



Appeal Decision

Site visit made on 28 May 2024

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17TH June 2024

Appeal Ref: APP/K3605/W/23/3329089

161-165 Hersham Road, Hersham, Walton-on-Thames KT12 5NR

- 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 Harvest Energy Limited against the decision of Elmbridge Borough Council.
 - The application Ref 2023/0908, dated 21 March 2023, was refused by notice dated 26 June 2023.
 - The development proposed is demolition of existing forecourt shop building and construction of new relocated forecourt shop building with associated forecourt alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of proposed development from the planning application form although I note it is expressed differently on other documents.
3. A revised version of the National Planning Policy Framework (the Framework) has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on the relevant implications for the appeal. I have had regard to the revised Framework in reaching my decision.
4. The proposal is a re-submission of an earlier planning application that was refused by the Council under planning reference 2021/4231. The proposal under consideration in this current appeal is very similar to the earlier proposal refused. However, this proposal is for a single-storey building that would be larger than that previously proposed. The forecourt and parking layout have been amended and an acoustic timber fence is proposed along part of the boundary. Reference has been made to this previous planning application by both parties. Notwithstanding the previous proposal, for the purposes of clarity, I have considered the proposal that is the subject of this appeal on its individual merits.

Main Issues

5. The main issues raised by this appeal are the effect of the proposed development on: -
 - a) The character and appearance of the site and surrounding area;
 - b) The living conditions of existing neighbouring occupiers; and
 - c) Parking provision.

Reasons

Character and appearance

6. The proposal seeks to remove the existing sales building and erect a replacement single storey sales building at the rear of the site. The development would cover a large area at the rear of the site that is currently mostly undeveloped. The rear and sides of the proposed building would be in close proximity to the common boundaries of neighbouring residential properties. As such, the proposed new building would fill the majority of the rear of the site. Given its siting, footprint and tight relationship with the site boundaries, the proposal would appear extremely constrained within this part of the site and would give the visual impression of a cramped form of development.
7. Further to the above, the siting for the proposed building would be set back from the street and would not reflect the building line of properties that front onto Hersham Road. As such, the siting of the proposed building would be out of keeping with the general pattern of development that characterises the area.
8. In addition, the existing site currently comprises a petrol filling station with a car wash as well as other paraphernalia, such as, lockers, air/water and carvac facilities. Parking is also proposed. All of this would add to the visual clutter and confined character of the site that the development would further exacerbate.
9. As such, given the size, siting and proximity to plot boundaries, the proposed building would be a cramped form of development out of keeping with the pattern of development in the area that, in combination with the other petrol filling station paraphernalia across the site and new parking area would result in an unacceptable expansion and intensification of the site. Consequently, the proposal would not positively contribute or respect the character and appearance of the area and would be a harmful development for this reason.
10. I have been directed to a planning permission (ref: 2020/2908) that was granted in 2021 for a jet wash with 3.0m acoustic fence and forecourt alterations, within the same area as the sales building is proposed here. The appellant advises that the proposed jet wash would be closer to the existing residential properties than that of the proposed sales shop. However, the Council explain that whilst the jet wash scheme would come closer to the site boundaries, that development was of a far smaller scale in terms of size, footprint, plot coverage, mass and bulk. The jet wash scheme did not completely fill the rear part of the site, unlike this current proposal. I do not

consider the jet wash scheme to be directly comparable to the case that is before me and I give it little weight in support of this proposal.

11. Computer Generated Images (CGIs) have been provided by the appellant. These CGI are not necessarily a true representation of the proposed development. I have based my considerations on the plans and elevation drawings upon which the Council made their determination. In any event, the CGIs do not alleviate my above concerns.
12. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of the site and surrounding area. The proposal would, therefore conflict with Policies CS5 and CS17 of the Elmbridge Core Strategy 2011, Policy DM2 of the Elmbridge Development Management Plan 2015 and the provisions of the Framework. These policies seek, amongst other matters, development to be of a high quality design and to integrate with and enhance local character.
13. The appellant considers Policy CS5 and CS17 to be irrelevant to the considerations of this proposed development. Policy CS5 applies to all development within Hersham. The appeal site is located in Hersham so Policy CS5 is applicable. Policy CS17 specifically relates to local character and seeks to ensure new development is high quality, contributes positively to locations, integrates sensitively with the townscape and enhance the public realm and street scene. The policy covers new development, which would include this development proposal.

