
Appeal Decision

Site visit made on 13 July 2020

by James Taylor BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th September 2020

Appeal Ref: APP/Q3630/W/20/3245266

Commoners, Barley Mow Road, Englefield Green TW20 0NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Robin Delport (Inscape Developments Ltd) against the decision of Runnymede Borough Council.
 - The application Ref RU.19/1119, dated 15 July 2019, was refused by notice dated 25 September 2019.
 - The application sought planning permission for the 'erection of detached dwelling on land to the south of Commoners, Barley Mow Road utilising the existing access' without complying with a condition attached to planning permission Ref RU.19/0344, dated 1 May 2019.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall not be carried out except in complete accordance with the following approved plans 200, 201A, 202, 203, 204, LP, 4180232-1104 P5, 4180232-1103 P2, 4180232-1102 P2, 4180232-1104 P6, 4180232-1101 P9, Porous Pavement and Crates April 2019, Porous Car Park Storage, 18-P0035 Schedule of Materials, Arboricultural Method Statement.
 - The reason given for the condition is: To ensure an acceptable scheme and to comply with saved Policy BE2 of the Runnymede Borough Local Plan Second Alteration 2001.
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Decision

1. The appeal is allowed and planning permission is granted for the 'erection of detached dwelling on land to the south of Commoners, Barley Mow Road utilising the existing access' at Commoners, Barley Mow Road, Englefield Green TW20 0NT in accordance with the application Ref RU.19/1119 dated 15 July 2019, without compliance with condition number No 2 previously imposed on planning permission Ref RU.19/0344 dated 1 May 2019 and subject to the attached schedule of conditions.

Procedural matters

2. The proposal seeks to vary the original consent, including by adding a car port, gates and rooflights. The issue between the two parties is the proposed car port. I have observed that the development of the site is advanced and that the dwelling has been occupied. However, no works to the proposed car port were evident from my site visit.
3. As part of the appeal the appellant has submitted a revised plan for the proposed car port structure. This omits the walls for the building. The Council

have had opportunity to comment on the revised plan and state that they do not overcome their reason for refusal. Given the nature of the revisions I find that the interests of the parties, including the member of the public that commented on the proposals, would not be prejudiced by my considering the revised plan. Therefore, I have proceeded to determine the appeal on the basis of the revised plan.

4. Finally, it has been brought to my attention that since the Council issued its Decision Notice, the Runnymede Borough Local Plan Second Alteration 2001 has been superseded by the Runnymede 2030 Local Plan, adopted July 2020 (LP). Both parties have been given opportunity to comment in light of this material change in circumstances and I have proceeded to determine the appeal on the basis of the recently adopted LP.

Main issues

5. The main issues are the effect that varying the condition, with particular regard to the proposed car port, would have on:
 - i) the character and appearance of the area, including trees; and
 - ii) the living conditions of future occupiers of the development having particular regard to the amount of outside garden space.

Reasons

Character and appearance

6. The proposal seeks to erect an open-sided, flat-roofed car port between the previously approved two-storey detached dwelling and Barley Mow Road. The street scene is characterised by a variety of detached dwellings, many of which are set back from the road behind frontage landscaping. From Barley Mow Road I have observed a number of garages and outbuildings clearly visible from the public realm. Although the majority are sited to the side of the properties, the appellant has highlighted a number that are forwardmost of the dwelling. I have observed these and noted that they are within relatively close proximity to the appeal site, form a part of the same street scene and cause no harm.
7. As viewed from the road, the appeal site frontage has a tall hedge with a high, horizontal 'hit and miss' fence behind it. This filters views of the dwelling, set back within the site. The proposed car port, given its height and form would be a modest addition comparative to the space to the front of the dwelling. The landscaping ensures that it would not be prominent within the street scene. Even if the boundary features were not present, and the car port were therefore more visible, it would have a minimal impact on the character and appearance of the area. This is because of its open-sided form, low-profile, and modest footprint.
8. Additionally, I have noted that off-site is an attractive oak tree which makes a positive contribution to the character and appearance of the area. The appellant acknowledges that the proposal would make a minor incursion into the tree root protection area of the oak. Their updated Arboricultural Method Statement by MMarboriculture (AMS) seeks to address the Council's concerns over inadequate information being provided such as to assess the potential impact to the tree. Whilst the Council have not offered any substantive

comments in light of this additional evidence, I have had regard to the AMS's findings and recommendations. It sets out a strategy to hand-dig the car port foundations and mitigation approaches to avoid harm to the condition of the oak. I find this to be a reasonable and proportionate approach based on the evidence available to me and attribute this significant weight. As such, conditions may appropriately address any impact on trees from the development so as to avoid any harm to the area's verdant character.

9. Therefore, in conclusion on this main issue the proposal would not cause any harm to the character and appearance of the area, including trees. As such, the proposal would not conflict with Policies EE1, EE9 and EE11 of the LP, policies of the National Planning Policy Framework (the Framework) or guidance within the Council's Householder Guide, Supplementary Planning Guidance, July 2013 (SPG). These policies and the local guidance seek amongst other aims to ensure high-quality design that responds to local context, including trees.

