

Appeal Decision

Site visit made on 14 March 2017

by Kevin Gleeson BA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 April 2017

Appeal Ref: APP/Q1445/W/16/3165230

Longley Industrial Estate, New England Street, Brighton BN1 4GY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Christian, Maplebright LLP against the decision of the Brighton and Hove City Council.
 - The application Ref BH2015/04474, dated 10 December 2015, was refused by notice dated 14 June 2016.
 - The development proposed is change of use from light industrial and warehouse trade counter units (B1c and B8) to offices (B1a) together with external building improvements.
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Decision

1. The appeal is allowed and planning permission granted for change of use from light industrial and warehouse trade counter units (B1c and B8) to offices (B1a) together with external building improvements at Longley Industrial Estate, New England Street, Brighton BN1 4GY in accordance with the terms of the application Ref BH2015/04474 dated 10 December 2015 subject to the conditions in the schedule at the end of the decision.

Main Issues

2. The main issues are:
 - whether the proposed development provides an acceptable use for the site;
 - the effect of the proposed development on the existing road network in the vicinity of the site; and
 - whether the proposed development makes appropriate parking provision for disabled people.

Reasons

The Use of the Site

3. The appeal site is located on the eastern side of New England Street with Eldon Place providing the northern and eastern boundaries to the site. Due to a change in levels across the site the western elevation appears as approximately two storeys whilst the eastern elevation is approximately four storeys. Vehicular access is available to both the western and eastern frontages. The building is currently used for light industrial and warehousing purposes.
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4. Policy DA4 of the Brighton and Hove City Plan Part One (the City Plan) identifies the appeal site as being within the New England Quarter and London Road Area. This establishes a strategy which provides for the creation of a major new business quarter in this area with new office floorspace as a priority.
5. Part C of Policy DA4 states that Strategic Allocations are for provision across five sites for 20,000sq m of net additional B1a and B1b floorspace and 165 residential units through the implementation of extant commitments for B1 floorspace and the mixed use development of the five sites. The appeal site forms one of the sites, identified as Trade Warehousing (Longley Industrial Estate) with the indication that 3,000sq.m of space should be provided as a minimum.
6. Part C goes on to state that proposals will be assessed against a number of policies and guidance and specific criteria including the minimum B1a / B1b floorspace indicated. A further criteria is that an appropriate mix of uses including residential (C3) will be permitted.
7. Although there is a need for residential development in the area, the appeal site was only seen as having potential to contribute 10 dwellings in the City Plan Urban Capacity Site Assessments with 80 units on the neighbouring Vantage Point site whilst the Strategic Housing Land Availability Assessment also identified the two sites together as having potential for 90 units. However, Supplementary Planning Document 10: London Road Central Masterplan identifies the appeal site as having potential for a tall building of approximately 11 storeys high which could indicate greater residential capacity.
8. The requirement within Part C for a mixed use development does not specify the amount of residential accommodation but requires the five sites covered by that part of the policy together to provide 165 residential units. As the four other sites are still to be redeveloped there remains the possibility that the residential requirement of the policy will be addressed and the overall policy objective met. In addition, the appeal scheme's provision of in excess of 6,000sq.m of new office floorspace far exceeds the requirement of the policy and would potentially see jobs increased from approximately 50 to 500. This is a significant benefit particularly as noted in the supporting text that the priority for the five sites is that an appropriate amount of new office floorspace is delivered.
9. With refurbishment of the building rather than redevelopment of the site the opportunities for residential development are limited. Furthermore, I consider that the policy requirement to achieve a high quality of design and incorporate active uses at ground floor level would be met through the proposed changes to the elevations. Improvements to the setting of the building through new hard and soft landscaping would improve the public realm whilst connectivity would be improved through a range of transport measures described below and secured through a signed and dated Section 106 Agreement. Similarly the proposal would meet the requirement of Policy DA4 to secure training for local people through the Section 106 agreement.
10. Consequently, on balance I find that the proposal provides an acceptable use for the site with clear benefits which outweigh the limited conflict with Policy DA4 of the City Plan arising from a lack of residential development.

Effect on the Local Road Network

11. Policy CP9 of the City Plan aims to promote measures to support sustainable forms of transport in order to reduce the impact of traffic and congestion.
12. By virtue of the increase in the number of people employed on site the proposed development would considerably increase the number of trips associated with the development. The scheme makes no specific on-site provision for vehicle parking apart from disabled parking bays whilst 74 cycle spaces are proposed. However, the site is located in a highly accessible city centre location and surrounding roads are subject to on-street parking controls.
13. Moreover, the Section 106 agreement provides for a contribution of £123,700 as a sustainable transport contribution, serving to mitigate the impact of any additional trips arising from the development. It would provide for the needs of those accessing the site on foot, by bicycle or using public transport including through improvements to the public realm locally and cycle and pedestrian route and facility improvements. A Travel Plan would also be secured through a planning condition.
14. On the basis of these proposed measures to promote sustainable transport modes and the lack of any evidence from the Council in support of the claim that the traffic generated by the proposed development could not be accommodated within the constraints of the existing road network I find that the proposal would not result in a traffic impact which would be contrary to the requirements of Policy CP9 of the City Plan.
15. Moreover, there would be no conflict with the Council's Supplementary Planning Document 14: Parking Standards, October 2016 (SPD14) which indicates that within the central area provision should be made for disabled user parking only. In addition there is no evidence that the transport impact of the proposed development would be severe, which, according to paragraph 32 of the National Planning Policy Framework is the basis on which developments should be refused on transport grounds.

Parking Provision for Disabled People

16. The Council's third reason for refusal referred to the previous parking standards set out in Supplementary Planning Guidance – Parking Standards: SPGBH4. This has now been superseded by SPD14. SPD14 states that in determining the appropriate provision of disabled car parking consideration should be given to the likely demand generated by the proposed land use, the overall level of car parking provided, the opportunities to park in the local area and the distance and route from these potential parking locations to the development.
17. The parking standard for B1 offices in this case is for the provision of individual bays for each disabled employee where known plus 2 bays or 5% of total capacity whichever is greater.
18. SPD14 goes on to state that even if no on-site car parking is to be provided suitable levels of on-site disabled car parking must still be provided for the likely users of the development. In most instances a minimum of two spaces should be provided to ensure that alternative provision is available should one bay be in use. Without knowledge of the number of disabled employees as part of the proposed use, and taking account of the site constraints I find the provision of two disabled parking spaces to be acceptable.

19. I therefore find that the proposal would not be contrary to Policy CP9 of the City Plan which seeks to provide appropriately located disabled parking bays for people with mobility difficulties. It would also be in accordance with Policy TR18 of the Brighton and Hove Local Plan, 2005 which requires parking spaces for people with a mobility related disability to be sited closest to the main or most suitable access to the development.

Conditions

20. In addition to the standard implementation condition (Condition 1) I have attached a condition specifying the relevant drawings with which the scheme should accord as this provides certainty (2). A condition is necessary to ensure that the identified demand for office development in the locality is met (3) as is a condition that windows on the southern elevation shall be glazed with obscured glass and non-opening to address potential overlooking of a neighbouring site (4). I have imposed a condition to mitigate the impact of noise in order to safeguard the occupiers of neighbouring properties (5).
21. To ensure a satisfactory appearance to the development a condition requiring the approval of materials is necessary (6) as are conditions requiring the approval of highway details in the interests of highway safety (7) and the approval of details of disabled car parking provision to ensure that the development provides for the needs of the mobility impaired (8). Conditions are required to ensure that development makes efficient uses of energy, water and materials (9 and 10) as is a condition to integrate nature conservation and enhancement features within the scheme in the interests of the wider environment (11).
22. A condition is necessary to ensure that landscaping provides an appropriate setting for the proposed development and to ensure that landscaping works are effectively delivered (12) in order to enhance the appearance of the development, as is a condition requiring details of the proposed green walling to be approved in order to contribute to the ecological and visual enhancement of the site (13). I have also imposed a condition requiring the demonstration that the development has achieved Secured by Design standards in the interests of crime prevention (14). A condition to ensure that appropriate provision is made for refuse and recycling storage is necessary in the interests of the wider environment (15). To ensure that the proposed development helps to reduce the amount of vehicular traffic I have imposed a condition in relation to the parking of bicycles and motorcycles (16) and for a Travel Plan to be submitted and approved to promote sustainable forms of travel (17).
23. Planning Practice Guidance advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In this respect it is necessary for condition 6, 7, 8, and 9 to be conditions precedent as they are so fundamental to the development that it would otherwise be necessary to refuse the application.

