



---

# Appeal Decision

Site visit made on 1 November 2022

**by B Pattison BA (Hons) MSc MRTPI**

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

**Decision date: 02 MARCH 2023**

---

**Appeal Ref: APP/T1410/W/21/3288059**

**38a Motcombe Road, Eastbourne BN21 1QT**

- 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 A Knight against the decision of Eastbourne Borough Council.
  - The application Ref PC/200598, dated 18 August 2020, was refused by notice dated 29 September 2021.
  - The development proposed is redevelopment of site from garages and commercial unit into dwelling houses. Demolition of garages to allow for new three residential units and parking areas. Demolition of existing commercial unit and rebuild to similar footprint and height to accommodate two Flats. Associated site improvements including new access gate from the southwest alleyway.
- 

## Decision

1. The appeal is allowed and planning permission is granted for redevelopment of site from garages and commercial unit into dwelling houses, demolition of garages to allow for new three residential units and parking areas, demolition of existing commercial unit and rebuild to similar footprint and height to accommodate two Flats and associated site improvements including new access gate from the southwest alleyway at 38a Motcombe Road, Eastbourne BN21 1QT in accordance with the terms of the application, Ref PC/200598, dated 18 August 2020, subject to the conditions in the attached schedule.

## Applications for costs

2. An application for costs was made by Mr A Knight against the Council. This application is the subject of a separate decision.

## Main Issues

3. The main issues are:
  - The effect of the proposed development on highway safety; and
  - the effect of the proposed development on the living conditions of neighbouring occupiers with particular reference to outlook.

## Reasons

### *Highway safety*

4. The available evidence indicates that the eighteen garages on the appeal site have been used for many years as lock up self-storage units and the two-storey former workshop building used as administrative offices. Whilst the site may not currently be used to its maximum capacity, the existing site access

has been used for many years by the on-site commercial use, including at times by larger delivery vehicles. Were the commercial use to be fully occupied, the appellant's Transport Technical Note (TTN) demonstrates that it would be likely to lead to more vehicular trips than the proposed development. The submitted evidence therefore indicates that the appeal proposal would not lead to an intensification of use of the existing access compared to what the site could be used for.

5. During my site visit I noted that houses on Motcombe Road do not generally have front driveways and are reliant on the public highway for vehicle parking. However, off-street parking in-line with the relevant parking standards would be provided on site and on-street parking would involve a further walk. Consequently, future residents of the development would be likely to park vehicles within the appeal site, rather than parking within unallocated spaces on the public highway. The appeal proposal would not therefore result in an unacceptable situation in relation to parking.
6. The 2.4 x 43 metre visibility splays shown on drawing ITP 347-1-01-P3 encompass a stretch of public highway which is not subject to any form of parking restrictions. Given that the public highway is outside of the appellant's ownership, the proposed development does not include the introduction of double yellow lines or other controls to maintain the visibility splays. However, it is a point of agreement between the parties that the East Sussex County Council (ESCC) Highways standing advice accepts some on street parking within visibility splays, provided that sightlines are not completely obscured and spaces are not occupied throughout the days. During my site visit there were cars parked on the highway in positions which would partially interfere with the visibility splays, although the street has a 30 mile per hour speed limit. However, even if the spaces are used for sustained periods, as third parties indicate, and various properties in the locality rely on on-street parking, there would be sufficient visibility for drivers exiting the site, including in longer distance views between vehicles parked on the street. In any event, the existing situation includes use of the access and as the proposed development would not lead to an increase in its use, the proposal cannot reasonably be described as increasing the risk of collisions or unacceptably risking highway safety. In coming to this view, I have taken into account the width of the access and the recorded collisions on Motcombe Road.
7. The access to the site via the alleyways would not be an attractive alternative to pedestrians and cyclists as they are dark and unpaved. However, the access road from Motcombe Road into the site is narrow but straight, which ensures that there would be good visibility for drivers using the road. This would significantly reduce the potential for conflict between pedestrians and vehicles. Furthermore, given the road's limited width, vehicles using it would likely be travelling at low speeds. I therefore find the likelihood of conflicts between drivers and pedestrians and cyclists would be low.
8. The appellant's TTN confirms that pedestrian splays of 2.0 metres x 1.83 metres can be achieved. This would not meet the ESCC recommendations of 2.0 metres x 2.0 metres. However, I am mindful that the proposed development would not lead to an increase in the number of vehicular movements. Furthermore, I observed that the width of the footway, at 2.4 metres, is generously sized.

