
Appeal Decision

Site visit made on 9 June 2017

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 6th July 2017

Appeal Ref: APP/Q1445/W/16/3165254

1 Wellington Road, Portslade, Brighton & Hove, BN41 1 DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by conditions of a planning permission.
 - The appeal is made by Mr Martin Mullany of Beaufort Developments Southern Ltd against the decision of Brighton & Hove City Council.
 - The application Ref BH2015/04680, dated 29 December 2015, sought approval of details pursuant to conditions Nos 8, 11, 12 and 13 of a planning permission Ref BH2013/02047, granted on 27 January 2014.
 - The application was refused by notice dated 19 September 2016.
 - The development proposed is '*Demolition of existing building and erection of part five, part four, part three and part two storey building comprising commercial units on basement and ground floor and 9no one and two bedroom residential units on floors above.*'
 - The details for which approval is sought are described on the application form as: *Covering letter 23 September 2015, Cycle rack specification; drawing: 1503AA(2-)03a: Part E Robust detail; floor ceiling acoustic detail, Acoustic ductwork detail, drawing 1503 SK11c Elevations; fire cert; ventilation layout; VTC low E details'.*
 - On the appeal form the following description is given: '*The Appeal relates to the discharge of conditions 8, 12 and 13.*'
 - The conditions state:
'8. Notwithstanding the submitted plans no development shall commence until details of secure cycle parking facilities for the occupants of, and visitors to, the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.'
Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy TR14 of the Brighton & Hove Local Plan.
'12. No development shall take place above the ground floor slab level until a scheme for the soundproofing of the residential units has been submitted to and approved in writing by the Local Planning Authority. The measures shall include details of glazing specifications and alternative means of ventilation. The development shall be implemented in strict accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.
Reason: To safeguard the amenities of the occupiers of future occupants of the development and to comply with policies SU10 and QD27 of the Brighton & Hove Local Plan.'
'13. No development shall take place above the ground floor slab level until details of the ventilation strategy for the building has been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the occupation of the development and shall thereafter be retained as such.
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Reason: To safeguard the amenities of the occupiers of future occupants of the development, ensure the efficient use of resources and to comply with policies SU2, SU10 and QD27 of the Brighton & Hove Local Plan.'

Decision

1. The appeal is dismissed and the submitted details pursuant to conditions 8, 12 and 13 are not approved.

Preliminary Matters

2. The original application to the Council sought the discharge of four conditions. The Council issued a split decision, approving the details for condition 11, but not for Nos 8, 12 and 13 respectively. I have proceeded on the basis that approval is sought for the details of the three conditions which were refused by the Council.

Main Issue

3. The main issue is whether the details submitted in pursuance of conditions 8, 12 and 13 would satisfy the reasons for their imposition.

Reasons

4. In terms of condition 8, the appellant is proposing the use of a two tier system which would be housed in a bike store. The Council considers that the need to lift bikes and difficulty in securing them means that this design is unsuitable and instead a 'Sheffield stands' bike rack style should be used.
5. Whilst, there are no local plan policies that require the use of one bike rack style over any other, those suggested should be practical and have a realistic prospect of actually being used. The cycle stands proposed in this case are likely to make it harder for the less mobile or those with upper body disabilities to lift bikes onto or spring up to the upper tier. What is more, the specific design proposed would only allow the securing of the frame and one wheel. Furthermore, the 'Josta' two tier style bike stand generally requires space around it both horizontally and vertically, so as to allow the stand to operate properly. The limited space within the bike store would reduce the attractiveness of using both tiers. Factors such as these are likely to discourage occupants to use bicycles as a sustainable mode of transport and as such the details submitted would not encourage travel by means other than private motor vehicles.
6. With regards to the details submitted to discharge conditions 12 and 13, the appellant has alluded to information submitted to the Council on 6 August 2015 relating to the level of soundproofing. The Council's Environmental Health Officers, sought further details in July 2016 and were not able to provide any detailed response owing to the lack of a detailed acoustic report. This makes sense, as without an understanding of the local sound environment and context in this fairly busy and highly trafficked area (which also falls within an Air Quality Management Area) it is not possible to be sure that the windows would be adequate in terms of soundproofing in relation to background noise. Nor that the ventilation proposed would serve its intended purpose – both in terms of the noise it would create and in ensuring that the air drawn in is properly filtered.

7. In the absence of such information before me for this appeal, it is not possible for me to be sure that the details submitted would safeguard the amenities of future occupiers of the development in terms of noise and ventilation. As such, I find that the details submitted pursuant to conditions 12 and 13 would not fulfil the reasons for imposing the conditions originally.
8. I therefore conclude that the details submitted in pursuance of conditions 8, 12 and 13 of planning permission BH2013/02047 would fail to satisfy the reasons for the imposition of the condition. Accordingly, and for the reasons given above, I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR