
Appeal Decision

Site visit made on 9 September 2019

by Rajeevan Satheesan BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2019

Appeal Ref: APP/Q1445/W/19/3233056

8-10 Aymer Road, Hove BN3 4GA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Brand against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/00485, dated 18 February 2019, was refused by notice dated 18 April 2019.
 - The application sought planning permission for the change of use from rest home (C2) to 2no dwelling houses (C3) without complying with condition 3 attached to planning permission Ref BH2018/02330, dated 9 January 2019.
 - The condition in dispute is No 3 which states that:
(3) The development hereby permitted shall not commence until such time as a scheme has been submitted to and approved in writing by the Local Planning Authority to provide that the residents of the new development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit.
 - The reason given for the condition is:
(3) This pre-commencement condition is imposed in order to allow the Traffic Regulation Order to be amended in a timely manner prior to first occupation to ensure that the development does not result in overspill parking and to comply with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the City Plan Part One.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use from rest home (C2) to 2no dwelling houses (C3) at 8-10 Aymer Road, Hove BN3 4GA in accordance with the application Ref BH2019/00485 dated 18 February 2019, without compliance with condition number 3 previously imposed on planning permission Ref BH2018/02330, dated 9 January 2019 and subject to the following conditions:
 - 1) The development hereby permitted shall not be carried out other than in accordance with the drawings approved pursuant to condition no.1 of planning permission Ref BH2018/02330, dated 9 January 2019.
 - 2) The development hereby permitted shall begin not later than three years from the date of this decision.

- 3) Prior to first occupation of the development hereby permitted, details of secure cycle parking facilities for the occupants of, and visitors to, the development shall have been submitted to and approved in writing by the Council. 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.

Procedural Matters

2. Both parties have referred to Brighton & Hove City Council's Supplementary Planning Document, Parking Standards, 2016 (SPD 14). I have afforded some weight to that document due to its role in supporting the relevant development plan policies.
3. Reference has been made to the Brighton & Hove City Council's draft City Plan Part Two. However, I consider that the emerging Plan has not reached a sufficiently advanced stage in its production for me to attach weight to it for the purposes of the determination of this appeal. I shall therefore make no further reference to the emerging plan.

Main Issue

4. The main issue is the effect that removing the disputed condition would have on parking stress in the area having regard to the effectiveness of the highways network and amenities of surrounding residents.

Reasons

5. The existing site is a vacant care home that has recently received planning permission¹ approved for a change of use from a rest home (Class C2) to two dwelling houses (Class C3). The properties are located within Car Parking Zone (CPZ) R.
6. SPD 14 states when considering applications for car free housing, the impact of potential overspill parking needs to be considered. SPD 14 further states that car free housing will be approved having regard to a number of factors which includes the scale of development, sustainability of location and the capacity for on-street parking in the surrounding area, and that this should be demonstrated by the applicant through an on-street parking survey.
7. To consider whether the proposal to remove the car permit free restriction is acceptable it is necessary to review the current on-street parking stress in the area. Incidences of parking stress may lead to increased competition for scarce spaces resulting in unnecessary travel with drivers searching for available spaces, with attention diverted to somewhere to park rather than on road conditions. Parking stress may also lead to obstructive parking to the detriment of the free flow of traffic. Neighbouring residents may, for example, have to park further away from their house and there may be the potential for increased noise and disturbance arising from cars driving around searching for spaces and manoeuvring into spaces. Consequently, it is necessary to assess whether any increased demand for on-street parking arising from the current appeal could be safely accommodated without the detriment to the living conditions of neighbouring occupiers or highway safety.

¹ Council Ref BH2018/02330, dated 9 January 2019.

8. The appellant has provided a Technical Note (TN)² and a Parking Beat Survey data, largely based on the Lambeth Methodology, which relates to the number of vehicles parked and the number of empty parking spaces within a reasonable walking distance of the site. This survey area includes Princess Avenue, Aymer Road, a section of New Church Road, and Princess Square, and was taken on Monday 25 and Wednesday 27 January 2019 between the hours of 01:30 and 03:00.
9. The Parking Beat Survey data indicates that over the survey period there was an average of 114 vehicles parked and 50 empty spaces within the survey area, with an average parking stress of 69.5%. The TN predicts that the approved new dwellings would be likely to result in an increase in parking demand by seven spaces. As such, the TN highlights that approved development would increase this figure to 71.9%, which is well below the criteria of 85%³ that is considered as a material parking stress.
10. The above weekday night-time parking figures demonstrates sufficient spare capacity, greater than the required 15%. It can reasonably be expected that it is at night-time when most local residents who own cars would be at home and therefore parked on the street. Additional cars associated with the proposal would therefore be unlikely to exceed that stress level.
11. The Parking Standards within SPD 14 states that the maximum level of parking for the proposal is one space per dwelling plus one space per two dwellings for visitors, which equates to a maximum of three spaces for this development. I also note that the site is in an area of relatively good accessibility to public transport, shops and services. However, due to my findings in respect of the availability of on-street parking in the vicinity, this should however not be a reason to deny prospective occupiers the ability to apply for a permit.
12. The appellant also states that there is currently no waiting list for parking permits in Zone R, which has not been disputed by the Council. This further demonstrates that there is car parking capacity in the local area. Furthermore, the site's former care home use would have been eligible for business parking permits for staff, and there would also have been demand for car parking from visitors to the site.
13. For the above reasons, the removal the conditions concerned would be unlikely to unacceptably impact upon parking stress in the area having regard to the effectiveness of the highways network and amenities of surrounding residents. As such, it would accord with Policies TR7 and QD27 of the Brighton & Hove Local Plan (2005). Amongst other things, these states that planning permission will be granted for developments that do not increase the danger to users of adjacent pavements, cycle routes and roads, and that permission will not be granted where it would cause material nuisance and loss of amenity to the proposed, existing and / or adjacent occupiers.

Other Matters

14. The Council raise concerns that the Lambeth Parking Methodology has not been strictly applied, with particular regard to the survey area and the timings of the surveys. However, neither the local plan nor SPD 14 specifically refers to the Lambeth Methodology. Neither do these documents provide and a specified

² Prepared by Reeves Transport Planning dated February 2019.

³ Criteria of 85% stated in the Council's statement of case.

methodology to follow. Therefore, in the absence of a prescribed method for carrying the parking survey, I find there is no substantive reason why I should disregard the submitted survey. Indeed, the Lambeth Methodology does allow some flexibility, and I am satisfied that the approach adopted is reasonable for the circumstances of this specific case.

15. The Council have also raised concerns that it is not clear that the survey was undertaken by an independent party. However, there is no reference within any of the relevant adopted local plan policies to appoint an independent party to undertake parking surveys. As such, I afford little weight to this concern.
16. Both parties have referred to a number of other Appeal decisions with regard to car permit free conditions. However, these emphasise the need for each case to be considered on its own merits with regard to the specific circumstances of each site. This Appeal has been determined on this basis.

Conditions

17. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Consequently, I have deleted the condition in dispute and imposed all the remaining relevant conditions from the original planning permission, as set out above.

Conclusion

18. For the above reasons, I conclude that the appeal should be allowed.

Rajeevan Satheesan

INSPECTOR