9. A significant number of interested parties have raised concerns in relation to the effect of the development on highway safety. In addition to the issues which have been addressed above, concerns have been raised relating to the lack of safe access for pushchairs and wheelchairs. However, given that the access from Motcombe Road is straight and narrow, and would provide good visibility, the likelihood of conflict with between vehicles and wheelchair and pushchair users would be low.
10. For the reasons outlined above, I conclude that the proposed development would not harm highway safety. Accordingly, I find no conflict with Policies B2, D1 and D8 of the Eastbourne Core Strategy Local Plan (2013) (ECS) which, amongst other aims, require development to create a safe, accessible environment and provide for the needs of pedestrians and cyclists. I also find no conflict with the principles of the National Planning Policy Framework (2021) (the Framework) that seek the creation of places that are safe and secure and minimise the scope of conflict between pedestrians, cyclists and vehicles.

*Living conditions*

11. The appeal site contains a two storey building with additional accommodation within the roofspace. Within the commercial yard, but immediately adjoining the site's northern boundary is a two-storey building which has also been subdivided into two flats. Immediately beyond the site's north western boundary is a two-storey flat roof commercial building accessed from Green Street. Two storey buildings are therefore a part of the character of this area which is located to the rear of properties on Charleston Road, Green Street and Motcombe Road. As a result, the rear windows of neighbouring residential properties currently have views of taller buildings to the rear of their gardens. Whilst the proposed development would create additional built form which would be visible from the surrounding residential properties, a generous proportion of the site would not have any buildings on. These remaining spaces providing car parking, turning areas and adequately sized external amenity areas would help to visually break up the built form of the buildings on the site and would provide clear physical separation between them. This would minimise the development's impact on neighbouring occupiers and prevent it from appearing cramped and overbearing.
12. There would be no new buildings adjoining the boundaries with properties on Charleston Road. The proposed semi-detached houses would be set in from the boundary with the rear of properties on Green Street, ensuring a good separation distance. Similarly, "House 1" would have a generous separation from the appeal site's boundary with the rear of properties on Green Street. To the south of "House 1", the neighbouring properties on Motcombe Road have two storey outrigger elements, and some have additional ground floor rear projections which bring their closest windows nearer to the appeal site. However, in order to reduce its height and bulk, the upper storey of proposed "House 1" would be within the roof. Its eaves line would also not be particularly high and its rear roof would pitch sharply away from the nearest residential properties. Whilst it would have a greater visual impact than the existing garages in this location, neither the new house nor the development as a whole would be overly oppressive to the extent that it would significantly harm the level of outlook for occupiers of surrounding properties. In coming to this view, I have taken into account the proposed height and elevational design.

13. For the above reasons, I conclude that the proposed development would not harm the living conditions of neighbouring occupiers, with particular reference to outlook. Accordingly, I find no conflict with saved Policy HO20 of the Eastbourne Borough Plan 2001-2011 (2003) and Policies B2 and D1 of the ECS. Amongst other aspects, these seek development that delivers social wellbeing and protects the living conditions of occupiers of neighbouring properties. I also find no conflict with principles of the Framework that seeks the creation of places that are safe and have a high standard of amenity for existing and future users.

### **Other Matters**

14. Interested parties have raised concerns about the loss of the existing buildings on site, and the design of the replacement buildings being too dense and providing limited garden space. However, the proposed development, which is in a largely residential area, would represent an appropriate use of an underused parcel of land while the scale and layout of the buildings would be appropriate to the setting, and sufficient external amenity areas would be provided.
15. Concerns have been raised about the impacts of additional noise and loss of privacy and light to neighbouring occupiers. However, given the modest increase of five new dwellings, the separation distances and the use of obscure glazing on upper floor windows, where necessary, I do not find harm to the living conditions of neighbouring occupiers in relation to these matters.
16. Concerns have been raised about the lack of affordable housing and there being limited local demand for flats. However, I have not been directed to any local planning policies which would require the provision of affordable housing as part of this development, nor that such flats are not needed.
17. Local residents have expressed concern about the extent of discussions between the applicant and the local community. Whilst consultation is encouraged by the Framework, I must assess the proposed development against its planning merits.
18. Issues relating to the development's impact on the climate crisis and the provision of green infrastructure have been drawn to my attention. I have imposed planning conditions requiring further details of hard and soft landscaping, a drainage strategy and details of all renewable and carbon saving efficiency measures.
19. Issues relating to bin storage and collection, access for emergency services, and the use of local alleyways have been drawn to my attention together with a number of civil matters such as the lack of a party wall agreement. These issues are largely identified and considered within the Council's Committee report and it is noted that the Council did not consider these were reasons to refuse the application. I have been provided with no substantive evidence which would prompt me to disagree with the Council's conclusions on these matters. As such, whilst having regard to the concerns expressed by local residents, they do not lead me to a different overall conclusion that the appeal should be allowed

## Conditions

20. The Council has provided a list of conditions, which I have assessed in regard to the advice provided in the Framework and Planning Practice Guidance (PPG). I have made such amendments as necessary to comply with those documents, and for clarity and consistency.
21. In addition to the standard time limit, I have imposed an approved plans condition in the interests of certainty. A condition related to the approval of a landscaping scheme and a requirement for planting in the first planting and seeding seasons is imposed in the interests of the character and appearance of the area.
22. In order to minimise disruption to surrounding highways and residents it is necessary to approve a Construction Management Plan. I have also included a condition requiring a surface water drainage scheme and maintenance and management plan, and a further condition requiring demonstration that the drainage scheme has been implemented. These are required to reduce the risk of flooding.
23. I have included conditions related to the provision of vehicular access within the site and the provision and retention of off-street parking, including minimum parking space dimensions, and cycle and bin storage in the interests of highway safety. I have amended the wording of the condition relating to the vehicular access as this is required prior to occupation of the development, rather than prior to commencement. I have included a condition requiring the provision of electric vehicle charging points to promote low emission vehicles. In order to ensure sustainability measures are incorporated, I have included a condition requiring details of renewable energy and carbon saving measures.
24. A condition requiring the details of obscure glazing is also necessary to ensure the protection of neighbouring occupiers' living conditions. As the site is in a residential area, I have imposed the suggested conditions to limit noisy construction working hours. However, I have not imposed the conditions relating to dust management and the burning of materials during construction, as these issues can be controlled as part of the Construction Management Plan secured by a separate condition.
25. Bearing in mind the PPG's advice that such conditions are unlikely to pass the tests of necessity or reasonableness, I have not been provided with sufficient evidence as to why it would be reasonable or necessary to restrict several classes of the permitted development rights order. I have therefore declined to impose such a condition. I have also declined to impose a condition relating to external materials, as these are secured by the approved plans conditions.
26. As the number of vehicular movements would not see a significant increase, I have also not imposed the Council's suggested condition in relation to the maintenance of visibility splays. In any event the visibility splays are outside the site ownership which the appellant has no control over.

## Conclusion

27. For the above reasons, and having had regard to all other matters raised, the proposed development would accord with the development plan and the Framework. The appeal is therefore allowed.

*B Pattison*

INSPECTOR

**SCHEDULE OF 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:
  - 10712/01 – Site Location Plan and Block Plan;
  - 10712/02 rev A – Survey as existing
  - 10712/sk1 rev C – Site Development Plan;
  - 10712/sk2 rev B – Ground Floor Plans;
  - 10712/sk3 rev A – Proposed Floor Plans;
  - 10712/sk4 rev A - Proposed Elevations;
  - 10712/sk5 - Proposed Elevations;
  - 10712/sk6 - Proposed Elevations;
  - 10712/sk7 – Roof Plans;
- 3) No development shall take place, including any further site clearance, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by the local planning authority. Thereafter, the approved CMP shall be implemented and adhered to throughout the entire construction period. The CMP shall provide details, as appropriate, but will not necessarily be restricted to, the following matters:
  - the anticipated number, frequency and types of vehicles used during construction
  - means of reusing any existing materials present on site for construction works
  - the method of access and routing of vehicles during construction
  - the parking of vehicles by site operatives and visitors
  - the loading and unloading of plant, materials and waste
  - the storage of plant and materials used in construction of the development
  - the erection and maintenance of security hoarding
  - the provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders)

- details of public engagement both prior to and during construction works

demonstrate that best practicable means have been adopted to mitigate the impact of noise and vibration from construction activities

- provide details of the location and appearance of the site offices and storage area for materials, including a bunded area with solid base for the storage of liquids, oils and fuel
- details of any external lighting
- waste minimisation statement.

- 4) No above ground works shall commence until a surface water drainage scheme and maintenance and management plan, together with a timetable for implementation, have been submitted to and agreed in writing by the local planning authority. The surface water drainage scheme should be supported by an assessment of the site's potential for disposing of surface water by means of a sustainable drainage system. Surface water run off to the surface water sewer network shall be limited to a rate agreed with Southern Water and shall incorporate any required mitigation measures. Thereafter, the approved scheme shall be carried out or supervised by an accredited person. An accredited person shall be someone who is an Incorporated (IEng) or Chartered (CEng) Civil Engineer with the Institute of Civil Engineers (ICE) or Chartered Institute of Water and Environmental Management (CIWEM). The implementation of the surface water drainage scheme shall be carried out and completed in accordance with the approved details prior to occupation of the development hereby approved and thereafter maintained in accordance with the approved details.
- 5) The development shall not be occupied until the vehicular access within the site serving the development has been constructed in accordance with drawing no. 10712/sk1 rev C (Site Development Plan).
- 6) The development shall not be occupied until the parking area, with parking spaces measuring at least 2.5m by 5.0m (including an extra 50cm where spaces abut walls) has been provided in accordance with drawing no. 10712/sk1 rev C (Site Development Plan). The parking spaces shall thereafter be kept available for the parking of vehicles.
- 7) The development shall not be occupied until the bin storage and cycle parking areas have been provided in accordance with drawing no. 10712/sk1 rev C (Site Development Plan). The areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles and storage of bins.
- 8) The development shall not be occupied until a minimum of 1 x electric vehicle charging point has been provided for each dwelling and shall be maintained in an operable condition thereafter.
- 9) The development shall not be occupied until a scheme for landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include the following:
  - Details of all hard surfacing

- Details of all boundary treatments (including provision of mammal gates to allow for foraging animals to cross the site)
- Details of all proposed planting, including numbers and species of plant, and details of size and planting method of any trees
- Ecological enhancements and Biodiversity Net Gain.

The development shall not be occupied until all hard landscaping and means of enclosure have been completed in accordance with the approved scheme. 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 development or the completion of the development, whichever is the sooner; and 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.

- 10) The development shall not be occupied until full details of all renewable/carbon saving/energy and water efficiency measures to be incorporated into the scheme have been submitted to and approved by the Local Planning Authority. All measures approved shall be provided prior to the occupation of any dwelling and maintained in place thereafter.
- 11) The development shall not be occupied until a Completion Statement by an accredited person, who is an Incorporated (IEng) or Chartered (CEng) Civil Engineer with the Institute of Civil Engineers (ICE) or Chartered Institute of Water and Environmental Management (CIWEM), which demonstrates that the development has been fully implemented in accordance with the approved surface water drainage scheme, including a photographic record of the works, has been submitted to and approved in writing by the Local Planning Authority.
- 12) The development shall not be occupied until glazing specifications of all windows annotated as being obscure glazed on the approved plans be submitted to and approved by the local planning authority. The windows shall be fixed shut, other than any parts that are over 1.7 metres above the finished floor level of the room which they serve and shall be installed in accordance with the approved details prior to the first occupation of the development and shall be maintained in accordance with those details thereafter.
- 13) Demolition, tree works, site clearance, preparation and construction shall not take place outside the hours of 08:00 to 18:00 hours on Monday to Friday and 09.00 to 13:00 hours on Saturdays. No working is permitted at any time on Sundays or Bank Holidays. No machinery shall be operated, no process shall be carried out and no deliveries or collections shall be made at the site outside of these specified times.

## **END OF SCHEDULE**