The Planning Inspectorate

Appeal Decision

Hearing held on 22 March 2023

Site visit made on 22 March 2023

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2023

Appeal Ref: APP/Y3805/W/22/3312319
Land adjoining 1-3 Eastern Avenue, Shoreham-By-Sea BN43 6PD

- 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 Albox Services Limited against the decision of Adur District Council.
- The application Ref AWDM/2128/21, dated 16 November 2021, was refused by notice dated 7 June 2022.
- The development proposed is for 53 No single-storey Class B8 self-storage units totalling 636 sqm with associated turning facilities (on land to west of 1-3 Eastern Avenue), Shoreham-By-Sea BN43 6PD.

Decision

1. The appeal is allowed and planning permission is granted for 53 No single-storey Class B8 self-storage units totalling 636 sqm with associated turning facilities (on land to west of 1-3 Eastern Avenue), Shoreham-By-Sea BN43 6PD in accordance with the terms of the application, Ref AWDM/2128/21, dated 16 November 2021, and the plans submitted with it, subject to the conditions set out in appendix A.

Procedural Matters

2. From the evidence before me, it is clear that the location of the proposal has been incorrectly described on the Council's decision notice. Therefore, I have amended the description given above to include a reference to Eastern Avenue rather than Eastern Road.

3. The main parties agreed a Statement of Common Ground (SoCG), dated 15 February 2023. The SoCG includes reference to a revised flood risk assessment and drainage strategy, dated February 2023 which was provided by the appellant. Consequently, the Council no longer wishes to contest its drainage objection to the proposal, subject to an appropriate condition. I have proceeded accordingly.

4. At the Hearing interested parties drew my attention to resident concerns for night-time floodlighting associated with the existing B8 development adjacent to the appeal site. While this is noted, this is a matter for the main parties subsequent to the hearing.

Main Issues

5. The main issues are the effect of the proposal on:

   - the character and appearance of the area, including loss of green space, and;
   - the living conditions of neighbouring occupiers.

Reasons

Character and appearance

6. The appeal site is an eastern section of a small parcel of overgrown land adjacent to a class B8 self-storage centre known as 'Boxx Storage'. The site is located between a tree-lined railway line and the residential dwellings found on Gordon Road near to the junction with Eastern Avenue. The surrounding area is characterised by a number of commercial premises such as; a homeware store, a vehicle parts and repair store and a fast-food drive-through restaurant, as well as newer multi-storey premises and dwellings some of which are still under construction.

7. The compound of 'Boxx Storage' is accessed from Gordon Road and has a main storage building with floodlights to the eastern side. There are also 13 direct access storage units to the western side of the compound that trace the railway line to the south and some of the landscaped rear gardens on Gordon Road to the north.

8. The proposal would add 53 direct access units with sensor lighting to the existing line of units. The proposed development would be constructed following the removal of 8 'Category C' trees as set out in the appellants submitted 'Tree Survey Report'. The units would be set out as two-facing rows running westwards with central and end turning areas. The remaining undeveloped land to the west of the proposed development would be planted with 13 No trees, 3 No bat boxes, and 2 No Hedgehog hibernacula. In addition, there would be 11 bird nesting boxes affixed on and around the existing main storage building.

9. The Council contend that the appeal site forms part of a quiet unused space which provides a 'green corridor' and a valuable buffer between the residential dwellings on Gordon Road and the built form beyond.

10. Nevertheless, at the Hearing I heard that the site is not designated as a formal wildlife or nature conservation area, and that the area is not accessible to the public. Indeed, I noted at my site visit that the site is mostly covered by low-lying brambles and self-seeded shrubs. Nonetheless, the Council also forwarded that the proposed development would increase hard surfaces across the self-storage facility, introduce new structures and acoustic fencing; the scale of which would only be partly mitigated by the proposed replacement and existing trees, including those seen in the surrounding gardens and those lining the railway track. Moreover, I heard resident's concerns for slow-worms and other wild-life on the appeal site, and my attention was drawn to the fact that Shoreham-By-Sea has lower than average tree-cover.

11. However, the main parties agree that the proposal for tree-planting and the provision of bird and bat boxes and Hedgehog hibernacula on the adjoining land and that nearby would result in a biodiversity net gain of 52% for the overall space. The net gain calculation is supported by the submitted 'Biodiversity Impact Assessment' which is a requirement of Natural England's standing advice letter. The appellant's 'Ecology Report' also confirms that there would be likely opportunities for wild-life migration to the adjacent land that is covered in brambles and shrubs.

12. As such, while there can be no doubt that the appeal site is likely to be verdant in the warmer months, and notwithstanding the removal of a number of trees, I am persuaded by the appellant, that in addition to the benefits of the biodiversity net gain, the relatively modest direct access structures would only be seen by a small number of residents on Gordon Road, and momentarily glimpsed by those travelling in passing trains. Additionally, there would be some visual mitigation through the provision of an acoustic fence that would partly shield the proposed development. In any case, in my view, the units would not be at odds in this specific location which transitions from residential dwellings to the commercial premises along this section of the adjacent railway line.

13. Consequently, I conclude that the proposal in respect of the character and appearance of the area and green space meets the aims of the Adur Local Plan, 2017 (ALP) when read as a whole, and Paragraph 30 (c) of the *National Planning Policy Framework* (the Framework) which says, amongst other things, that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

Living conditions

14. Although West Sussex County Council highways authority concluded that the proposal would have minimal impact on overall traffic flow nearby, concerns remain that the proposed development would increase customer visits to the storage centre. While this is likely, on the balance of probabilities, most business access would be likely to take place during the day and the majority of private 'drive-ups' during evenings and weekends. Nonetheless, I heard at the Hearing, business rental of the direct access units is relatively low. Indeed, at my early afternoon site visit during a period of approximately 90 minutes there was only one visit by a commercial vehicle, and this was to the existing storage centre. There was also one visit to the main unit by what appeared to be a private individual. I observed no 'drive-ups' to the direct access units.

15. However, even if some of the direct access units were to be visited on a regular and more frequent basis at other times of the day or evening, entry to the facility would be limited to conditioned hours by means of a 'PIN' access. Access later in the day would also be contained to smaller type vehicles by means of the existing height restrictor.

16. I also heard concerns that customer activity related to the proposal would generate additional vehicle noise, door slams, the activation of sensor lights and the movement of trolleys and shutters during periods of the day and week when residents are most likely to be at home.

17. However, I noticed at my site visit that the gardens on Gordon Road are reasonably generous in size, and some are bounded by garden trees, modest outbuildings and sheds which in addition to the new units would, in my view, dampen the sounds generated by use of the facility. The development would also be bounded by an acoustic fence that would be secured by condition.

18. Furthermore, the automatic sensor lighting units would be modest in size and attached to individual units, nearly half of which face towards the railway line. Therefore, I did not hear, or have any convincing evidence before me to persuade me that the proposal would harm the health and well-being or the living conditions of nearby residents. My opinion is reinforced by the absence of a recorded complaint in respect of noise associated with the storage facility in the last 6 months.

19. As such, I conclude that in respect of the living conditions of neighbouring occupiers that the proposal accords with Policies 4,15,30,31,34 and 36 of the ALP which require, amongst other things that, B8 uses will only be permitted where it is demonstrated that they will not have an unacceptable impact on adjacent residential properties, and the Framework when read as a whole.

Other matters

20. I acknowledge other concerns in addition to the main issues put forward by interested parties such as: employment opportunities and wider economic benefits arising from the development would be somewhat limited, and that there is an extant permission[1] for a multi-storey self-storage unit on a harbourside wharf nearby, house values, access to gardens, site levels, the potential for similar proposals on the adjacent site, flooding, global warming and security risks. However, given my findings above, including consideration of the submitted technical evidence, which includes a Noise Management Plan, a Tree Survey, an Ecology Survey, a Transport Statement, Biodiversity reports, in addition to the suggested conditions provided by the Council, I have found no justification to dismiss the appeal.

