



Appeal Decision

Hearing and site visit held on 14 May 2008

The Planning Inspectorate
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by **M F Aldous BA (Hons), Dip Mgt, MRTPI**

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

Decision date:
18 June 2008

Appeal Ref: APP/Q1445/A/07/2061105

7 Symbister Road, Portslade, Brighton BN41 1GP.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Kingsbury Estate Ltd against Brighton & Hove City Council.
- The application Ref BH2007/01172, is dated 21 March 2007.
- The development proposed is the demolition of the existing building and redevelopment to provide a part 2.5 storey building and part 4 storey building containing a mixed use comprising a business unit (class B1) and 9 one bedroom apartments.

Application for costs

1. At the Hearing an application for costs was made by the Appellant against the Council. This application is the subject of a separate Decision.

Procedural matter

2. Although the Council is not the decision maker in this case, it did indicate the reasons for refusal upon which it would have been reliant had that not been the case. I have of course given full consideration to these in formulating the main issues and in my determination of the appeal.

Decision

3. I dismiss the appeal.

Main issues

4. I consider the main issues in this case to be:
 - i) Whether the proposal is consistent with the adopted development plan with regard to the safeguarding of employment land, or the re-use of such land should it be proven to be redundant for that purpose;
 - ii) The effect of the proposal on the character and appearance of the surrounding area; and
 - iii) Whether the proposal would provide for satisfactory living conditions for future occupants with particular regard to living space, amenity space and Lifetime Homes Standards.

Reasons

5. The appeal site is covered by an old, and rather complex building, previously used for employment purposes (mainly storage), but unused for some time. At the time of my site visit the building, which contains accommodation on two levels, was empty and disused. It occupies what might be described as a backstreet location, within what is now a primarily residential area, but close to the centre of Portslade which offers a range of shopping, public transport and other services. The location therefore has good sustainability credentials.
6. The adjoining site to the east has recently been redeveloped from its former employment use, and now provides for flatted accommodation as well as providing a range of modern B1 type business units, most of which are occupied or have been let. To the west, the site directly abuts a row of modest terraced houses, and there are similar properties within Franklin Road to the rear.

Safeguarding Employment Land

7. The site has an established industrial use, probably B8 in nature. However, the premises are old and rather outdated for modern business purposes. In places they are somewhat dilapidated, and there is also internal evidence of water penetration and other problems. The Appellant tabled the results of a thorough structural survey which catalogued these issues and provided financial estimates of the cost of rectifying such deficiencies. I have no reason to consider these to be unreasonable estimates.
8. The Appellant argues that the site has been actively marketed for continued business use for some time but with little interest and no offers. They suggest that the building has outlived its useful lifetime for business use, and given the limitations of its location, design, fabric, layout, facilities and lack of car parking it is highly unlikely to attract a new business occupier. They also point to the significant change that has occurred to the east, and the nature of the mixed form of redevelopment on that site, which appears to have been successful.
9. Notwithstanding the nature of the Council's concerns about the nature of the marketing campaign undertaken by the Appellant, and the absence in its view of sufficient information to support the conclusions reached by them, I broadly endorse the Appellant's judgement that the building in its current form is ill suited to attract a new occupier without a very significant, and perhaps improbable, injection of investment.
10. The proposal seeks a mixed form of redevelopment which retains a ground floor B1 employment unit of about 166 square metres net floorspace, together with nine small one bedroom apartments arranged over four floors. However, the proportion of the site retained for employment usage is well below that which currently exists, amounting to about a three quarters reduction. This is well below Council aspirations for what is a reasonably sized and long established employment site. The Council seeks its retention in line with its strategic desire to retain employment land, of which there is a shortage in the city, in order to support local economic objectives.
11. Policy EM3 of the Brighton & Hove Local Plan (local plan) is of direct relevance in this case. It seeks to retain industrial land unless it has been assessed and

found to be unsuitable for modern employment needs. As indicated above, I share the Appellant's view that in its current form the building is essentially unattractive for this purpose. However, that does not mean that the site could not be used for a more modern form of employment redevelopment of a B1 kind, which could co-exist quite happily with the adjoining residential uses. There is local evidence on the adjoining site that there is a demand for modern B1 units at this location.

12. The Appellant indicated informally at the hearing that this was considered to represent an uneconomic scenario. However, no substantive information or conclusive financial assessment was presented to support this view. Neither had the Appellant appeared to give any detailed consideration to other Council preferences as set out within policy EM3 for the provision of either live / work units or affordable housing.
13. The Appellant pointed out that affordable housing requirements usually relate to sites with a housing capacity of ten or more units, and that only nine units were proposed under this scheme. However, under an affordable housing redevelopment the site is well capable of accommodating considerably more than the minimum ten units set out under policy HO2.
14. In my view these represent inherent and serious defects with the proposal before me. In the absence of convincing argument or evidence that a complete employment redevelopment or the alternatives set out within policy EM3 are unrealistic or uneconomic, the current proposal, which seeks to retain only a very modest form of employment usage, must be held to be inconsistent with the recently adopted local plan.

Character and Appearance

15. The Council had some reservations about the proposed design of the replacement buildings. These appeared to mostly relate to the proposed roof form on the road frontage. The appeal site is sandwiched between a traditional terrace of small houses and a very new and much larger modern block of flats.
16. There is no dissent that in their current form the buildings are visually unattractive and deteriorating, representing a negative component within the street scene. This is given enhanced prominence by the fact that the building is set well forward within the site close to the public highway.
17. The proposed replacement would set the new building back to respect the general building line. This is an improvement. In addition, the new building would have a varied roofline to producing a transition between the flanking buildings, setting the lower part adjacent to the terraced housing to avoid undue over dominance. The fenestration proportions and disposition would also respect the nature of the detailing found on the houses to the west.
18. The roof detailing and openings sizes and design on the larger part of the building would pick up on the design influence of the modern building to the east. The whole frontage would be varied and respectful of the scale of adjoining buildings, and in my view would create an interesting and pleasing variation that would enhance the visual qualities of this part of the road.

19. This arrangement would be further enhanced by the use of differing materials of external construction, control over which could be exerted by appropriate condition. Overall, I consider the proposal to represent good external design that would represent a significant improvement over the existing situation. As such I consider it to be in accordance with the requirements of policies QD1 and QD2 of the local plan.

Living Space, amenity open space and Lifetime Homes Standards

20. These issues also represent significant concerns of the Council. The proposed units are very small at about 47 square metres overall, containing one bedroom and a combined kitchen, dining and living room area. All units are essentially the same. The Council indicated that it looks for a minimum of around 51 square metres, although it conceded that this is not a firm standard or one contained within the adopted local plan. Within the new development to the east it is estimated that the smallest units have around 53 square metres of habitable accommodation.
21. However, I have no doubt that there is a market for small residential units of this kind, although given the severe limitations on space I have reservations about their ability to meet, or be capable of meeting, all of the Council's Lifetime Homes Standards as set out in its Planning Advice Note PAN 03. In this regard I share the Council's concerns.
22. Furthermore, policy HO3 of the local plan requires that new residential development incorporates a mixture of unit types. The proposal before me fails to achieve this requirement. The proposal is not designed to meet the needs of persons with special accommodation needs and neither is the site so limited in terms of its size or location to justify an exception to this policy requirement. The proposal does not meet the needs of policy HO3.
23. I also consider the external amenity space provision to be poor in both quantitative and qualitative terms. The proposed area would be very small and directly overlooked at close quarters by the bedroom window to proposed unit 1 on the ground floor, and by a range of windows to various habitable rooms at upper levels. Given the severe limitations on the space made available, and the juxtaposition of amenity space with habitable rooms within the building, I do not consider that these defects could be overcome by either landscaping or more formal enclosure arrangements. No flats would have balconies which might in part overcome these limitations.
24. Given these facts I conclude that the amenity area shown on the plans would represent an inadequate, unattractive and insufficiently private space for informal recreation by future occupants, and as such does not meet the requirements of adopted local plan policy HO5. The Appellant drew my attention to a nearby park, but I formed the view that this was not very conveniently located in relation to the site, and would certainly not overcome the desire for casual outside relaxation that might be needed by future occupants in periods of clement weather, from the confines of their limited internal accommodation.

Other Matters

25. The neighbour at number 6 Symbister Road has some misgivings about the impact of the redevelopment on her property. This is quite understandable given the physical relationship between the two sites and the very substantial walling which separates them, which would need to be removed.
26. However, providing normal good demolition and building practice was adhered to during what would be an inevitably uncomfortable period for the adjoining neighbours, I do not consider that there would be any long term adverse impact. Indeed, the substitution of a primarily residential redevelopment for a long established B8 use, which could potentially be resurrected at any time, must be seen as a probable improvement to local living conditions in the longer term.
27. The nature of the replacement walling between the appeal site and number 6, which is a sensitive issue, could be agreed and implemented by employing a suitable planning condition.
28. Other neighbours to the rear of the site expressed some concerns about privacy and overlooking. However, the position of the rear elevation of the proposed housing in relation to housing in Franklin Road would reflect the existing relationship in terms of distance. I acknowledge that the proposed flats would be taller than the two storey terraced properties within Symbister Road, but I do not consider that the net effect would be to cause loss of amenity to existing residents such as to justify resistance to the proposal in these terms. I note that this view is shared by the Council.
29. Some reservations were also expressed about the level of car parking proposed. At present the building has no real off road car parking. The proposal makes provision for four off street spaces, given the proposed set back arrangements for the replacement building. Some of this would need to relate to the proposed B1 unit.
30. Whilst off street provision is modest, there is no objection from the Council in this regard. Given the locational characteristics of the site, close to a range of public transport and other services, and also in light of the very small nature of the flats proposed, the arrangements proposed are, I consider acceptable, and in line with contemporary planning policy which is designed to reduce the overall level of movements by car. The proposal also makes provision for a secure bicycle store in line with policy TR14, which should also assist in this regard.

Conclusions

31. Although I have not found against this proposal in terms of its effect upon the character and appearance of the surrounding area, I consider it to be inconsistent with the adopted development plan with regard to the retention or reuse of employment land. In my view this is the definitive issue in this case. I have also identified deficiencies arising from the lack of housing mix, inadequate internal space and external communal amenity space, which indicate a degree of overdevelopment under this proposal and add further weight to the view that in its current form it is unacceptable. For the reasons

set out above, and having had full regard to all other matters raised, I therefore conclude that this appeal should not succeed.

Michael Aldous

INSPECTOR