Living conditions

10. The proposed dwelling is large, and I have observed that the rear garden is relatively modest in this context. However, to the side and front further outside garden space is provided. From my observations this is enclosed and private, suitable to provide appropriate living conditions to the occupiers of the dwelling. However, the Framework sets out at paragraph 127 and 130 the need for high quality design and standards of living conditions. Furthermore, it states that this should not be diminished between permission and completion, as a result of changes being made to the permitted scheme.
11. The car port would be located on the edge of the approved garden space and would be modest in footprint compared to the overall outside space at the site. The proposals before me would not affect the rear garden and would retain the vast majority of the garden to the front and side of the property. As such, the reduction in the garden area would be limited and not demonstrably impact on the living conditions of the occupiers.
12. Therefore, in conclusion on this main issue the proposal would not cause any harm to the living conditions of future occupiers of the development having particular regard to the amount of outside garden space. As such, the proposal would not conflict with Policy EE1 of the LP, the policies of the Framework or guidance within the SPG. These seek, amongst other aims to ensure appropriate standards of private space for future occupiers of development.

Other matter

13. I have had regard to a third-party representation which raised concern over the access and space for manoeuvring within the site. However, this has not been raised as a reason for refusal by the Council and I have no technical evidence before me to reach a contrary conclusion.

Conditions and conclusion

14. I have noted the drainage officer's consultation response stating that they have no objection subject to a condition. Whilst the car port would increase the impermeable area on part of the site, I note that a broadly commensurate area of hard standing has been reduced from the previously approved scheme. Furthermore, the Council has not suggested a condition to require updated details. As such, I find a further drainage condition unnecessary.

15. The Council have suggested a number of conditions consistent with the original planning approval, save for varying condition 2. I will grant a new planning permission varying the disputed condition. However, for the sake of precision and to define the terms of the permission I find it necessary to specify the hereby approved plans.
16. Furthermore, from my site visit it is clear that the development has been substantially completed, except for the car port, and has also been occupied. The Council's suggested conditions do not reflect these circumstances. Therefore, I shall restate and amend as appropriate the conditions, including those that are undisputed, to reflect my site observations.
17. Additionally, in regard to external materials I have added a requirement to provide details of the materials for the car port. This is in the interests of maintaining the character and appearance of the area.
18. For the reasons given above I conclude that the appeal should succeed.

James Taylor

INSPECTOR

Schedule of conditions:

- 1) The development hereby permitted shall not be carried out except in complete accordance with the following approved plans: LP, 4180232-1102 P2, 4180232-1103 P2, Porous Car Parking Storage, Porous Pavement and Crates April 19, 18-P0035 Schedule of Materials, 2018/P0035-300, 2018/P0035-301, 2018/P0035-301 A, 2018/P0035-302 A, 2018/P0035-303, 4180232-1104 Rev P7, 4180232-1101 P10, L5245_01_REV F, and Arboricultural Method Statement by MMarboriculture.
- 2) The materials to be used in the external elevations of the development hereby approved shall be as documented within 18-P0035 Schedule of Materials. Furthermore, prior to the commencement of any works above ground level for the proposed car port, details of its external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 3) The surface water drainage details and other drainage matters shall strictly comply and be constructed in accordance with the following drawings and documents 4180232-1101 P10, 4180232-1104 P7, 4180232-1102 P2, 4180232-1103 P2, Porous Car Parking Storage, Porous Pavement and Crates April 19 and remain in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
- 4) All hard and soft landscaping works shall be carried out in accordance with the approved details prior to the car port being first brought into use. Any trees or plants, which within a period of five years of the commencement of any works in pursuance of the development die, are removed, or become seriously damaged or defective, shall be replaced as soon as practicable with others of similar size and species, following consultation with the Local Planning Authority (LPA), unless the LPA gives written consent to any variation.

- 5) No tree to be retained in accordance with the approved plans (hereafter known as retained trees and including offsite trees) shall be cut down, uprooted or destroyed and no works to the above or below ground parts of the trees in excess of that which is hereby approved shall be carried out without the written approval of the Local Planning Authority (LPA) until the expiration of five years from the date of completion of the development. If, within this time, a retained tree is pruned not in accordance with BS3998, removed, uprooted, damaged in any way, destroyed or dies, replacement trees shall be planted at the same place, sufficient to replace the lost value of the tree as calculated using an amenity tree valuation system, unless otherwise agreed in writing by the LPA. The number, size, species, location and timing of the replacement planting shall be as specified by the LPA.
- 6) The works shall be carried out in accordance with the Arboricultural Method Statement by MMarboriculture. The protective measures shall remain in place until all works are complete and all machinery and materials have finally left site. Nothing shall be stored or placed in any area fenced in accordance with this condition, nor shall any fires be started, no tipping, refuelling, disposal of solvents or cement mixing carried out and ground levels within those areas shall not be altered, nor shall any excavation or vehicular access, other than that detailed within the approved plans, be made without the written consent of the Local Planning Authority (LPA). There shall be no burning within six metres of the canopy of any retained tree(s). Where the approved protective measures and methods are not employed or are inadequately employed or any other requirements of this condition are not adhered to, remediation measures, to a specification agreed in writing by the LPA, shall take place prior to the car port first being brought into use, unless the LPA gives written consent to any variation.
- 7) The first-floor windows in the rear elevation shall be permanently retained with obscured glazing (at Pilkington Glass Level 4 or equivalent) and remain non-opening and fixed shut for any part of the windows that is less than 1.7 metres above the floor of the room in which it is installed.