



Appeal Decision

Site visit made on 4 September 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Appeal Ref: APP/K3605/W/24/3338780

Shell St Georges, 95 Brooklands Road, Weybridge, KT13 ORP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 is 2023/2046.
 - The development proposed is a single storey building for E (Retail) (280sqm), A/C units, enclosed bin store, petrol pumps and pump islands, 2 underground fuel tanks, car parking and EV charger bays, floodlights and boundary fence and replacement canopy following demolition of existing sales building (106 sqm), rear commercial building and removal of existing canopy.
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Decision

1. The appeal is allowed and planning permission is granted for a single-storey building for E (Retail) (280sqm), A/C units, enclosed bin store, petrol pumps and pump islands, 2 underground fuel tanks, car parking and EV charger bays, floodlights and boundary fence and replacement canopy following demolition of existing sales building (106 sqm), rear commercial building and removal of existing canopy at Shell St Georges, 95 Brooklands Road, Weybridge, KT13 ORP in accordance with the terms of the application, Ref 2023/2046, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council changed the description to that in the banner heading above, which more accurately describes the proposals as shown on the plans. This description was used for the purposes of notification of the application and has been used in the appeal submissions by the appellant. Consequently, I am satisfied that no party will be prejudiced by my use of it.
3. The appeal site was the subject of a recent appeal decision¹, which was dismissed. The primary difference between the proposal and the previous scheme is the design approach to the proposed building, which now includes a pitched roof and brick detailing. The appeal decision is a material consideration in the determination of this appeal.
4. The Council has referred to an emerging Local Plan, which has been submitted for examination. I have not been provided with any specific policies contained within the emerging Local Plan. I have determined this appeal with reference to policies from the existing adopted development plan.

¹ Appeal Ref: APP/K3605/W/22/3302630

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the surrounding area, with particular regard to whether it would preserve or enhance the character or appearance of the Brooklands Conservation Area.

Reasons

6. The appeal site comprises an existing petrol filling station, with existing single storey buildings arranged in a I-shaped layout along the rear and side boundaries of the site. The central part of the site is occupied by a canopy which provides cover to the fuel pumps and access to the sales building. A vacant building, previously occupied by Enterprise-Rent-A-Car, with open fronted building to the side occupies the entire rear boundary of the site. The site is set slightly back from the road and at a slightly lower level.
7. The surrounding area is predominantly residential, and the appeal site is bordered to one side by a block of flats and the other side by two-storey, residential dwellings. To the rear and positioned at a lower level, is a residential housing development. Most of the surrounding development is two-storey or taller. Although there are commercial uses close by, the existing buildings together with the canopy and associated infrastructure have a commercial appearance, which by virtue of their design and materials contrast with neighbouring residential development.
8. The appeal site lies within, but to the edge of the Brooklands Conservation Area (BCA). The statutory duty set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
9. The significance of the BCA 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 historical significance of the BCA. However, the existing buildings and structures do not contribute positively to the significance of the BCA.
10. The proposed development would involve the demolition of all existing buildings on site, retaining the high brick wall which separates the site from the residential development to the rear and the erection of a new sales building with a total footprint of approximately 280m², including a sales area of approximately 150m². Although this represents an increase in size of the sales building, the demolition of the buildings along the rear boundary would mean that overall, there would be a reduction in the footprint of buildings.
11. The proposed sales building would comprise a part glazed, part brick building under a tiled pitched roof. The use of a pitched roof would increase the overall height of the building by approximately 2.2 metres. Whilst the road facing elevation would be largely blank, this would not, as a result of the materials and detailing, result in adverse harm to the character and appearance of the area. Therefore, in this context, overall, I find that with the use of brick

detailing and a pitched roof the proposed development would reflect the character and appearance of other nearby buildings within the BCA.

12. Although the proposed sales building would include a large amount of glazing to the front elevation, this would at a similar ratio to solid wall as the existing building. The glazed parts of the building would only be visible from certain viewpoints. Furthermore, it would also represent an overall reduction in the amount of glazing within the existing buildings across the site, and therefore would not represent a harmful addition to the street scene.
13. The bin store would still be located in front of the proposed sales building, and as such would be in a prominent position within the site. However, the use of a brick in the construction of the proposed enclosure will ensure that this element of the proposal will better integrate into the design of the building and wider site. The vent stacks would also be located to the rear of the site, in a position which is similar to their current position within the existing site. This would limit its visual impact within the surrounding area and ensure that it causes no greater harm than the existing situation.
14. The mature Oak tree which sits to the front of the site would be retained. Based on the evidence before me, I am satisfied that the tree will not be harmed as a result of the proposed development and its retention and protection can be secured by imposition of appropriately worded planning conditions.
15. The previous appeal decision found that the proposal by virtue of its design, positioning of the ventilation stack and bin storage would be visually more intrusive within the street scene than that which is existing, thus detracting from the area's character and appearance. The Inspector also found the design to be 'generic' and that it would fail to relate to the street scene. However, this proposal is of a different design and for the reasons set out above the appeal scheme would be of a design, scale and layout that reflects the use of the site, but also the character and appearance of nearby development. The more functional elements of the design have been revised to ensure they integrate with the overall development and therefore I find that it would not be a harmful addition to the character and appearance of the area.
16. For the reasons set out above, I find that the proposed development would be in keeping with the use of the site, whilst also providing some benefits as a result of the redevelopment of the site which include the removal of a vacant building, the upgrade of services provided, the installation of electric vehicle charge points and cycle parking. I also find that the proposed development would not have any appreciable impact on the significance of the conservation area.
17. Consequently, I therefore conclude that the proposed development would not cause harm to the character and appearance of the area and would thus preserve the significance of the BCA. It would therefore comply with Policies CS4 and CS17 of the Elmbridge Core Strategy, adopted July 2011, and Policies DM2 and DM12 of the Elmbridge Local Plan Development Management Plan, adopted April 2015, 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.

