



Appeal Decision

Site visit made on 15 February 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2023

Appeal Ref: APP/K3605/W/22/3302630

Shell St. Georges, 95 Brooklands Road, Weybridge KT13 0RP

- 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 Shell Oil UK Products Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2021/2381, dated 28 June 2021, was refused by notice dated 4 March 2022.
 - The development proposed is described as the demolition of the rear commercial building, sales building and removal of forecourt and associated parts, including underground tanks, construction of new single storey sales building, new gated timber fenced bin store, new pumps, pump island and canopy, installation of 2 no. 60,000 litre underground fuel tanks, provision of car parking spaces plus electrical vehicle charging and other associated works.
-

Decision

1. The appeal is dismissed.

Background and Main Issues

2. It is noted that the Council have refused this application on the same grounds as the previous application, reference 2019/1781, as it considered the proposed scheme did not overcome the previously identified issues. Nevertheless, it is important that each proposal is considered on its own merits.
3. Therefore, the main issues are, the effect of the proposed development on the character and appearance of the surrounding area with regard to the Brooklands Conservation Area (CA), and its effect on the living conditions of the occupants of adjoining properties with regarding artificial light, noise, and disturbance.

Reasons

Character and appearance

4. The appeal site has been a fuel station for a considerable period of time and is clearly a functional if not aesthetic part of the street scene. It currently has single storey buildings long the rear and one side of the site with a large canopy over the fuel pumps. The site is set slightly back from the road and at a slightly lower level which means its single storey height is not intrusive as it is surrounded by two-storey residential properties.
5. Although there are some designated parking bays these are away from the sales building, and I observed numerous vehicles pulling up ad hoc across the

site forecourt. This along with the non-secured and open refuse storage leads to a cluttered and unkempt appearance.

6. As the appeal site is within the CA, section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area. Paragraph 189 of the National Planning Policy Framework (the Framework) requires that heritage assets, as irreplaceable resources, 'should be conserved in a manner appropriate to their significance' and paragraph 199 confirms 'great weight' should be given to their conservation.
7. The significance of the CA is drawn from the Brooklands motor track, built in the 1920s and designated a scheduled monument in 1979. Although the appeal site is outside of the motor track layout, within an area of more recent development, the appellant confirms it has been a petrol station since the 1950s. The appeal site therefore forms part of the wider setting of the motor track and as a fuel station, its longevity of use, by association, relates to the history of the CA.
8. It is appreciated that the provision of parking close to the sales building and enclosed bin storage, may improve the functionality of the site; and that the proposed new building would be functional and not dissimilar to the existing in terms of glazing proportions, height, and overall form, albeit larger.
9. However, the location of the appeal site within the CA means careful detailing of new development is necessary to ensure the CAs character and appearance is unharmed. The proposed sale building is generic in appearance and would fail to relate to the street scene. It would face into the appeal site and provide a largely blank elevation to the street which would be dominated by the relocated vent stack.
10. There would also be a lack of consolidation between the various built elements. The bin storage area would be prominently located yet made of wooden fencing which would be incongruous against the brick back drop of the sales building and rear wall. This would undue attention to this functional feature to the detriment of the appeal site's overall appearance and reiterates the lack of cohesion across the various built elements proposed.
11. Therefore, the proposal would be visually more intrusive within the street scene than that which is existing, thus detracting from the area's character and appearance. Accordingly, the proposal would fail to preserve or enhance the character and appearance of the CA. However, considering the current impact of the existing fuel station, I find this would constitute less than substantial harm to the CA as a heritage asset.
12. Where less than substantial harm is found Paragraph 202 of the Framework requires it to be weighed against the public benefits of the proposal. The appellant states the public benefits would be the redevelopment of the site and removal of a vacant building, the upgrade of services provided, and the installation of electric vehicle charge points (EVCs).
13. Although the site is not a positive element in the street scene this does not justify a replacement scheme of suboptimal design, particularly in an area with historic significance. Nevertheless, there would be public benefit in terms of the

proposed upgrading of services and the installation of EVCs, accordingly these would attract moderate weight. However, there is nothing before me to show that the only way such benefits could be incorporated on the appeal site would be via that which is proposed. Therefore, in a fine balance, I do not find that the proposed public benefits would outweigh the less than substantial harm to the CA identified.

