



Appeal Decision

Site visit made on 20 November 2020

by S Poole BA(Hons) DipArch MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020.

Appeal Ref: APP/K3605/W/20/3250383

Petrol Filling Station, Stoke Road, Cobham, Surrey KT11 3AS

- 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 Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2019/2822, dated 7 October 2019, was refused by notice dated 9 January 2020.
 - The development proposed is the erection of a single storey extension to the side of the existing sales building with a new timber bin store and formation of 8no. new parking spaces including a DDA bay
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single storey extension to the side of the existing sales building with a new timber bin store and formation of 8no. new parking spaces including a DDA bay at the Petrol Filling Station in Stoke Road, Cobham, Surrey KT11 3AS in accordance with the terms of the application, Ref 2019/2822, dated 7 October 2019, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular regard to outlook from 5 Ravenswood Close.

Reasons

3. The appeal property is a petrol filling station. There is a single-storey sales and staff accommodation building at the rear of the site and a canopy extends across the petrol pumps in front of this building. To one side there is a car wash. The site benefits from relatively high levels of landscaping along its road boundaries. The surrounding area is predominately residential. To the rear there is Ravenswood Close. There is a tall brick wall between the rear gardens of the properties in this Close and the appeal site.
4. The proposal would include the erection of a single-storey extension to the side of the sales building. This would be appreciably lower than the host building and would be set further away from the boundary wall shared with 5 Ravenscroft Close than the host building. I note that the very upper part of the proposal would be visible from the rear garden of No.5 and ground floor windows in this property. However, by virtue of the relative heights of the

proposal and the boundary wall and the distance between them, the effect of the proposal on outlook from these locations would be small and would not therefore result in unacceptable harm to the living conditions of the occupiers of No.5. I am also satisfied that the proposal would not result in any harmful impacts on natural light reaching nearby properties or any increases in overlooking.

5. I note that the provision of car parking spaces and an increase in the size of the sales area may result in more people visiting the site and therefore a slight increase in noise and potential disturbance to local residents. I am satisfied that limiting the hours of operation of the extended sales building would ensure any increase in noise disturbance would be minimal. Whilst the proposal shows the bin store area enlarged, I do not consider that the proposal would result in a material increase in noise resulting from the use of these bins.
6. For these reasons the proposal accords with Policy DM2 of the Elmbridge Local Plan Development Management Plan (2015) (LP) which, amongst other matters, seeks to protect the amenity of adjoining and potential occupiers and users. The proposal also accords with the aims of the Elmbridge Design and Character Supplementary Planning Document (2012) and the National Planning Policy Framework (2019)

Other Matters

7. Aspects of the operation of the appeal site are restricted by virtue of planning conditions attached to the 2017 planning permission¹. These conditions will remain operative and do not need to be re-imposed. Third parties have suggested that the current operation of the appeal premises does not fully adhere to the planning conditions. Alleged breaches of planning control are a matter for the Council and are not within the scope of this appeal.
8. A small portion of the appeal site is situated within the Tilt Conservation Area. The proposed extension, which would be located outside the Conservation Area, would occupy the space between the sales building and the car wash at the rear of the site next to a tall wall. As such it would not be a particularly conspicuous addition to the street scene. The proposed parking areas would increase the area of hard landscaping within the site and require the removal of shrubs. I am satisfied that these minor impacts on the appearance of the area can be adequately mitigated by replacement planting, which can be required and controlled via the planning conditions imposed. For these reasons I conclude that the proposal would preserve the character and appearance of the Conservation Area and the street scene.
9. Whilst the proposal may result in some increase in vehicles accessing and leaving the site it would not involve any changes to the existing access/egress arrangements. The County Highway Authority (CHA) has expressed the view that the proposal would not have a material impact on the safety and operation of the adjoining public highway and the area is not an accident black spot. In the light of this I am satisfied that the proposal would not result in any material harm to road safety on Stokes Road or Ravenswood Close.
10. Whilst the appeal proposal would significantly increase the sales area, the resultant space would still be relatively small and the Council has powers to

¹ APP/K3605/W/17/3171414, dated 29 June 2017

restrict the range of goods sold on the premises. For these reasons I am satisfied that the proposal would not harm the vitality or viability of Cobham town centre. Whether or not there is a need for the additional sales space is not a matter before me for consideration in the absence of planning policy requiring this.

Conditions

11. I have considered the conditions suggested by the Council having regard to the National Planning Policy Framework and Planning Practice Guidance. In addition to the standard time limit condition I consider a materials condition is required to safeguard the character and appearance of the area. Furthermore, for the avoidance of doubt and in the interests of proper planning, a condition requiring the development to be carried out in accordance with the approved plans is imposed.
12. I note the 2017 planning permission includes a planning condition² that limits the opening hours of the sales area. To protect living conditions of neighbouring residents, and to avoid any possible future doubt, I consider it prudent to impose a similar condition to ensure it is clear this restriction applies to the extension as well as the existing sales space.
13. To protect the character and appearance of the area planning conditions are imposed to ensure the retention and protection of existing trees within the site. The proposed car parking spaces would require the removal of some vegetation and the information before me indicates that trees have been removed at some point in the past. Whilst the Council has suggested a planning condition requiring the planting of trees it is reasonable in the circumstances to require a soft landscaping scheme which could involve tree and/or shrub planting.
14. Given the history of the site there is a clear need for a planning condition in respect of possible site contamination. There is also a need for tree protection and contamination measures (conditions 5 and 8) to be agreed prior to commencement of all works. As the appellant has explicitly expressed acceptance of all the planning conditions put forward by the Council, I am satisfied that the requirements of section 100ZA of the Town and Country Planning Act 1990 are met.

