

## Appeal Decision

Site visit made on 9 February 2016

**by Andrew Steen BA(Hons) DipTP MRTPI**

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

**Decision date: 8 March 2016**

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**Appeal Ref: APP/Q1445/W/15/3136629**  
**1A Marmion Road, Hove, Brighton & Hove BN3 5FS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
  - The appeal is made by Mr Clive Wheeler against the decision of Brighton & Hove City Council.
  - The application Ref BH2015/01278, dated 10 April 2015, was refused by notice dated 11 August 2015.
  - The development proposed is the demolition of a two storey warehouse and the erection of a new terrace comprising 4 dwelling houses and one office unit, together with gardens and associated parking.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of a two storey warehouse and the erection of a new terrace comprising 4 dwelling houses and one office unit, together with gardens and associated parking at 1A Marmion Road, Hove, Brighton & Hove BN3 5FS in accordance with the terms of the application, Ref BH2015/01278, dated 10 April 2015, subject to the 16 conditions contained in the schedule at the end of this decision.

### Procedural Matter

2. The draft Brighton & Hove Submission City Plan Part One (CP) has been submitted for examination but the exact stage it has reached is not clear, nor are the extent of outstanding objections or whether the policies concerned will be considered as consistent with the National Planning Policy Framework (the Framework). Consequently, I am only able to give it limited weight in my decision.

### Main Issue

3. The main issue in this appeal is the effect of the proposed development on the character and appearance of the area, with particular regard to the height and scale.

### Reasons

4. The proposed development would result in a terrace of four dwellings with offices at one end of a modern design, in part reflective of the design of the terrace of dwellings on Stoneham Road, a short distance away. I understand that another terrace of modern dwellings has also recently been approved a
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- short distance along Marmion Road. The surrounding area is predominantly high density residential development, mainly comprising Victorian terraced houses.
5. An adjoining dwelling, The Cottage, is attached to the existing building on the site, with its ground floor set lower than the road level such that the building appears particularly low. The proposed development would have a small gap to the boundary, with two storeys closest to this boundary and a further floor above stepped away from the front and side of the proposed building. This would provide a gradual change in roof heights away from The Cottage such that it would not dominate or clash with it. Consequently the relationship between The Cottage and the proposed development would be satisfactory.
  6. In a similar manner, there would be no second floor proposed above the office element of the proposal. This would allow the development to step up from the junction with Marmion Road. This would reflect the relationship of the more traditional pitched roofs of buildings with the road, such that the proposal would reflect the scale and height of surrounding buildings on Marmion Road and Mainstone Road. In setting the second floor back from the front and sides of the building, the proposals would ensure that the development would be subservient to the remainder such that the proposals would reflect the scale and height of surrounding development.
  7. For the above reasons, the scale and height of the proposed development would not harm the character and appearance of the area. As such, it would comply with policies QD1 and QD2 of the Brighton & Hove Local Plan (LP) that require development to demonstrate a high standard of design and make a positive contribution to the visual quality of the environment.
  8. Concern has been raised by neighbouring occupiers that the top floor terrace of the proposed development may overlook their properties. As set out above, this is a high density area, with houses in close proximity such that there is a degree of mutual overlooking. Given the nature of this accommodation, I am satisfied that the distance to neighbouring dwellings would ensure that the living conditions of neighbouring occupiers would not be unduly harmed. The dwellings would be provided with limited outside space, but the roof terraces proposed ensure that adequate space would be provided for the proposed dwellings.
  9. I note that the existing building is referred to as historic. However, no evidence has been provided as to the historic importance of the building and, at present, it is a utilitarian structure that does not make a particular contribution to the character and appearance of the locality. Whilst some employment floorspace would be lost, additional offices would be provided and this loss has been considered acceptable by the Council. There is no firm evidence that development would have any materially adverse effect on local services and infrastructure, including drainage and sewerage systems. The access and parking arrangements would be satisfactory and there is no evidence that highway safety would be compromised. Any disturbance during construction would be for a temporary period only.

### **Conditions**

10. I have imposed a condition specifying the relevant drawings as this provides certainty. A condition is necessary to maintain the office building in that use in

- order to protect the living conditions of surrounding occupiers that might be affected by alternative uses and to retain employment floorspace in accordance with policy EM3 of the LP. A condition providing and maintaining obscure glazing to the rear windows at first floor level is necessary to protect the living conditions of the neighbouring dwelling from overlooking. A condition preventing utilities being provided externally to elevations fronting the highway is necessary to reflect the character and appearance of the locality.
11. Conditions relating to access and parking, including cycle parking, are necessary to ensure adequate access into the site and parking is provided on site to protect highway safety and provide for the needs of the development. A condition is necessary to require porous surfacing to hard surfaces, or to direct water run-off from the surface to a permeable or porous area or surface in order to reduce the risk of flooding and pollution and increase the level of sustainability of the development. A condition is necessary for samples of materials to be submitted to ensure that they would maintain the character and appearance of the area. A condition is necessary to confirm existing and proposed ground and slab levels to ensure the development reflects the character and appearance of the area and the living conditions of neighbouring occupiers.
  12. A condition relating to contamination is necessary in order to ensure contamination does not affect future residents of the development or neighbouring occupiers. Conditions are necessary requiring compliance with Building Regulations Optional Requirements relating to water efficiency and accessible and adaptable dwellings and to ensure the development is carried out and maintained in accordance with the submitted sustainability checklist. The requirement relating to water efficiency seeks to reduce water consumption in accordance with policy SU2 of the LP. That relating to accessible and adaptable dwellings replaces the Lifetime Homes Standards referred to in Policy HO13 of the LP. The sustainability checklist ensures the development is energy efficient in accordance with Policy SU2 of the LP.
  13. A condition is necessary requiring planting of the proposed trees and for their retention in order to ensure the development reflects the character and appearance of the area. I have imposed a condition to ensure that the refuse and recycling storage facilities are provided to protect the living conditions of neighbouring occupiers. A condition is necessary to reinstate the redundant vehicle crossovers surrounding the site to a footway and realign the junction of Mainstone Road and Marmion Road in the interest of highway safety. I have combined the last two conditions suggested by the Council that repeat that requirement.
  14. I have not included a condition removing permitted development rights as I do not consider it to be necessary. Such rights should be removed only in instances of specific and precise justification. I find no exceptional circumstances in this case such as to warrant the wholesale removal of these rights. I have not included the suggested condition requiring an improvement in CO2 emissions over the Building Regulations requirements as this goes beyond what is required by Policy SU2 of the LP and given the stage of preparation of the CP, including more detailed Policy CP8.
  15. In some cases I have amended the wording of conditions suggested by the Council in the interests of clarity.

## **Conclusion**

16. For the above reasons and taking into account all other matters raised I conclude that the appeal should succeed.

*Andrew Steen*

INSPECTOR

### **Schedule of 16 Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TA633/01 rev. A, TA633/02, TA633/03 rev. A, TA633/04 rev. A, TA633/05, TA633/06 rev. A, TA633/10 rev. I, TA633/11 rev. J, TA633/12 rev. E, TA633/13 rev. I, TA633/14 rev. I, TA633/15 rev. K, TA633/16 rev. K, TA633/17 rev. K, TA633/18 rev. A.
- 3) The southernmost building within the development hereby permitted shall be used for B1 (a) offices only and for no other purpose (including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 4) The first floor windows in the rear/east elevation to all units of the development hereby permitted shall not be glazed otherwise than with obscured glass and thereafter permanently retained as such.
- 5) No cables, wires, aerials, pipework (except rainwater downpipes as shown on the approved plans), meter boxes or flues shall be fixed to any elevation facing a highway.
- 6) The car spaces to be provided shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and offices, and their visitors, and for no other purpose.
- 7) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. TA633/11 rev. J for bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 8) The hard surface hereby approved shall be made of porous materials and retained thereafter or provision shall be made and retained thereafter to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
- 9) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No development shall commence until full details of existing and proposed ground levels (referenced as Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have

- been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.
- 11) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 7 days of the report being completed and approved in writing by the local planning authority.
  - 12) The dwellings shall not be occupied until the Building Regulations Optional Requirements G2(36(2)(b)) (water efficiency) and M4(2) (accessible and adaptable dwellings) have been complied with.
  - 13) The B1 use offices shall not be occupied until the sustainability measures detailed within the Sustainability Checklist received on the 10th April 2015 have been fully implemented, and such measures shall thereafter be retained.
  - 14) The development hereby approved shall not be occupied until the two trees detailed on drawing no. TA633/11J received on the 10<sup>th</sup> April 2015 have been planted in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. In the event any tree dies, is removed or becomes seriously damaged or diseased within a period of 5 years from the completion of the development, it shall be replaced with another of a similar size and species, unless the Local Planning Authority gives written consent to any variation.
  - 15) 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.
  - 16) Prior to the first occupation of the development, details of a scheme of works to raise the existing kerb and footway, including redundant vehicle crossovers, in front of the proposed development, and to realign the western bell mouth kerb to Mainstone Road to be the same radius as the kerb opposite (including tactile paving) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be completed prior to the first occupation of the development hereby permitted and shall thereafter be retained.

