



Appeal Decision

Site visit made on 7 January 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2020

Appeal Ref: APP/Q1445/W/19/3233682

Land North of 32A Melbourne Street, Brighton BN2 3LH

- 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 Hussain against the decision of Brighton & Hove City Council.
- The application Ref BH2019/00298, dated 30 January 2019, was refused by notice dated 21 March 2019.
- The application sought planning permission for the erection of 2no three bedroom dwellings (C3) without complying with a condition attached to planning permission Ref BH2018/01855, dated 28 November 2018.
- The conditions in dispute is No 10 which states that:
Within 6 months of commencement of the development hereby permitted or prior to occupation, whichever is the sooner, a scheme shall be submitted to the Local Planning Authority for approval to provide that the residents of the development, other than those residents with disabilities who are Blue Badge Holders, have no entitlement to a resident's parking permit. The approved scheme shall be implemented before occupation.
- The reason given for the condition is:
This 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 Brighton & Hove City Plan Part One and SPD14: Parking Standards.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 2no three bedroom dwellings (C3) at 32A Melbourne Street, Brighton BN2 3LH in accordance with the application Ref BH2019/00298 dated 30 January 2019, without compliance with condition number 10 previously imposed on planning permission Ref BH2018/01855 dated 28 November 2018, subject to the conditions on the attached schedule.

Main Issue

2. The main issue is the impact to on-street parking provision and highway safety if the condition is removed.

Reasons

3. The planning permission granted under reference BH2018/01855 for two houses. The condition in dispute (No 10) restricted occupants, other than those with disabilities, from applying for parking permits in the 'Controlled Parking Zone' area. The reason for this included the avoidance of overspill parking.
4. At the time of my site visit, in the afternoon of a Tuesday, there were some on-street spaces available in the areas for those with parking permits. The appellant has also submitted a survey which showed some limited capacity on Melbourne Street and more on a section of the adjacent Hartingdon Road for parking at night time.
5. This is a busy area of Brighton, near a shopping area and also some offices, for example. I recognise that parking on-street is in high demand for this area. However, both from my visit observations and also from the submitted survey there are some spaces in the vicinity available sometimes. Furthermore, the appellant suggests that the two house scheme would generate parking demand of one car. However, bearing in mind the Parking Standards SPD, if each house was considered to have a single car each this would result in two additional vehicles to be potentially parked on the street regularly.
6. On this basis, if the development was implemented, then there would be no need for the double-yellow lines parking restriction across the site frontage. This additional on-street parking area could probably accommodate one vehicle, leaving just one other vehicle to be accommodated from the existing on-street parking areas available for those with permits.
7. From the evidence before me I do not regard the parking of one more vehicle in these existing on-street parking areas would likely have a significant impact which could result in highway safety issues or an increase in illegal or inconsiderate parking practices in the streets. There could also be the need for the occasional visitor, although this situation could also be the same if there were no permits available for occupants of the two new houses. It also would likely be less of a frequent occurrence. As such, I do not consider this as being a significant factor.
8. The Council has stated that the submitted Parking Beat Survey is not sufficient in its scope, such as the area/streets covered by the survey and the fact that there is no daytime survey. However, considering that the proposal would likely result in just one additional vehicle needing to park within these streets I find that the submitted survey information is sufficient and proportionate to provide the information necessary. However, I do acknowledge the presence of street trees which has a bearing on the amount of available on street parking, but not to a substantial degree from my observations. The Council state that the survey is not written by an independent party, but I have no reason to doubt the accuracy or information provided within the survey.
9. To my mind, the survey is sufficient to demonstrate that there can be some spaces available within the vicinity of the new dwellings overnight. My daytime observations suggest more spaces available in the day than night, although I acknowledge I was only there for one day. I did also note that the nearby Sainsburys supermarket had its own carpark for customers, thereby being unlikely to result in overspill onto Melbourne Street or the surrounding other roads.

10. Therefore, whilst I accept that the parking survey information was limited and that this is an area of quite high parking stress for on-street parking provision, I do not regard that the development would result in any discernible increase in poor parking practices which may have a detriment to highway safety.
11. Overall, the proposal would result in some additional on-street parking, but this is in an area where the evidence indicates that the small increase in number of cars parked could be accommodated without adverse effects to highway safety or the ability of other residents to park their cars where they have permits. The proposal without the disputed condition would therefore be in general accordance with policies TR7 & QD27 of the Brighton & Hove Local Plan and CP9 of the Brighton & Hove City Plan Part One. These policies seek to, amongst other things, minimise off-street car parking provision in accessible locations; ensure against any increase in danger to users of pavements or roads; and not cause a loss of amenity to existing residents. The proposal to remove the condition is also in general accordance with the 'Parking Standards' Supplementary Planning Guidance.

Conditions

12. The Planning Practice Guidance (PPG) makes it 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. The development does not appear to have commenced on site and I understand that no conditions have been discharged. As such, I have re-imposed all the conditions originally on the Decision Notice, other than the condition in dispute.
13. As such, I have attached the standard time limit condition and a plans condition as this provides certainty. I have also added conditions concerning materials and landscaping to ensure a satisfactory appearance.
14. Conditions requiring details of cycle parking and refuse/recycling storage are also included, in the interests of sustainable transport and waste management respectively.
15. Conditions relating to energy and water efficiency have been imposed, in the interests of securing a sustainable development.
16. Finally, I have also included the condition to reinstate the redundant sections of the existing vehicle crossover between 31 and 32a Melbourne Street, which would provide towards on-street parking provision within this street.

Conclusions

17. For the reasons set out above I conclude that the appeal should be allowed. The condition in dispute is removed. The remaining conditions are set out in the full schedule below.

S. Rennie

INSPECTOR

Schedule – Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 18099/P/010; 18099/P/120; 18099/P/121; 18099/P/122; 18099/P/130; 18099/P/131.
- 3) The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the occupants of, and visitors to, the development 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.
- 4) The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
- 5) None of the residential units hereby approved shall be occupied until each residential unit built has achieved an energy efficiency standard of a minimum of 19% CO2 improvement over Building Regulations requirements Part L 2013 (TER Baseline).
- 6) None of the residential units hereby approved shall be occupied until each residential unit built has achieved as a minimum, a water efficiency standard of not more than 110 litres per person per day maximum indoor water consumption.
- 7) Prior to the occupation of the development the applicant shall reinstate the redundant sections of the existing vehicle crossover between 31 and 32a Melbourne Street back to footway by raising the existing kerb and footway. The works shall be completed prior to the occupation of the development hereby permitted and shall thereafter be retained.
- 8) Prior to occupation of the development hereby permitted, a scheme for landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:
 - a. details of all hard and soft surfacing to include type, position, design, dimensions and materials and any sustainable drainage system used;
 - b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
 - c. details of all boundary treatments to include type, position, design, dimensions and materials;

Any trees or plants which within a period of 5 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.

- 9) No development above ground floor slab level of any part of the development hereby permitted shall take place until 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, including (where applicable):
- a) samples of all brick, render and tiling (including details of the colour of render/paintwork to be used)
 - b) samples of all cladding to be used, including details of their treatment to protect against weathering
 - c) samples of all hard surfacing materials
 - d) samples of the proposed window, door and balcony treatments
 - e) samples of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

End of Schedule