



---

## Appeal Decision

Site visit made on 19 December 2019

**by Christopher Miell MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 January 2020**

---

**Appeal Ref: APP/Q1445/W/19/3237282**

**Gemini Business Centre, 136-140 Old Shoreham Road, Hove BN3 7BD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Nadeem Siddiqi against the decision of Brighton and Hove City Council.
  - The application Ref BH2019/00701, dated 6 March 2019, was refused by notice dated 6 June 2019.
  - The development proposed is described as 'Application for determination as to whether prior approval is required for a change of use from offices (B1(a)) to residential (C3) to create 48 units (8 x studio, 32 x 1 bed and 8 x 2 bed)'.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. In the interests of precision, I have used the address from the Council's decision notice in the banner heading.
3. The appeal was submitted by Mr N Siddiqi (Glenhazel Ltd). However, the applicant for the prior approval application was Mr Nadeem Siddiqi. The appellant's agent has confirmed in writing that the above parties are the same person. I have dealt with the appeal on that basis.
4. The Council have advised that they no longer wish to defend the first reason for refusal which relates to the lawful use of the existing building. As such, the Council are now satisfied that the proposal meets the criteria set out within paragraph O.1 of Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the 'GPDO'). I do not disagree with the views of the Council in respect of this matter and hence it does not fall to be considered as a main issue.
5. Paragraph O.2 of Class O of the GPDO requires the local planning authority to assess the proposed development on the basis of (a) transport and highways impacts of the development; (b) contamination risks on the site; (c) flooding risks on the site; and (d) impacts of noise from commercial premises on the intended occupiers of the development. The Council has confirmed that the sole matter in contention in this appeal are the transport and highway impacts.

6. The appellant has submitted amended plans with the appeal, which seek to overcome concerns raised by the local highway authority. Paragraph W of the GPDO contains the provisions relating to the procedure for applications for prior approval under Part 3. To this regard, I note that Criteria (5)(b) of Paragraph W states "*(5) Where the application relates to prior approval as to transport and highways impacts of the development, on receipt of the application, where in the opinion of the local planning authority the development is likely to result in a material increase or a material change in the character of traffic in the vicinity of the site, the local planning authority must consult – (b) the local highway authority, where the increase or change relates to traffic entering or leaving a classified road or proposed highway, except where the local planning authority is the local highway authority*".
7. Whilst the Council have provided comments on the amended plans, I have no evidence before me to demonstrate that further consultation has been undertaken with the public and other relevant parties, including the local highway authority. Consequently, it is important that I determine this appeal on the basis of what was originally considered by the local planning authority, and on which interested people's views were sought. For the avoidance of doubt, I have therefore not had regard to the amended plans as part of the determination of this appeal.

### **Application for costs**

8. An application for costs was made by Mr Nadeem Siddiqi against Brighton and Hove City Council. This application is the subject of a separate Decision.

### **Main Issue**

9. The main issue is whether or not the development would be acceptable in terms of its transport and highways effects, with particular regard to traffic generation, parking provision, cycle parking and delivery and servicing arrangements.

### **Reasons**

#### *Traffic generation*

10. The appeal site is occupied by a large office building, which fronts onto Old Shoreham Road. To the front of the building there is forecourt parking, in addition the building has an internal car park, which is accessed from the front of the site from Old Shoreham Road. It is proposed to convert the existing building into 48 residential flats.
11. Old Shoreham Road is a classified A-road (the A270), which serves Brighton and the surrounding urban area. The section of the road immediately to the front of the appeal site has double yellow lines and is near to the traffic light controlled junctions with Sackville Road and Neville Road. At the time of my site visit, the road was busy with high volumes of traffic travelling in both directions.
12. The application was supported by a transport statement<sup>1</sup> (the 'TS'), which sets out the trip generation associated with the proposed development. The Council have questioned the accuracy of the assessment, with the local highway

---

<sup>1</sup> Transport Statement prepared by Ardent Consulting Engineers (Report Ref: No 190880-03) (March 2019)

authority raising several concerns about the methodology of the assessment and the baseline inputs relating to the existing and proposed uses.

13. As part of the appeal the appellant has submitted a highways rebuttal<sup>2</sup> (the 'HR'), which includes revised trip generation data and a survey of the existing use, which was undertaken between the hours of 07:00 to 10:00 and 16:00 to 19:00 on 26 June 2019. The report concludes that the proposal would result in an overall reduction in trips, when the existing and proposed uses are compared.
14. The Council have disputed the accuracy of the revised trip generation data and explain that there are significant differences between the sets of data contained within the TS and HR. In terms of the survey of the existing use, the Council argue that the survey should have been conducted for the whole operating times of the existing building in order to gain a full understanding of the existing level of trips being generated.
15. Owing to the number of residential units proposed, and, based on the evidence before me, I am satisfied that there would be a high number of vehicular movements associated with the proposed development. However, due to the limited extent of the existing survey data, it is unclear whether or not the overall number and the extent of vehicular movements at peak times associated with the proposed residential use would be comparable to the existing commercial use. In addition, I note that the parameters of the trip generation data were not agreed with the local highway authority prior to the completion of the report. As such, I am not persuaded by the appellant's conclusion that the proposal would result in an overall reduction in trips.
16. Consequently, in the absence of specific details to demonstrate that the overall number and the extent of vehicular movements at peak times associated with the proposed residential use would be comparable to the existing commercial use, I am unable to conclude that the traffic movements associated with the proposed development would not be prejudicial to the effective and safe operation of Old Shoreham Road, which is a classified A-road that serves a high volume of traffic. As such, I cannot conclude that the proposal would be acceptable in terms of its transport and highways effects, with particular regard to traffic generation.

#### *Parking provision*

17. The Council's parking standards are set out within the Supplementary Planning Document 14 – October 2016 (the 'SPD'). When the parking standards are applied to the proposed development it generates a need for 24 residential parking spaces, 24 visitor parking spaces and 3 motorcycle parking spaces. The proposed development would provide 18 parking spaces, 2 of which would be suitable for disabled users. However, there would be no visitor parking or motorcycle parking provided as part of the proposal.
18. Notwithstanding the Council's parking standards, the TS states that car ownership in the local area is low, with the local census indicating that 0.36 of households own a car. The methodology used within the TS has not been disputed by the Council, who state that based on the expected car ownership

---

<sup>2</sup> Highways Rebuttal prepared by Ardent Consulting Engineers (Report Ref: No 190880-03B) (September 2019)

levels, 20 residential parking spaces should be provided as part of the proposed development.

19. However, the methodology does not take account of the need for visitor parking at the site, which the Council state would generate a demand for a further 10 parking spaces. Therefore, the total parking requirement for residents and visitors would be 30 spaces. The proposal would provide a total of 18 parking spaces. Therefore, there would be a parking shortfall of 12 parking spaces (2 residential spaces and 10 visitor spaces). In addition, no motorcycle parking would be provided.
20. The appellant argues that the site is within easy walking distance of a range of local services and facilities, which would reduce the need to travel. In addition, there are car clubs and a cycle hire dock facility in the local area, and, bus services and a train station within walking distance, all of which would encourage lower car ownership by future occupiers of the appeal proposal, and, thus he claims that 18 parking spaces for residents would be sufficient. Even if I were to accept that the level of car ownership was lower than the local average, and, the level of residential parking spaces provided would be acceptable for future occupiers of the flats, the fact remains that the proposal fails to provide any visitor parking or motorcycle parking. As such, visitors and motorcycle users would be reliant upon on-street parking within the local area.
21. The section of Old Shoreham Road immediately to the front of the appeal site, has double yellow lines on both sides of the road. Therefore, on-street parking is not permitted in this location at any time. Within the immediate area there are also several controlled parking zones, where parking restrictions apply. The appellant's parking survey concludes that there is little spare on-street parking capacity during all periods and days with a maximum parking stress of 89%. The Council have not disputed the results of the survey.
22. Consequently, it is not contested that the local area is under considerable parking stress, which indicates that there is a very limited capacity for additional parking around the site to accommodate the visitors and motorcycle users associated with the proposal. Whilst I accept that the current use of the site as offices will likely contribute to local parking demand, the patterns of movement generated by an office use would likely be different from those of a residential development. As such, on the basis of the evidence before me, I therefore consider that the proposal would have a severe impact on parking stress in the local area, which would be prejudicial to highway safety due to an increased risk of illegal or unsuitable parking.

#### *Cycle parking*

23. The proposed development would provide 48 cycle parking spaces for residents and 16 for visitors. The Council have confirmed that the amount of cycle parking provision would accord with the parking standards set out within the SPD.
24. However, the Council have expressed concern about the predominate use of two-tier cycle racks for residents, which the Council explain are not universally accessible and are unsuitable for any large/non-standard bikes such as tri-cycles. In addition, the Council have stated that the cycle racks would be sited too close together, which would limit the effective operation of the cycle parking area. For these reasons, the Council explain that the cycle parking area

would not meet the 'readily accessible' and 'convenient' criteria for new cycling parking facilities as set out within Saved Policy TR14 of the Brighton and Hove Local Plan (2005), which was retained on adoption of the Brighton and Hove City Plan Part One (2016).

