



Appeal Decision

Site visit made on 29 January 2025

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 17th February 2025

Appeal Ref: APP/Q1445/W/24/3355425

Brighton Service Station, Mill Road, Brighton BN1 8ZF

- 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 Motor Fuel Group against the decision of Brighton & Hove City Council.
 - The application Ref BH2024/00831, dated 27 March 2024, was refused by notice dated 23 September 2024.
 - The development proposed is the demolition of existing jet washes and the creation of charging zone, erection of EV chargers, jet wash bays, sub-station enclosure and associated forecourt works.
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Decision

1. The appeal is allowed and permission is granted for the demolition of existing jet washes and the creation of charging zone, erection of EV chargers, jet wash bays, sub-station enclosure and associated forecourt works at Brighton Service Station, Mill Road, Brighton BN1 8ZF, in accordance with the terms of the application, Ref BH2024/00831, dated 27 March 2024, subject to the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, including the effect on the settings of the Patcham Conservation Area (CA) and South Downs National Park (SDNP), in particular the effect of the proposal on protected trees, and whether any harm is outweighed by the benefit of providing electric vehicle charging facilities.

Reasons

3. The proposal is to reconfigure the existing service station located adjacent to the A23/A27/London Road/Mill Road roundabout on the northern outskirts of the city. Whilst the overall area is dominated by busy roads, there is woodland immediately to the north and west of the site, also on the other side of the A23 to the east and a hedgerow screening the extensive Patcham Place Recreation Ground to the south. The latter forms part of the Patcham CA and the SDNP with the SDNP also to the west beyond a railway bridge.
4. The proposal includes the replacement of two jet wash bays, a new bin area next to the sales building and various new kerbs and bollards. The Council do not appear to object to these changes but to the final element, the installation of a 4-space 2-unit electric vehicle charging zone with associated sub-station to the southeast of the sales building. There is no objection to the design of these

but their installation would require the loss of two individual Hornbeam trees on the roadside which are the subject of a tree preservation order (TPO) made in November 2024.

5. The two fastigate trees are mature, about 30 years old, and being about 9 m tall with about 7 m wide crowns comprise prominent visual features adjacent to the roundabout. The trees serve to break up the otherwise rather stark and unattractive view of the service station when passing the site and have perhaps 40 years life remaining. Their loss would be visually significant, but in time the proposed replacement planting of three Hornbeam trees about 4-4.5 m high on either side would become established and begin to have a similar effect. The Council's arboriculturist now maintains the visual importance and quality of the trees justifies a TPO but as recently as 2021 the Council accepted their loss and replacement when granting planning permission for a different scheme¹. This permission only expired in September 2024, just six months ago.
6. The service station site lies across Mill Road from the Patcham Place Recreation Ground which forms part of both the Patcham CA and the SDNP. The site thus forms part of their setting². However, the boundary of the recreation ground is lined by a row of substantial trees which help to screen the garage from the designations and the two trees to be removed only make a minor contribution to the tree cover in the area given the nearby woodland. The proposal would not therefore significantly harm the setting of either the CA or SDNP.
7. The benefit of the scheme would be the provision of four high speed (50 kW+) electric vehicle charging bays in a suitable location which serves both the busy A23 and A27 routes. Brighton & Hove currently have just 7.2 public high speed chargers per 100,000 population, less than the UK average, and the particular site chosen is very convenient for the strategic road network where 'en-route' chargers are most needed. The Council point to the high proportion of the city within a five-minute walk of a street charger, but these are primarily low speed chargers for local households and the map provided shows a dearth in the north of the city including Patcham.

Conclusion

8. The trees are attractive specimens in themselves but comprise a rather isolated pair situated on a mown grass verge between the garage and the roundabout. Other than softening the visual impact of the garage they contribute little to the wooded nature of the wider surroundings. Indeed, there was permission for their removal until very recently. Whilst their loss would certainly be unfortunate, taking account of the importance of providing additional 'en-route' electric vehicle chargers and the scope for replacements, the balance of considerations tips in favour of permission in this instance.
9. For these reasons the limited harm that the proposal would cause to the character and appearance of the area due to the loss of protected trees would be outweighed by the benefit of providing electric vehicle charging facilities. There would be no significant harm to the setting of the Patcham CA or SDNP. The limited conflict with the policies of the Brighton and Hove City Plan listed in the decision notice, which in essence seek to conserve the city's character and heritage, are thus outweighed by other material considerations in this case.

¹ Reference BH/2021/02183

² The railway and A27 embankments screen the site from the rest of the SDNP.

10. The Council suggested eight conditions should the appeal be allowed and these have been assessed against the relevant tests. In addition to the standard implementation time limit it is necessary to define the approved plans in the interests of certainty. Further conditions are necessary to assess and control any contamination on the site to prevent water pollution. Conditions are also necessary to protect existing trees and to require replacement trees for those lost, including their ongoing maintenance, in the interests of visual amenity. Finally a condition is necessary to secure a scheme to protect public sewers in the interests of adequate drainage.
11. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved drawings:

Proposed Drawing 13664-FS CODE-24 Received 28 March 2024
Proposed Drawing 13664-508-21 Version B Received 2 September 2024
Proposed Drawing 13664-FS508-21 Received 28 March 2024
Proposed Drawing 13664-FS508-23 Received 28 March 2024
Proposed Drawing 13664-FS508-29 Received 28 March 2024
Proposed Drawing 13664-FS508-25 Received 28 March 2024
Proposed Drawing 13664-FS507-27 Received 28 March 2024
Proposed Drawing 13664-FS508-28 Received 28 March 2024
Block Plan 13664-FS508-BP Version B Received 22 April 2024
Location Plan 13664-FS508-LP Version B Received 22 April 2024
Arboricultural Impact Assessment 801004 Received 22 April 2024

- 2) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
- 3) No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:
- (1) A preliminary risk assessment which has identified:
 - (i) all previous uses
 - (ii) potential contaminants associated with those uses
 - (iii) a conceptual model of the site indicating sources, pathways and receptors
 - (iv) potentially unacceptable risks arising from contamination at the site

(2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

(3) The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

(4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

- 4) Prior to any part of the permitted development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.
- 5) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing by the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.
- 6) No tree shown as retained on the approved drawings shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of completion, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority. 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.
- 7) Prior to first use 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 the 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 food-bearing plants, and 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;

(d) details of replacement trees as mitigation planting for the removal of the two mature Hornbeams.

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.

- 8) Prior to the commencement of development, suitable measures for protecting the public sewers on the site shall be submitted to and approved in writing by the Local Planning Authority. The measures shall then be implemented as approved.