

UPPER TRIBUNAL (LANDS CHAMBER)



UT Neutral citation number: [2022] UKUT 0172 (LC) UTLC Case Number: LC-2020-33

By remote video platform

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

RESTRICTIVE COVENANTS – DISCHARGE OR MODIFICATION – proposal to erect a three-storey side extension to a town house in breach of covenant not to alter external plan or elevation – proposal to use for business purposes in breach of covenant – lack of planning permission - whether covenant secures practical benefits of substantial value or advantage – application refused

AN APPLICATION UNDER SECTION 84 OF THE LAW OF PROPERTY ACT 1925

BETWEEN:

(1) RAJARAJAN NARAYANASAMY NAIDU
(2) KAVITHA DAMODHARASWAMI NAIDU

Applicants

-and-

(1) VALERIE MORTON
(2) HANS ANDREASSEN AND ELSBETH ANDREASSEN
(3) EDWARD SWEENEY AND JANET SWEENEY

Objectors

Re: 52 Beechcroft Manor,
Weybridge,
Surrey,
KT13 9NZ

Mrs Diane Martin MRICS FAAV

Heard on 1 June 2022

Decision Date: 4 August 2022

Ms Lorraine Francis, solicitor, for the applicants

The following cases are referred to in this decision:

Alexander Devine Children's Cancer Trust (Respondent) v Housing Solutions Ltd (Appellant)
[2020] UKSC 45

Shephard v Turner [2006] 2 P&CR 28

Smith v Goodwin [2021] UKUT 145 (LC)

Introduction

1. This is an application for the Tribunal to discharge or modify restrictive covenants (“the restrictions”) that burden the title to 52 Beechcroft Manor, Weybridge (“the Property”), preventing any alteration to the external plan or elevation of the building and preventing its use for business purposes. The Property is a three storey town house at the end of a terrace of three similar but not identical houses within a spacious private development. The restrictions are contained in a transfer dated 6 January 1989 (“the 1989 transfer”) between Seward Homes Limited and Wolverlight Developments Limited (Vendor) and Jacqueline Anne Hall (Purchaser). They are stated to be “for the benefit and protection of all other premises now or formerly vested in the Vendor and comprised in the Development...”.
2. Mr and Mrs Naidu (“the applicants”) made their application on 16 November 2020, ahead of any application for planning consent or pre-application advice and with no supporting details of their proposal for a side extension. The objectors made their objections on the principle of the proposals. Mr and Mrs Sweeney live at No. 53, adjoining the property. Mr and Mrs Andreassen live at No. 54, on the other side of No. 53. Mrs Morton lives at No.51 which is the end house of a terrace of six, sitting above and at an angle to the Property.
3. On 1 November 2021 the applicants made a pre-application enquiry to Elmbridge Borough Council (“the Council”) accompanied by plans showing elevations and floor plans for the proposed three storey side extension. This is not a public process and the objectors were not made aware of the enquiry. The supportive response to the pre-application enquiry, together with the plans, was sent to the objectors on 15 February 2022. Simon Metcalfe MRTPI, a planning consultant with Alder King in Bristol, prepared a planning statement for the applicants dated 18 February 2022 in which he addressed the likely impact on the objectors of the proposed extension and change of use. This was sent to the objectors on 24 February 2022.
4. I held a case management hearing by remote video platform on 26 May 2022, with the intention of explaining to the objectors how to participate in the hearing as unrepresented parties. The objectors declined to take part in the case management hearing as they did not intend to participate in the hearing of the application.
5. I made a site inspection on 31 May 2022 accompanied by Mrs Naidu, her solicitor Ms Lorraine Francis, and the objectors. I inspected the garden of the Property, where the proposed extension would be constructed, and the garden of No. 51. I became aware at the inspection of the strong feelings held by the objectors as a result of what they perceived to be a lack of communication by the applicants to explain their proposals in person, a reliance on formal communications from their solicitors and the Tribunal, and a general lack of detail until a very late stage in the process. I have some sympathy with their view, but do not believe there was an intention on the part of the applicants to be vexatious. I am conscious that for much of the period between the application to the Tribunal and the progression of the planning application, Covid 19 restrictions and cautions were in place.

6. I heard the application by remote video platform on 1 June 2022. The objectors did not attend the hearing, relying on their objections as evidence. Mr Naidu had submitted written evidence with the application but was working overseas and therefore unable to give oral evidence. Ms Francis relied on the report of Mr Metcalfe in support of the application.
7. On the morning of the hearing, the objectors and I received copies of the applicants' planning application, dated 25 April 2022, for permission to build a three storey extension to the side of the property and provide an additional parking space in front of the Property. This included detailed floor plans and elevations, based on those submitted with the pre-application enquiry.

The factual background

8. Beechcroft Manor comprises spacious private grounds in which have been built several three storey blocks of flats and two terraces of houses. The two terraces are angled away from each other, as shown on the plan below, with Nos. 46 – 51 in a terrace of uniform three storey houses on one level and Nos. 52 – 54 stepped down in a terrace on a steeply sloping road. Nos. 52 and 53 are tall narrow three storey houses. No. 54 is a two storey house with a larger footprint and attached single garage. Each house has individual features and is set back slightly from the next. Nos. 52 and 53 were built with integral single garages and have parking for a car on the access drive. In the Property the garage has been converted to provide a fourth bedroom. No. 54 has parking in front of the house and also in front of its attached garage. A further three dedicated parking spaces are provided as shown on the plan.