Living conditions

14. The proposed development would introduce a significant building that would extend across the full length of the rear boundaries of Nos. 2, 4 and 6 Felcott Road and along the full length of the northern garden boundary of No.167 Hersham Road as well as partially along the garden side boundary of No.8 Felcott Road. This would significantly increase the mass and bulk of development adjacent to the gardens of these neighbouring properties. Given the scale, height and positioning of the development the building would have an overbearing impact on the outlook of existing neighbouring occupiers.
15. It is contended that the proposed 2.4m acoustic fence would cover most of the building height and, as such, adjacent neighbours would not be impacted by the size, scale, positioning and proximity of the proposed sales shop due to separating distances. The sales shop would be a large building that would have an eaves height of approximately 3.5m. The proposal would significantly increase the mass and bulk of development adjacent to the gardens of the existing neighbouring properties. This development would change the relationship with adjoining neighbours altering the outlook from the rear windows and gardens of the adjoining neighbouring properties. As such, given the scale, height and positioning of the development the sales building would be overly dominant in the outlook of adjoining existing residents.
16. The plans illustrate that plant and machinery would be sited at the rear of the building. This would be in close proximity to the boundaries of the site and adjoining existing residential properties. The proposal includes a hot food takeaway, which is likely to require extractors and/or ventilation systems. Such equipment has the potential to create noise, odours and fumes. No

information or assessment has been provided as to how noise, odours and/or fumes would be dealt with.

17. Further to the above, the refuse storage area would be located adjacent to the rear gardens of Nos. 6 and 8 Felcott Road. Given the commercial scale and use of these bins and proximity to the rear amenity space of adjoining neighbours, there is potential for odours from these bins to impact neighbours. The appellant has indicated that waste would be stored in sealed and lidded bins, placed within an enclosed area, and be collected regularly by refuse vehicles. Having dedicated lidded bins could negate any odour issues as the refuse area would be enclosed. In such case it would be unlikely neighbours would be affected by any odour. Nonetheless, this does not mitigate my odour concerns relating to extractors and/or ventilation systems.
18. The enlarged sales building including hot foot takeaway and increased parking would result in a more intensive use of the site and would be extremely likely to increase activity and noise at the site. The Council's Environmental Health (Noise & Pollution) section have highlighted that noise complaints have been received from nearby residents concerning the operation of the car wash and other existing plant and machinery on the site. This indicates that noise is already a disturbance to existing neighbouring occupiers. The intensification of use at the site, additional machinery and activity would likely exacerbate the noise impacts upon neighbouring occupiers.
19. Taking these matters collectively, the impact of the proposed development generating a greater amount of activity, noise and odour emissions around the new building would be extremely likely to have a greater impact on the living conditions of adjacent existing residential occupiers than that of the current activities at the site.
20. The proposal includes a new acoustic timber fence around the proposed building which may mitigate some of the noise impacts from the development. However, as noted above, no information or assessment of potential noise impacts has been provided in support of the proposal. Therefore, there is no clear indication that noise generated by extractors and/or ventilation systems would be of an acceptable level or would be appropriately mitigated by measures such as the proposed acoustic timber fence.
21. The Council, as noted above, have previously granted planning permission for a jet wash, which, it is advised, included an acoustic fence. It is contended that this development would generate more noise than the sales shop and that noise from this proposed development would be acceptable based on a previous noise impact assessment for a jet wash at the site. The appeal proposal is for a development of a very different type. It would not be appropriate to find the proposal acceptable in respect to noise based on an entirely different development. This offers little weight in support of the proposal.
22. The appellant contends that had the local planning authority considered that the proposed development would have given rise to noise issues, this could have been dealt with during the Council process of considering the planning application. This proposal is a re-submission of an earlier planning application for a similar proposal that was refused. The second reason for refusal highlighted the failure to provide a noise assessment. To my mind it is clear from the previously refused application that a Noise Impact Assessment would

be needed to demonstrate that this proposed development would not result in harmful levels of noise.