Conclusion

15. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

S Poole

INSPECTOR

² Condition 1 of APP/K3605/W/17/3171414

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: 13543-LP, 13543-BP, 13543-203, 13543-204 Rev A, 13543-205 and 19029-110A.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) The extension to the sales building hereby permitted shall not be accessed by customers outside the following hours: 0700–2200.
- 5) No development including groundworks and demolition shall take place and no equipment, machinery or materials shall be brought onto the site for the purposes of the development until a pre-commencement meeting has been held on site and attended by a suitable qualified arboriculturist, representative from the Local Planning Authority and the site manager/foreman.

After the agreed tree protection measures have been installed in accordance with the approved plans, all tree protection measures shall be maintained for the course of the development works. The development thereafter shall be implemented in strict accordance with the approved details and method statements contained in John W Platts Chartered Landscape Architects Ltd Report number: 19029-01 and 19029-110A dated: June 2019.

- 6) All existing trees, hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the first occupation of the proposed development.
 - a) no retained tree, hedge or hedgerow shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned other than in accordance with the approved plans and particulars. Any pruning shall be carried out in accordance with British Standard 3998: 2010 (tree work) and in accordance with any approved supplied arboricultural information.
 - b) if any retained tree, hedge or hedgerow is removed, uprooted or destroyed or dies, another tree, hedge or hedgerow of similar size and species shall be planted at the same place, in the next available planting season or sooner.
- 7) No superstructure works shall commence until details of soft landscape works have been submitted to and approved in writing by the local planning authority. Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use

in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

If within a period of 5 years from the date of the planting of any tree, that tree, or any planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of same size and species shall be planted at the same place, in the next available planting season or sooner. The development shall be completed in accordance with the approved details.

- 8) To ensure the potential for contamination has been investigated and the necessary action taken to make the development site suitable for its proposed use, the following steps must be completed to the satisfaction of the Council. No demolition or construction shall be commenced until step (a) has been completed by a competent person and approved. If part (a) identifies the need for step (b) then this shall also be completed and approved before any demolition or construction commences. Furthermore, there shall be no occupation of any part of the site by any end user prior to meeting the terms of this condition in full.

a) Preliminary Investigation of the Site

A preliminary investigation shall be carried out by a competent person prior to any site clearance or demolition, to assess the condition of the land to be re-developed, in respect of contamination. The preliminary investigation must, as a minimum, include a desk-based evaluation, site walkover and Conceptual Site Model and may include intrusive investigation. A written report of the investigation shall be submitted to the Council for written approval.

If the Council are satisfied that there is a significant possibility that the site could pose a significant risk to future occupiers under its proposed redevelopment use as a result of contamination, then the following additional steps shall also be carried out.

b) Site Investigation, Method Statement and Remediation

(i) A written site-specific investigation plan using the information obtained from the preliminary investigation, providing details of the investigation for soil, gas and controlled waters where appropriate, shall be submitted to, and approved by, the Council.

(ii) The site investigation shall be undertaken in accordance with the scheme agreed by the Borough Council. The results of the site investigation, a refined conceptual model and a risk assessment of any contamination found shall be submitted in writing to, and approved by, the Council.

(iii) A written Method Statement and Verification Plan detailing any remediation requirements and how the successful implementation of these requirements will be demonstrated shall be submitted to, and approved by, the Council.

c) Development in accordance with the Method Statement

The development of the site shall be carried out in accordance with the approved Method Statement, and any addenda submitted by the developer, and agreed in writing by the Borough Council. Any post remediation monitoring identified in the Method statement, shall be

installed by the developer within the timescales identified in the Method Statement and maintained and operated for as long as identified by the Method Statement.

d) Unsuspected Contamination

If, during development, contamination not previously identified, is found to be present at the site then no further development shall be carried out until the developer has submitted, and had approved by the Council, a written addendum to the Method Statement detailing how the unsuspected contamination shall be dealt with.

e) Piling

Development approved by this permission shall not commence unless a Foundation Works Risk Assessment for piling foundations (if piling is to be used on site) has been submitted to, and agreed in writing, by the Borough Council. The piling shall be undertaken only in accordance with the method outlined in the approved Foundation Works Risk Assessment.

f) Imported material

Clean, uncontaminated rock, soil, brick rubble, crushed concrete or ceramic only shall be permitted as infill material. The developer shall not import any material until a sampling program, including appropriate import criteria for the proposed end use and frequency of sampling, has been submitted in writing, and approved by, the Council. The Developer shall carry out the approved sampling program to check that all imported material conforms to the agreed criteria. Where the permitted end use is residential, the sampling program shall also include samples taken from the imported material after final placement. Written confirmation of the suitability of all imported materials shall be provided to the Council as part of step (g). This shall include both the results of the sampling program and also details of the origin, transport, final deposition and any temporary stockpiling of the imported materials.

g) Completion of Remediation and Verification Report

Verification by an independent, competent person must be carried out prior to occupation of any part of the site by any end user.

Upon completion of the remediation detailed in the Method Statement, and before occupation of any part of the site by any end user, a written Verification Report shall be submitted to, and agreed in writing by, the Council providing verification that the required works regarding decontamination and installation of post remediation monitoring, have been carried out in accordance with the agreed Method Statement and any addenda thereto. The verification shall be carried out and reported by an independent, competent person, stating that remediation was carried out in accordance with the approved remediation scheme and that the site is suitable for the permitted end use.