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# Appeal Decision

Site visit made on 25 July 2022

**by Graham Chamberlain BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 2 August 2022**

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**Appeal Ref: APP/K3605/W/21/3278801**

**Land opposite 1 Bridge Road, East Molesey, Surrey, KT8 9EU**

- 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 Mr Fadi Kesserwany against the decision of Elmbridge Borough Council.
  - The application Ref 2020/1811, dated 25 July 2020, was refused by notice dated 15 January 2021.
  - The development proposed is described as 'Covering of hardstanding with timber to level ground, rise of less than 300mm from ground. Securing existing railing facing river and rise to 1100mm to prevent fall. Installation of 6ft fence within the plot to isolate bin area. Vending from a mobile trailer from and onto private land'.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. During my site visit I observed that the development has taken place.
3. A revised version of the National Planning Policy Framework has been published since the Council issued its decision. The parties have had an opportunity to address this. The most relevant sections have not altered save for the paragraph numbers.

## Main Issues

4. The main issues in this appeal are:
  - Whether the proposed development would preserve the setting of Hampton Court Bridge, which is Grade II listed; and
  - Whether the proposal would preserve or enhance the character or appearance of the East Molesey (Kent Town) Conservation Area.

## Reasons

*Whether the proposal would preserve the setting of the listed building*

5. Hampton Court Bridge is a fine example of interwar neo-classical architecture that incorporates attractive detailing despite its functional purpose. This includes cast iron lamps and balustrades. The use of Portland stone also adds to the sense of quality and craftsmanship that is characterised by Sir Edwin Lutyens work. It also provides a link with the classical wing at Hampton Court palace. The structure therefore has aesthetic value. It also has historical value

as an early ferro-concrete structure constructed to replace an earlier bridge to facilitate the rapid growth in motoring during the 1930s.

6. The appeal site is located near to the listed bridge and adjoins a raised viewing area that is enclosed by a castellated red brick wall. The raised area used to be part of an older bridge. The appeal site a lower platform that housed a small kiosk up until at least 1949. The appeal site therefore has an historic association with Hampton Court Bridge. Views are also possible from Riverbank across the appeal site towards the bridge and its impressive arches. The appeal site therefore contributes to the setting and significance of Hampton Court Bridge.
7. The mobile trailer is modest in scale and tucked behind a tree and the relatively tall brick wall of the bridge. It also has a dark finish and is proportionate in size to the appeal site. It is therefore recessive in appearance. It also assists in screening an unsightly bin storage area and occupies a parcel of land previously used to park vehicles. In light of these factors, the trailer does not, on balance, detract from views of the bridge and therefore hamper the ability to experience its aesthetic value. Similarly, the trailer does not appear strident in views from the bridge due to the small size, dark colour and the softening shadow provided by the tree.
8. However, the fencing around the trailer is of poor-quality. It includes close boarded fence panels and bamboo type screening held in place by decking boards. It lacks quality, solidity, material pallet and finish jars with the neo-classical appearance of the adjoining listed building, especially when viewed from the bridge or when looking towards it from Riverbank.
9. As a result, the proposal results in some limited harm to the aesthetic value and significance of the listed building because its setting has not been preserved. The proposal is therefore at odds with Policies DM2, DM12 and DM13 of the Development Management Plan 2015 and Policies CS7 and CS17 of the Elmbridge Core Strategy 2011, which seek to secure development that preserves the setting of listed buildings and heritage assets.

*Whether the proposal would preserve or enhance the conservation area (CA)*

10. The CA encompasses several distinctive areas of townscape including the formal and verdant Kent Town and the more organic area adjacent to the River Thames. Within these areas there is a rich mix of historic buildings and pleasant vistas. The proximity of the river and Hampton Court Palace also add to the special interest and quality of the CA and its setting. It therefore derives aesthetic and historic value from the historic townscape and riverside setting.
11. The appeal site is in a busy part of the CA characterised by high levels of pedestrian and vehicular traffic along and around Hampton Court Bridge and Riverbank. This area incorporates several commercial uses, especially in Bridge Road. There is also some commercial activity along the river, including restaurants and cafes. This includes a riverside terraced restaurant on the opposite northern bank, albeit outside the conservation area. As a result, the proposed use would not be out of character, especially as the activity would add vibrancy to the riverside and has some historic precedent.
12. The trailer has a temporary appearance, lacks architectural quality and does not look like the earlier kiosk shown in historic photographs. However, for the

reasons already outlined, its small size and dark finish means it has a recessive appearance in a busy area that has a strong commercial influence. Significantly, it occupies an area that was once used for parking and screens a bin storage compound. Again, on balance I find that the trailer preserves the character and appearance of the CA.

13. Similarly, the riverside terrace need not appear out of place given the presence of on street seating along Bridge Road and the terraced seating directly to the south of the appeal site that is set behind railings and balustrades. In fact, the appeal scheme would provide a pleasant vantage point from which to experience the river and bridge and could be an improvement when considered against its previous use as a small car park. However, I have already explained that the fencing is of a poor quality and discordant appearance. The Conservation Area Character Appraisal (CACA) seeks to secure appropriate boundary treatment and the proposal would not adhere to this aim. The CACA also seeks to enhance the riverside setting and preserve important views, which the proposal overall does not do.
14. The East Mosely Conservation Area Advisory Committee have not objected to the proposal. However, this was predicated on a suggestion that permission is granted temporarily, and the existing fencing replaced by something more sympathetic. However, the proposal before me is not for a temporary period and alternative boundary treatment has not been advanced for consideration. The proposal therefore falls to be considered on its own merits as submitted.
15. Accordingly, the proposal results in some limited harm to the streetscape and significance of the CA. Although modest and localised, such negative impacts cumulatively erode the quality of the CA as a whole. As a result, the character and appearance of the CA has not been preserved. The proposal is therefore at odds with Policies DM2, DM12 and DM13 of the Development Management Plan 2015 and Policies CS7 and CS17 of the Elmbridge Core Strategy 2011, which seek to secure development that preserves CAs and the riverside setting.

## **Other Matters**

16. The harm that has occurred to the special interest of the listed building and the character and appearance of the CA is not severe and therefore it is 'less than substantial' within the meaning of the Framework. Paragraph 202 of the National Planning Policy Framework (the 'Framework') requires such harm to be weighed against the public benefits of the proposal.
17. The proposal provides modest levels of employment and a small riverside facility from where views of the historic setting can be appreciated. This would support the local economy, recreation, and the vibrancy of the area, albeit in a diminutive way. It has also recycled urban a modest parcel of land and screens a small but unsightly bin store. These are cumulative public benefits of limited weight in favour of the proposal.
18. Alternatively, I must give considerable importance and weight to the special regard I must pay to preserving the setting of the listed building<sup>1</sup> and the special attention I must pay to the desirability of preserving or enhancing the character or appearance of the CA<sup>2</sup>. This is not an instruction to refuse

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<sup>1</sup> See Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>2</sup> See Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

development that harms these designated heritage assets but provides a strong presumption in favour of preservation.

19. In this context, I find that the less than substantial harm that would arise from the proposal would not be outweighed by its limited public benefits. Accordingly, there would be a conflict with Paragraph 200 of the Framework as harm to designated heritage assets would not have clear and convincing justification.

### **Conclusion**

20. In conclusion, the proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal has failed.

*Graham Chamberlain*  
INSPECTOR