Conditions

21. I have considered the Council's suggested conditions against Paragraph 55 of the Framework and the national 'Planning Practice Guidance' (PPG) and imposed the following conditions: for certainty a standard time limit condition and a condition requiring that the development is carried out in accordance with the approved plans.

22. In the interests of residential amenity there is a condition that limits the operation of the proposal and a Noise Management Plan. Similarly, there are conditions related to road surfacing and lighting.

23. To ensure that the site is adequately drained there is a drainage condition.

24. There is also a condition related to the construction period to protect highway safety and amenity generally.

25. A contamination condition is imposed to protect public health and safety.

26. To avoid damage to trees there is a condition that accords with the submitted Tree Survey.

[1] AWDM/0204/20

27. To enhance biodiversity a condition is required that accords with the Biodiversity Net Gain assessment and the Ecology report.

28. The proposal would include an acoustic fence to the northern and western boundaries of the appeal site. While mindful of the Wheatcroft principles[2], I am satisfied that this matter can be resolved by the imposition of an appropriate condition.

29. I have not imposed the suggested condition related to the maintenance of the roller shutters as in respect of the purposes of the 'six tests' set out in Paragraph 55 of the Framework I have no evidence to suggest such a condition would be enforceable.

30. I note the concerns of local residents related to fire-safety and the provision of fire hydrants. However, this is a matter for other primary legislation, Building Regulations, which enforce a set of legally required precautionary measures with the aim of protecting life, including fire safety matters within and around buildings. Therefore, it has not been necessary for me to impose a condition in this respect as it would duplicate other legislative requirements.

Conclusions

31. For the reasons given above, I conclude that the appeal should be allowed subject to the conditions set out in Annex A.

J E JOLLY

INSPECTOR

[2] Bernard Wheatcroft Ltd v Secretary of State for the Environment (JPL, 1982, P37)

Appendix A - Conditions

1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- Location Site Plan – 14529-100 revision E, dated 12 September 2016
- Proposed External Storage Units – 14529 – 51 revision C, dated 23 December 2020
- Landscape Plan – 14529 – VL- L01 revision A, dated May 2022
- Noise Management Plan, dated 25 March 2022
- Preliminary Ecological Appraisal, dated March 2021
- Ecology Survey Report, dated November 2021
- Tree Survey Report and Arboricultural Impact Assessment, dated March 2021
- Biodiversity Net Gain Assessment and Biodiversity Metric 3.1 -calculation tool results, dated June 2022
- Transport Statement, dated 24 March 2021

3) Access to the 53 No self-storage units hereby approved shall be limited to between the hours of 7.30am to 8.00pm Monday to Friday and 8.00am and 6.00pm Saturday and 10.00am and 4.00pm Sunday and Bank Holidays.

4) The Noise Management Plan dated 25 March 2022 shall be fully adhered to at all times.

5) No lighting on and for the development hereby permitted shall be installed until details have been submitted to and approved in writing by the local planning authority.

6) All external lighting for the development hereby permitted shall be switched off within 30 minutes of the end of the operating hours set out in Condition 3 and shall not be switched on again until within 30 minutes before the re-opening of the store.

7) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- include a timetable for its implementation; and,
- provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

8) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:

- the anticipated number, frequency and types of vehicles used during construction,
- the method of access and routing of vehicles during construction, and 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), and;
- details of public engagement both prior to and during construction works.

9) No development shall commence until details of the proposed surfacing material for the access road has been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.

10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

11) The development shall be carried out in full accordance with the recommendations in Section 6 of the Tree Survey Report and Arboricultural Impact Assessment dated March 2021.

12) The development shall be carried out in full accordance with the recommendations in Section 5 of the Ecology Survey Report dated November 2021 and the Biodiversity Net Gain Assessment dated June 2022. All biodiversity and ecological enhancements shall be provided before the storage units hereby approved are brought into use or in accordance with a timetable to be submitted to and agreed in writing with the local planning authority.

13) No development shall commence until an acoustic fence has been erected along the northern and western boundary of the site in accordance with details to be submitted to and approved in writing by the local planning authority.

*****End of Conditions *****