23. It has been pointed out that the Council's Environmental Health (Noise & Pollution) section have not objected to the proposed development. Nonetheless, in commenting on the proposal this section have sought a noise impact assessment by condition. Noise complaints have been received due to the existing use of the site. As I see it this indicates that the current level of noise has caused some disturbance to existing neighbouring occupiers. The intensification of activity at the site, with extractors and/or ventilation systems, would likely exacerbate the noise impacts on neighbouring occupiers. Based on the fact that noise is already an issue, there is the requirement to ensure that noise levels and any proposed acoustic measures are appropriate. As such, it is important that the noise impacts are assessed prior to determination.
24. For these reasons, I conclude that the proposed development would be harmful to the living conditions of existing neighbouring occupiers. The proposal would, therefore conflict with Policies DM2 and DM5 of the Elmbridge Development Management Plan 2015. These policies seek, amongst other matters, development to protect the amenity of adjoining and potential occupiers and users.

Parking provision

25. The proposal would alter the layout of the forecourt and make changes to the parking arrangements. Additionally, the proposal seeks to introduce a larger sales building to incorporate a hot food takeaway. I have already found that there would be an intensification in activity at the site. As such, there is likely to be an increase in visitors to the site and thus demand for parking.
26. The Council have calculated that the proposed sales building would have a total internal floor area of approximately 187m². The use of the proposed sales building would be partly as a shop (for non-food and food retail) and as a food and drinks takeaway. The split in floor area between shop and takeaway would be approximately 143m² and 44m² respectively.
27. The proposal would provide a total of 6 parking space, 1 of which would be a disabled parking bay. Based on the uses of the sales building as a shop (A1) with floor area of 143m² and takeaway (A5) with 44m², when assessed against the Council's current parking standards, the Council considers 12 parking spaces should be provided or 9 spaces after taking into account a 25% reduction due to its local centre location. The provision of 6 car parking spaces would be below the recommended 12 or 9 parking spaces.
28. Further to the above, the details in the planning application form indicate that the development would employ 7 full-time and 6 part-time employees. The parking provided is suggested to be for the use of customers. Whilst there may only be 2 or 3 staff at the site at any one time, customers and employees could be competing for the same parking spaces. Furthermore, 2 of the spaces are positioned in front of the carvac and air/water facilities, which forms part of the wider operation of the site as a petrol station. As such, some of the 6 spaces could be occupied from time-to-time by motorists looking to make use of the carvac and air/water facilities, rather than by customers visiting the sales building.

29. Consequently, when taking into account possible use of the customer parking bays by staff, carvac and air/water facilities, the parking spaces available for customers to the sales building and takeaway may be as few as 1 or 2, which is significantly below the recommended parking spaces for a development of this size and nature.
30. Without the provision of sufficient parking on the site, there is potential that customer parking would overspill onto the street and lead to inconsiderate parking that would be to the detriment of local residents.
31. The appellant suggests the site requires only 8 car parking spaces based on Elmbridge Parking Standards. The appellant has reached this parking requirement by considering the whole development to be in use as food retail (Class A1) and using the equation 1 parking space per 25m². However, part of the proposed building is in use as takeaway (Class A5) which the Council indicates requires one space per 6m² and the proposed building is less than 500m² so food retail requires 1 space per 30m². I consider the appellant's approach to utilise an incorrect calculation.
32. The appellant refers to the previous application for a jet wash scheme in an effort to demonstrate that the parking provisions put forward here would be acceptable. However, the proposal under consideration here is not the same and should be considered on its own merits.
33. Surrey County Council (SCC) Highway Authority raise no objection to the proposal. However, the Council explains that SCC Highway Authority assess applications in terms of the impact of the development, as well as its parking, on the safe operation of the public highway. They do not assess whether parking provision for a development is compliant with the Council's adopted parking standards.
34. For these reasons, I conclude that the proposed development would be harmful as insufficient parking provision would be provided to serve the proposed development. The proposal would, therefore conflict with Policy DM7 of the Elmbridge Development Management Plan 2015 and the Parking Supplementary Planning Document (SPD) 2020. That policy and SPD seek, amongst other matters, require parking provision to be appropriate to the development and not to result in an increase in on-street parking stress that would be detrimental to the amenities of local residents.

Conclusion

35. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR