



Appeal Decision

Site visit made on 1 February 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2024

Appeal Ref: APP/L3625/W/23/3318593

Land to the North of Merrywood Park, Reigate RH2 9PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for 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 JS MWP Ltd against Reigate and Banstead Borough Council.
- The application Ref 22/02228/S73 is dated 11 October 2022.
- The application sought planning permission for the construction of a three-storey building comprising 8no. two bedroom dwellings, associated parking with provision of 12no. car parking spaces. An additional 18 no. spaces are proposed for the residents of Merrywood Park adjacent to the proposed building and on the grass verge adjacent to numbers 1-12 Merrywood Park. As amended on 3/2/2016 and 02/03/2016, without complying with conditions attached to planning permission Ref 18/01877/S73, dated 25 September 2019.
- The conditions in dispute are No's. 1, 5 and 8 which state that: (Condition 1) The development hereby permitted shall be carried out in accordance with the following approved plans and those approved under application 15/02914/F and 17/01757/S73 (except where superseded by the plans below): Site Layout Plan 1676 PA GA 2001 04.09.2018, Site Layout Plan 1676 PA GA 1001 04.09.2018, Site Layout Plan 1676 PA GA 1000 04.09.2018, Block Plan 1676 PA GA 0001 04.09.2018, Other Plan 1676 PA GA 2005 D 04.04.2019, Site Layout Plan 1676 PA GA 2000 D 04.04.2019, Other Plan A18401-01 P2 04.04.2019, Arboricultural Plan 1 04.04.2019; (Condition 5) No development shall commence including groundworks preparation until all related arboricultural matters including tree protection measures, pre commencement meeting, arboricultural supervision and monitoring are implemented in accordance with the approved details contained in the Arboricultural Method Statement compiled by Southern Ecological Solutions dated 8th May 2019 and the Tree Protection Plan dated 8th May 2019 Rev B; (Condition 8) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the submitted plans 1676 PA GA 2001 and 1676 PA GA 2005 Rev D for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
- The reasons given for the conditions are: (Condition 1) To define the permission and ensure the development is carried out in accord with the approved plans and in accordance with National Planning Practice Guidance; (Condition 5) To ensure good arboricultural practice in the interests of the maintenance of the character and appearance of the area and to comply with British Standard 5837:2012 'Trees in Relation to design, demolition and construction - Recommendations' and policies Pc4 and Ho9 of the Reigate and Banstead Borough Local Plan; (Condition 8) The above conditions are required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users to satisfy policies Mo5 and Mo7 of the Reigate and Banstead Borough Local Plan 2005 and the objectives of the NPPF 2012.

Decision

1. The appeal is allowed and planning permission is granted for the construction of a three-storey building comprising 8no. two bedroom dwellings, associated parking with provision of 12no. car parking spaces. An additional 18 no. spaces are proposed for the residents of Merrywood Park adjacent to the proposed building and on the grass verge adjacent to numbers 1-12 Merrywood Park. As amended on 3/2/2016 and 02/03/2016, without complying with conditions attached to planning permission Ref 18/01877/S73, dated 25 September 2019.

Preliminary Matters

2. For the purposes of this decision, I am required to use the description of development from planning application reference 15/02914/F as that was the original permission for this development. I recognise that, in allowing this appeal, part of that description is no longer relevant. However, this outcome merely allows the appellant to avoid implementing part of the approved scheme and therefore does not alter the operative part of the development itself.

Main Issue

3. I have determined this appeal on the basis of the Council's failure to determine the application within the statutory timescale. However, I have had regard to the Council's officer report, and the minutes from the two planning committee meetings, in so far as they provide clarity on the issues to be considered. I note that the Council's planning committee had resolved to approve planning permission had it been able to do so.
4. The main issue is therefore whether the proposed parking arrangements would be sufficient.

Reasons

5. My decision turns on whether seven parking spaces are required on an existing grass verge in front of No's. 5 – 12 Merrywood Park. The appellant has provided evidence in the form of a Parking Justification Report (Patrick Parsons, November 2022). Further evidence has also been prepared by the Council in the form of a Highways Technical Note (Motion, March 2023).
6. In both cases, the documents conclude that the seven additional spaces are not required, and that in their absence, parking provision would be acceptable. The conclusions are not disputed by either of the main parties and I note that there is no objection from the Highway Authority. Indeed, the evidence provided appears to be based on a robust methodology and there is no reason for me to dispute the findings presented. There is therefore no substantive evidence before me that would lead me to conclude that the proposal would lead to harm.
7. The technical note produced by Motion does identify that while the parking situation across the survey area as a whole is acceptable, the occupancy levels on Merrywood Park itself are considerably over the 'stressed' threshold of 85%. It is therefore necessary for residents to have access to the spaces provided at Merrywood Park House in order to avoid highway concerns. While there is no indication that residents would not have access to those spaces, I am of the view that, in the interests of certainty, an additional condition should be

imposed to require the appellant to prepare a Car Parking Management Plan that would secure access to those spaces in perpetuity.

8. I am therefore satisfied that the proposal would conform with Policy TAP1 of the Reigate and Banstead Development Management Plan, September 2019, which in part, seeks to ensure that new development makes adequate provision for parking.

