 2 would, as a matter of principle, cause some harm to the interior character in terms of its evidential value. This harm would nevertheless in itself be minor.

8.10 The Design & Access Statement has submitted four significant and material differences to the previous applications. These are as follows as submitted in the D&A Statement:

1. Financial - Following the previous applications the business rates applicable to the application site have increased more than tenfold rising from £4200 to £44000 annually. This strongly enforces the owners needs to increase the accommodation at the hostel in order to continue viably operating the business.
2. New Evidence Uncovered - Following the previous applications additional evidence has been obtained strongly indicating the existing gambrel roof form at number 34 is historic and has been visible in the street scene for over 160 years. And is therefore not an inappropriate add-on as the previous refusal report has suggested.
3. Balconies - The owner of number 33 also owns 34 Oriental Place and has committed to reinstating the first floor balconies as originally built including new railings cast to the original format. The applicant has agreed that this can be conditioned as part of any approval for the site.
4. Building use - Following the increase in business rates other uses for the property have been considered. Having reviewed the various options for converting the building to an alternative use, it has been established that the required building alterations would cause substantial harm to the heritage asset more than the less than substantial harm the inspector identified would result from the current proposals for the roof works enabling the hostel to continue to operate.

8.11 In response to these points the Local Planning Authority would note that:

1. Financial viability of the business is not a listed building concern. In all of the previous applications, the Owner states that the works are necessary to generate income to maintain the building. However, as per paragraph 130 of the NPPF, where there is evidence of deliberate neglect of or damage to a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision. The Inspectors Decision stated 'Any owner of a listed building is responsible for keeping it in reasonable repair'. This would also apply to the upkeep of the application site. Limited weight was attributed to the suggested benefits relating to the repair of the building. Since the Inspectors visit, the front of the application property has been left to decline further. An enforcement case has been opened to investigate the deteriorating condition of the building, which is unrelated to the proposed scheme.
2. The new evidence uncovered is a late 19th century image which does not clearly show a gambrel or mansard roof at number 34 Oriental Place. Regardless, if there is a gambrel or mansard roof in the image, it does not demonstrate that this was how the building was constructed. A photo from

the late 19th century does not indicate that there was a gambrel or mansard present for the 70 years previous. Also, as this issue relates to the neighbouring building, it is considered that it has limited direct impact upon the current proposal given the previous appeal decisions.

3. The reinstatement of the front balcony to number 34 with the appropriate listed building consent would be welcomed. However, it has no bearing on the current application.
4. No detail has been provided as to the options that have been considered to convert the building into another use have been considered or the potential harm that has been identified by the applicant to the listed building, if the building were to be converted. In the Inspectors decision, the Inspector suggested exploring different uses for the building. It should be noted that the Council have not been approached for pre-application advice for a change of use of this building. Other Grade II\* terraces along Oriental Place have successfully been converted to residential flats without causing substantial harm to the listed building. For example, after a refusal and dismissed appeal, an application was approved at 19 Oriental Place for the conversion of a hotel to form five residential flats.

## **9.0 EQUALITIES**

9.1 None identified.