



Appeal Decision

Site visit made on 29 November 2021

by J E Jolly BA (Hons) MA MSc CIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st December 2021

Appeal Ref: APP/A3655/W/21/3276270

Kantara, 67B Meadway Drive, Horsell, Woking GU21 4TF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Marco Ciraulo against the decision of Woking Borough Council.
 - The application Ref PLAN/2020/0622, dated 26 January 2021, was approved on 2 October 2020 and planning permission was granted subject to conditions.
 - The development permitted is the erection of new carport to cover existing parking spaces
 - The condition in dispute is No 4 which states that: no development-related works shall be undertaken on site (including clearance and demolition) until tree protection details have been submitted to and approved in writing by the Local Planning Authority. These details shall adhere to the principles embodied in BS 5837 (2012) and shall include a Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement. The details shall make provision for the convening of a pre-commencement meeting and Arboricultural supervision by a suitably qualified and experienced Arboricultural Consultant for works within the RPAs of retained trees. Full details shall be provided to indicate exactly how and when the retained trees will be protected during the site works. The development shall be carried out strictly in accordance with the agreed details.
 - The reason given for the condition is: to ensure the retention and protection of trees on and adjacent to the site in the interests of the visual amenities of the locality and the appearance of the development. This condition is required to be addressed prior to commencement in order that the ability to discharge its requirement is not prejudiced by the carrying out of building works or other operations on the site.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For the avoidance of doubt, while I have dismissed the appeal the existing permission for 'the erection of new carport to cover existing parking spaces' and the associated conditions remains extant.
3. The *National Planning Policy Framework* (the Framework) represents the Government's up-to-date planning policies for England and how they should be applied. The Government published a revised Framework on 20 July 2021 and is a material consideration for development proposals. I note however, in this case, that the main parties have made no further comments in respect of these changes.

Background and Main Issue

4. Meadway Drive is located in an established residential area. The appeal site is found at the end of a service road accessed from Meadway Drive that runs between Nos 65 and 67 Meadway Drive to a small mews development that contains 'Kantara' and two other dwellings. The 'gateway' to the mews is defined by brick pillar gate-posts to either side. When viewed from the service road the 'gateway' is bordered on the left-hand side by a verge as well as bushes and trees. Within the mews and to the right-hand side of the 'gateway' there is an open area that appears to be used for car-parking.
5. The appeal site has permission subject to conditions for the erection of a car-port to the front of the mews which would cover the existing car-parking spaces. The development would replace and relocate the gate-posts with timber posts to enable ease of access to the car-port and the wider mews area.
6. Amongst others, the Council's permission included a pre-commencement condition (Condition 4). This condition was imposed in relation to a tree and its Root Protection Area (RPA) that is positioned directly adjacent to the left-hand side of the 'gateway'. The protected tree sits at the end of a line of trees which are located in a 'Tree Protection Group' area (TPG) to the west and south-west boundary of the mews development.
7. Paragraph 56 of the Framework advises that planning conditions should be kept to a minimum, and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
8. Therefore, in this case I consider the main issue to be; whether Condition 4 of the permission is reasonable or necessary to prevent harm to the nearby protected tree.

Reasons

9. I noticed at my site visit that the construction of the development has not commenced. The appellant has requested that Condition 4 is removed so that the timber post on the left-hand side of the 'gateway' can be located with additional permeable and load-bearing surfacing somewhat nearer to the protected tree than the position range found to be acceptable by the Council.
10. However, if I were to allow the appeal, the relocation of the post and addition of surfacing would alter the terms of the operative permission determined under PLAN/2020/0622. As such, that is not a matter for me to determine as part of this appeal, and would be for the appellant to demonstrate through other mechanisms. Accordingly, the appeal has been determined on the basis of what has been applied for.
11. Condition 4 requires that an acceptable Tree Survey, Arboricultural Impact Assessment and an Arboricultural Method Statement are submitted to the Council before development can commence on the appeal site in order to allay its concerns for the RPA of the protected tree and amenity generally. I find Condition 4 to be reasonable in this respect. Moreover, while I note that the appellant contends that the RPA has been previously disturbed, that the works would be hand dug and interested parties forward that the development would be 'minimal and low impact', I have no convincing evidence before me, such as the principles set out in BS5837 (2012), to persuade me otherwise.

12. Indeed, notwithstanding any increased benefits for vehicular movement and parking related to the development, given the proximity of the protected tree to the proposed gate-post and its associated works, there is a substantial likelihood that the removal of Condition 4 would result in a detrimental impact on the RPA, and hence over time the verdant beauty of the protected tree. I conclude therefore, that Condition 4 was reasonable and necessary to prevent harm to the protected tree and the wider amenity.
13. Consequently, the proposal is contrary to Policies CS21 and CS24 of the Woking Borough Council Core Strategy 2012, and Policy DM2 of the Woking Borough Council Development Management Policies Development Plan Document which aims include, amongst other things, that the Council will require adequate space to be provided between any trees to be retained and the proposed development.
14. For similar reasons, the proposal is contrary to Paragraph 131 of the Framework, which says that trees make an important contribution to the character and quality of urban environments.

Conclusion

15. Having regard to all of the above, I conclude that the disputed condition 4 is reasonable and necessary. Therefore, the appeal is dismissed.

J E JOLLY

INSPECTOR