Planning Obligations

24. In addition to the sustainable transport contribution referred to above the Section 106 agreement makes provision for the approval of highway works by the Council and implementation. It provides for a financial contribution of £30,560 towards the Council's Local Employment Scheme which aims to

increase the employment and training opportunities for residents of Brighton and Hove who wish to work in the construction industry. Provision is also made for the developer to adopt an Employment Strategy within which local labour will be sourced with a target of at least 20% of the workforce during construction being residents of Brighton and Hove.

25. I am satisfied that the obligations under Section 106 are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related to the development and therefore consistent with Regulation 122 of the Community Infrastructure Regulations, 2010.

Conclusion

26. For the reasons set out above, the appeal is allowed.

Kevin Gleeson

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Level 01 Plan	P0297 012 02
Level 02 Plan	P0297 013 02
Level 03 Plan	P0297 014 02
Level 04 Plan	P0297 015 02
Proposed Site Plan	P0297 010 01
Roof Plan	P0297 016 01
Proposed Elevations	P0297 020 01
Proposed Elevations	P0297 021 01
Proposed Elevations (above road level)	P0297 022 01
Proposed sections	P0297 030 01
3. The premises shall be used as an office (Use Class B1(a)) only and for no other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no change of use shall occur without planning permission being obtained from the Local Planning Authority.
4. All windows in the southern elevation shall be obscure glazed and non-opening.
5. The mitigation measures in the Anderson Acoustics Plant Noise Assessment December 2015 received by the Local Planning Authority on 10 December shall be implemented before first occupation of the development hereby permitted and shall thereafter be retained as such.
6. No development shall take place until details and samples of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
7. Notwithstanding what is shown on the submitted plans, no development shall take place until detailed drawings of the proposed access treatments, including dropped kerbs and tactile paving (as appropriate) and reinstatement of footway in place of redundant vehicle crossovers have been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the details approved prior to the first occupation of the development.

8. No development shall take place until details of disabled car parking provision for the occupants of, and visitors to, the development have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
9. No development shall take place until a BREEAM Building Research Establishment issued Design Stage Certificate confirming that the development is designed to achieve a minimum BREEAM UK Refurbishment and Fit-out 2014 scheme rating of 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.
10. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall not be first occupied until a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the development as built has achieved a minimum BREEAM UK Refurbishment and Fit-out 2014 scheme rating of 'Excellent' has been submitted to, and approved in writing by, the Local Planning Authority.
11. Prior to first occupation of the development hereby permitted details of six compensatory bird and bat boxes including their type, location and timescale for installation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall then be carried out in strict accordance with the approved details prior to first occupation and retained thereafter.
12. Prior to first occupation of the development hereby permitted, a scheme for landscaping shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:
 - a) Details of all hard surfacing;
 - b) Details of all boundary treatments, screens/fencing and gates;
 - c) Details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees, and details of any raised planters.

All hard landscaping and means of enclosure shall be completed in accordance with the approved scheme prior to first occupation of the development. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

13. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the proposed green walling including method of attachment and maintenance and irrigation programme have been submitted to and approved in writing by the Local Planning Authority, and shall be implemented prior to the first occupation of the development. The green walls shall thereafter be maintained and irrigated in accordance with the approved details.

14. Prior to the first occupation of the development hereby permitted a Developers Award Certificate or equivalent alternative shall be submitted to the Local Planning Authority to demonstrate that the development meets 'Secured by Design' standards.
15. Prior to first occupation of the development hereby permitted a scheme for the storage of refuse and recycling shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in full as approved prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.
16. Prior to first occupation of the development hereby permitted, details of secure cycle and motorcycle parking facilities including cycle and motorcycle shelters for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
17. Within three months of the date of first occupation, a Travel Plan for the development shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall thereafter be fully implemented in accordance with the approved details.