Other Matters

9. A Deed of Variation to vary a previous Section 106 agreement has been provided during the course of the appeal. The purpose of the variation is to remove the obligation to provide the seven parking spaces on the grass verge. The document has been agreed and signed by the necessary parties and I am satisfied that the changes are appropriate and necessary.
10. Various third party objections were received in relation to the original application. In addition to concerns about parking, several concerns were raised about the principal of the proposed building. However, given that the development has already received planning permission, those matters are not before me to consider as part of this appeal.

Conditions

11. The conditions are replicated from those associated with permission reference 18/01877/S73, with the exception of conditions 1, 5 and 8. The first condition identifies the relevant plans in the interests of certainty. Condition 5 is required to ensure that trees are protected, while condition 8 is required to secure the provision of parking spaces. The reasons for re-imposing all other conditions remain the same as previously outlined by the Council.
12. As set out elsewhere in my decision, I have imposed an additional condition to require the appellant to prepare and submit a Car Parking Management Plan.

Conclusion

13. For the reasons given, the appeal is allowed.

C Butcher

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and those approved under application 15/02914/F, 17/01757/S73, and 18/01877/S73 (except where superseded by the plans below):
 - Existing Site Plan – Residents’ Parking Area 1676 PA GA 1001 Rev A
 - Proposed Site Plan – Residents’ Parking Area 1676 PA GA 2001 Rev A
 - Tree Protection Plan TPP/Merrywood Park/06-07-22 Rev D
- 2) The development hereby permitted shall be begun before 11th May 2019.
- 3) The development shall be constructed in accordance with the proposed ground levels and the proposed finished ground floor levels of the buildings submitted and approved under condition 3 of 15/02914/F (application reference 15/02914/DET03). The development shall be carried out in accordance with the approved levels.
- 4) The development shall be constructed in accordance with the materials submitted and approved in writing by the Local Planning Authority under condition 4 of 15/02914/F (application reference 15/02914/DET04), and there shall be no variation unless agreed in writing by the Local Planning Authority.
- 5) No development shall commence including groundworks preparation until all related arboricultural matters including tree protection measures, pre commencement meeting, arboricultural supervision and monitoring are implemented in accordance with the approved details contained in the Arboricultural Method Statement compiled by Southern Ecological Solutions dated 8th May 2019 and the Tree Protection Plan dated 6 July 2022 Rev D or as otherwise agreed with the Local Planning Authority.
- 6) All works shall be carried out in strict accordance with the details of hard and soft landscaping submitted and approved. All hard and soft landscaping work shall be completed in full accordance with the approved scheme, prior to occupation or within the first planting season following completion of the development hereby approved or in accordance with a programme agreed in writing with the local planning authority. Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, shrubs of the same size and species.
- 7) All works shall take place in accordance with the Construction Transport Management Plan, submitted and approved by the Local Planning Authority under condition 7 of 15/02914/F (application reference 15/02914/DET07).
- 8) The development hereby approved shall not be first occupied unless and until space has been laid out within the site in accordance with the submitted plan 1676 PA GA 2005 Rev D for vehicles to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter

the parking and turning areas shall be retained and maintained for their designated purposes.

- 9) The development hereby approved shall not be first occupied unless and until the following facility has been provided in accordance with the approved plans for: (a) The secure and covered parking of 8 bicycles within the development site, and thereafter the said approved facility shall be provided.
- 10) The development shall not be occupied until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed before the occupation of the development hereby permitted.
- 11) The first and second floor windows in the eastern side elevations of the development hereby permitted shall be glazed with obscured glass which shall be fixed shut, apart from a top hung opening fanlight whose cill height shall not be less than 1.7 metres above internal floor level, and shall be maintained as such at all times.
- 12) (i) Replacement Tree planting will be required if T42 sycamore and T65 Horse chestnut are damaged or require removal as a result of the implemented access road and car parking arrangements approved under this decision within 5 years of the completed development; (ii) Replacement trees shall be semi mature specimens with a minimum girth measured at 1m above ground level of not less than 25cm and an initial planting height of not less than 6m. The species of the replacement tree/s will be agreed in writing with the LPA; (iii) Replacement planting shall be completed in the planting season immediately following felling, or as otherwise agreed in writing with the Council. The location of the replacement tree/trees shall be in the immediate vicinity of the tree/trees being removed; (iv) If the replacement tree/trees planted in accordance with this condition is/are removed, dies or becomes damaged or diseased within 5 years of the replacement planting date, it/they shall be replaced within the next planting season by a tree of the same size, in the same location and of the same species.
- 13) The development shall not be occupied until the developer has provided wheeled refuse bins conforming to British Standard BSEN840 and communal paper/card and mixed can recycling bins are provided in addition to storage facilities for the bins in accordance with the plans approved by the Local Planning Authority.
- 14) Within 1 month of the approval of the application, the Applicant shall submit a Car Parking Management Plan, to be approved in writing with the Local planning Authority. The Car Parking Management Plan shall include details of management and access of the approved parking spaces by residents of Merrywood Park. The Car Parking Management Plan shall be implemented upon approval by the Local Planning Authority. Thereafter the parking spaces shall be retained and maintained, in accordance with the approved Car Parking Management Plan, for their designated purpose.