18. I also find that the proposed development would not conflict with the National Planning Policy Framework, or the guidance contained within the Elmbridge Local Plan Design and Character Supplementary Planning Document, adopted April 2012.

Other Matters

19. I have also had regard to third party concerns over residential amenity, construction disturbance and increased traffic. However, these matters were before the Council when it determined the planning application and did not feature in the reasons for refusal. Whilst I can understand the concerns of local residents, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

Conditions

20. I have had regard to the planning conditions suggested by the Council. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance.
21. In addition to the statutory commencement condition, a condition is necessary to ensure that the development complies with the submitted plans in the interests of clarity. I have also imposed a condition relating to materials in the interests of preserving the character and appearance of the area. The appellant has accepted this pre-commencement condition, as required by Section 100ZA(5) of the Act.
22. A condition is necessary to mitigate any potential risks arising from any contaminated land and to ensure that the potential for any unforeseen ground contamination is appropriately dealt with. This condition must be a pre-commencement condition, to ensure that any potential contamination risks, which may impact human health, are assessed by the Council before development takes place. A further pre-commencement condition is required to secure an appropriate scheme for the protection of trees, this condition is necessary to minimise the risk to the retained tree and in the interests of the character and appearance of the area.
23. In the interest of highway safety, a condition is necessary to secure on-site parking, as well as a requirement for cycle parking and electric car charging to promote sustainable travel. A condition requiring the submission of further details of the proposed buffer planting is also necessary in the interests of preserving the character and appearance of the area and in the interests of maintaining the living conditions of neighbour occupiers.
24. Conditions relating to noise, flood risk, drainage, hours of operation and external lighting are necessary to avoid environmental harm. A further condition is required to ensure the brick wall to be retained, this is necessary in the interests of maintaining the living conditions of neighbour occupiers.

Conclusion

25. For the reasons given above, I conclude that the proposal would accord with the development plan and the Framework. The appeal is therefore allowed.

K Lancaster INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the details shown on the following approved plans and documents:
 - 10018975-LP-23 (Location Plan)
 - 10018975-PSL-23 (Proposed Site Plan)
 - 10018975-PSBE-23 (Proposed Building Elevations)
 - 10018975-PSE-23 (Proposed Site Elevations)
 - 10018975-TCS-23 (Typical Cross Section)
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown the approved plans.
- 4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures), shall have been submitted to and approved in writing by the local planning authority.

If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and agreed timescale and a verification report shall be submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed for approval in writing by the local planning authority.

- 5) No site clearance, preparatory work or development shall commence until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority.

The scheme for the protection of the retained trees shall be carried out as approved.

- 6) Prior to the first occupation of the development hereby approved, details of the proposed buffer planting shall be submitted to and approved in writing by the local planning authority.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) Prior to the first occupation of the development hereby approved, the areas within the site shown on the approved plans for the purposes of manoeuvring and parking of vehicles, including electric vehicle charging infrastructure and cycle parking, shall be provided, and thereafter, that areas shall be retained and used for no other purposes.
- 8) Prior to the first occupation of the development hereby approved, the noise mitigation measures shall be installed in accordance with the details provided in the Acoustic Report by Venta Acoustics dated 29 June 2023 and thereafter retained.
- 9) Prior to the first occupation of the development hereby approved, the development shall be carried out in accordance with the details of the flood risk mitigation measures provided in the Flood Risk Assessment by Ark Environmental Consultancy dated July 2023 and thereafter retained.
- 10) The external lighting hereby approved shall be carried out in accordance with the approved details as set out in the Lighting Specification by GW Lighting Consultancy and drawing no: SH49A dated 27 June 2023 with the exception of the rear (western) elevation of the canopy (facing towards Fernihough Close) which shall not be illuminated at any time.
- 11) Deliveries to the store and collection of recycling shall only take place between the hours of 07:00am and 11:00pm.
- 12) The brick wall located on the northern, western, and southern boundaries of the site shall be retained in accordance with the approved plans.
- 13) No surface water drainage systems for the infiltration of surface water into the ground are permitted unless details of the proposed system, including an assessment of a risk to controlled waters, have first been submitted to and approved in writing by the local planning authority.

The development shall then be carried out in accordance with the approved details.

*****End of Schedule*****