14. The appellant's safety record and proactive maintenance ethos along with the long term business plan are appreciated however these does not overcome the harm found to the CA.
15. Consequently, the proposed development would be detrimental to the character and appearance of the area and would not preserve or enhance the character or appearance of the CA. It would, therefore, fail to comply with the Framework, and Policies CS4 and CS17 of the Elmbridge Core Strategy (CS) and Policies DM2 and DM12 of the Elmbridge Local Plan Development Management Plan (LP), which require, amongst other things, new development to be well designed and integrate with the local character, and that heritage assets are protected, conserved and enhanced.

Living conditions

16. The appeal site is surrounded by residential properties on 3 sides. To one side is Aston Court, a three-storey apartment block, and on the opposite side is Hawthorn Terrace, made up of 3 two-storey dwellings. To the rear are 17, 19, 25 and 37 Fernihough Close which form part of a wider residential estate.
17. The proposed lighting scheme would concentrate artificial lighting towards the centre of the site around the proposed new fuel pumps. This along with the retention the boundary treatments between Hawthorn Terrace and the site, and the physical location and length of the new sale building would ensure light spill beyond the site's side boundaries would be minimised and have no greater impact than the current appeal site lighting on hawthorn terrace and Aston Court.
18. In the main this would also be the case for the properties on Fernihough Close, where the retained rear boundary wall would continue to block much of the forecourt lighting. However, the proposal would increase the height of the canopy and extend it closer to the rear boundary.
19. From the information submitted, I cannot be certain that it would not be visible over the wall. Nor is it clear whether the red and yellow livery of the proposed canopy would be illuminated as part of the signage for the site. If it were illuminated it would have a detrimental impact on occupants of Nos 17, 19, 25 and 37 as it would be always visually intrusive particularly for upper floor windows and gardens. Nevertheless, a condition could be used to prevent such illumination thus negating this potential affect.
20. The proposal would seek to increase the size of the sale space from 60m² to 150m² and increase the number of parking spaces available on the site. However, I am satisfied from the information before me, that as the use of the site will not be altered and there is nothing stating the existing operating hours or retail provision would change, this is unlikely to attract significantly larger numbers of users. This is due to the proximity of several supermarkets, and the largely residential surroundings. Thus, the alterations would provide an

improved convenience store for the immediate area and those using the fuel pumps, rather than become a retail destination for the wider area.

21. Notwithstanding this, from my site visit, I note that current vehicle movements within the appeal site are not audibly apparent from Fernihough Close with the boundary wall providing a suitable acoustic buffer. As the proposal would retain this wall, I am therefore satisfied it would continue to provide adequate protection from noise and disturbance created by any additional vehicle movement the proposal could create.
22. Nevertheless, the proposal would increase the amount of plant within the appeal site which could increase the level of noise and disturbance. However, the appellant's Acoustic Report has set out specific mitigation measures which could ensure any additional noise and disturbance from the plant would not impact the surrounding residents. As the mitigation measures could be conditioned, along with the additional buffer planting, I am satisfied that the overall impact from any additional noise for surrounding residential occupants would not be so significant as to be detrimental to living conditions.
23. In conclusion, although the proposal would increase the scale and use of the appeal site, with appropriate mitigation and conditions the proposal could retain the living conditions of the occupants of adjoining properties with specific regard to light, noise, and disturbance. It could comply with LP Policies DM2, DM5 and DM8 insofar as they require new development to incorporate appropriate attenuation measures to mitigate the effect of noise and light and external plant, amongst other things, on existing residents.

Other Matters

24. I note that extensions were permitted to the existing building under application reference 2016/0905. Notwithstanding that the permission is no longer extant, it proposed a sales building with a 180m² footprint, whereas the scheme before me proposes a sales building with a 280m² footprint. I therefore do not find these schemes comparable.
25. Interested parties raised concerns relating to the proximity of the vent stack to Aston Court and parking along the pavement related to the appeal site. As I am dismissing the appeal for other reasons, I have not pursued these matters.
26. It is appreciated that the planning officer recommended approval of the proposal, however the Council is not bound to accept the recommendations of their officers.

Planning Balance and Conclusion

27. Whilst I have found for the appellant in relation to the second main issue, this would be a lack of harm and thus, by definition, is incapable of weighing against the harm that I have found regarding the first main issue. The appeal scheme would, therefore, conflict with the development plan as a whole. There are no material considerations worthy of sufficient weight, which would indicate a decision otherwise. The appeal should, therefore, be dismissed.

RJ Redford

INSPECTOR