25. The HR acknowledges that the design of the current cycle parking area does not currently meet the clearance requirements and that alterations should be made, including the provision of more universally accessible Sheffield stands. The appellant has put forward amended plans, which seek to overcome this issue. However, for the reasons set out within the procedural matters section, I have determined this appeal on the basis of the plans that were originally considered by the Council and the local highway authority.
26. For the above reasons, I conclude that the proposal would fail to provide an appropriate standard of cycle parking for future occupiers of the proposed development. As such, I consider cycling would not be a convenient alternative to the private motor vehicle for most journeys. This in turn, would be likely to increase the level of car ownership associated with the proposed development, which would exacerbate the parking stress in the local area and associated problems. To this extent, the proposal would be unacceptable in terms of transport and highway effects.

#### *Deliveries and servicing*

27. The HR explains that the number of delivery and service vehicle trips to the appeal site would be broadly comparable between the existing and proposed uses. Whilst this may be the case, the proposed development would be reliant on kerbside loading on Old Shoreham Road for deliveries and servicing, whereas the existing use benefits from a high level of private forecourt parking, which can be used by delivery and service vehicles.
28. To this regard, I note that the proposal would conflict with advice contained within the SPD, which states that "*In relation to servicing, applicants will be required to demonstrate that there is adequate provision and space within the site for the parking, manoeuvring, loading and unloading to meet the operational servicing requirements of the development*".
29. The HR states the during the survey of the existing use, it was observed that all service/delivery vehicles accessing the site currently load/unload on-street, and, given the width of the carriageway, passing vehicles could safely overtake the parked vehicle without impeding the flow of on-coming traffic. Whilst this may have been the case, I note that the survey was only conducted at peak hours and therefore it does not provide a full understanding of the parking behaviour of delivery and service vehicles throughout the day.
30. Whilst I accept that a delivery/service vehicle parked on the highway would be unlikely to prevent most small vehicles from passing in a safe manner, I consider that it would prevent larger vehicles, such as lorries and buses, both which I observed using the road during my site visit, from passing the parked delivery/service vehicle in a safe and convenient manner. Consequently, I conclude that the delivery and service requirements associated with the proposed development would unacceptably impede the free flow of traffic on Old Shoreham Road.

## **Other Considerations**

31. The Council has made reference to a lack of electric car charging points. However, this is not directly relevant to transport and highway impact considerations and it is more relevant to the consideration of environmental matters such as addressing the effects of climate change. Consequently, this does not have an impact on the outcome of this appeal.
32. The Council contend that the proposed landscaping works to the existing forecourt are outside the remit of a prior approval application and would require full planning permission. Whilst this may or may not be the case, as I have concluded that the transport and highways impacts of the development are unacceptable, and, given my decision to dismiss this appeal, this is not a matter I need to address.
33. It has been brought to my attention by the Council that there is no step-free access to the rear of the building, and, therefore it is unclear how disabled users would escape the building in the event of a fire. Whilst I understand the Council's concerns, this is not directly relevant to transport and highway impact considerations. As such, this does not have an impact on the outcome of this appeal.
34. The Council have referred me to two planning applications on nearby sites, which propose major mixed-use developments. The Council state that should either application be approved before the current proposal then it would need to be considered as a 'committed development', in respect of the impact of the proposal on the highway network and producing a coordinated public realm. However, no further information has been provided in relation to the outcome of the respective planning applications. In any event, and, given my decision to dismiss this appeal, this is not a determinative point.
35. I note that the Council originally requested a financial contribution towards sustainable transport, but they no longer consider this to be necessary. It has not been necessary for me to pursue this matter any further given my conclusion on the main issue.

## **Conclusion**

36. For the reasons set out above, I conclude that the proposed development would be prejudicial to highway safety due to a lack of vehicular and motorcycle parking provision, an ineffective cycle parking area and unacceptable delivery and servicing arrangements. In addition, in the absence of specific details, I am unable to conclude that the traffic movements associated with the proposed development would not be prejudicial to the effective and safe operation of Old Shoreham Road. As such, I find that the transport and highways impacts of the development would be unacceptable, and the conditions of Class O of the GPDO are therefore not met. Consequently, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Christopher Miell*

INSPECTOR