9. The Property is located at highest end of the terrace, within a sloping corner plot which sits below the level of No. 51. It is constructed of brick under a concrete tiled roof with a mixture

of timber and UPVC windows. The side elevation where the extension is proposed contains on the ground floor a small WC window, at first floor level a small landing window and larger oriel window to the sitting room, and at second floor level a small landing window. The side and rear gardens are terraced, above a retaining wall, with high laurel and leylandii hedges along part the boundary with the road and No. 51. A semi-mature silver birch tree grows in the corner of the rear garden close to the boundary with No. 53.

10. The applicants purchased the Property on 12 March 2009, by which time the garage had been converted to provide a fourth bedroom. In addition the ground floor accommodation includes an office with access to the garden and a WC. The first floor comprises a kitchen, dining room, and sitting room with balcony overlooking the rear garden. The second floor comprises a master bedroom with en-suite facilities, a bathroom and two further bedrooms, of which one is very small.
11. The proposed extension would be constructed of similar materials to the existing house, with a slightly lower roof and with the front elevation stepped back by 300mm. At a width of 3.5m it would add more than 50% to the existing frontage. It would provide a further bedroom, a shower room and utility room on the ground floor, allowing the existing fourth bedroom to become a second study/office. On the first floor the whole of the new area would be a living room with windows to the rear and side. On the second floor the additional space would be used to provide a large new bedroom with en-suite bathroom, and a dressing room and larger en-suite bathroom for the existing master bedroom. The new side elevation would have two full size windows at first floor and an additional window at second floor.
12. Construction of the extension would require part of the garden and its retaining wall to be taken back, at the side and front corner of the house, and a new retaining wall to be built. At the entrance regrading would be required, together with cutting back of the leylandii hedge, to give access for construction and then to provide the proposed second parking space. The construction period is expected to be at least six months.
13. On 21 January 2022 the Council confirmed to the applicants' architect that the proposal for a three storey side extension, submitted for pre-application advice, was considered acceptable overall, subject to formal consultation with neighbours and relevant consultees. Reference was also made to the need to submit details of how a new supporting wall in the garden could be achieved safely.

The legal background

14. The restrictions are contained in the Third Schedule to the 1989 transfer of the Property, which provides:

“(a)(i) Not without the previous written consent of the Vendor to alter the external plan or elevation of any building standing upon the Transferred Property nor without the like permission to erect any building thereon save those erected or in the course of erection at the date hereof

...

(b) Not to use the Transferred Property at any time for any purposes other than that of a single private dwellinghouse and so that no trade business or manufacture whatsoever shall be carried on

...”

15. I will refer to the restrictions as the “building restriction” and the “business restriction”.
16. Section 84(1) of the Law of Property Act 1925 gives the Tribunal power to discharge or modify any restriction on the use of freehold land on being satisfied of certain conditions. The application was made under grounds (a), (aa) and (c).
17. Ground (a) of section 84(1) is applicable where a restriction has become obsolete as a result of changes to the neighbourhood since it was imposed.
18. Ground (aa) of section 84(1) is satisfied where it is shown that the continued existence of the restriction would impede some reasonable use of the land for public or private purposes or that it would do so unless modified. By section 84(1A), in a case where condition (aa) is relied on, the Tribunal may discharge or modify the restriction if it is satisfied that, in impeding the suggested use, the restriction either secures “no practical benefits of substantial value or advantage” to the person with the benefit of the restriction, or that it is contrary to the public interest. The Tribunal must also be satisfied that money will provide adequate compensation for the loss or disadvantage (if any) which that person will suffer from the discharge or modification.
19. In determining whether the requirements of sub-section (1A) are satisfied, and whether a restriction ought to be discharged or modified, the Tribunal is required by sub-section (1B) to take into account “the development plan and any declared or ascertainable pattern for the grant or refusal of planning permissions in the relevant areas, as well as the period at which and context in which the restriction was created or imposed and any other material circumstances.”
20. Where ground (c) is relied on, the Tribunal may discharge or modify a restriction if it is satisfied that doing so will not injure the persons entitled to the benefit of the restriction.
21. The Tribunal may also direct the payment of compensation to any person entitled to the benefit of the restriction to make up for any loss or disadvantage suffered by that person as a result of the discharge or modification, or to make up for any effect which the restriction had, when it was imposed, in reducing the consideration then received for the land affected by it. If the applicant agrees, the Tribunal may also impose some additional restriction on the land at the same time as discharging the original restriction.
22. The applicants’ case on ground (a) is that the restrictions are obsolete due to the change in the nature of the neighbourhood since they were imposed. On ground (aa) they say that the restrictions prevent the reasonable use of the property, that modification would not result in those entitled to the benefit of them losing something which provides a practical benefit of substantial value, and that money would be an adequate compensation for any loss suffered.

Moreover, the consent of the developers to the proposals cannot be obtained since the developers no longer exist. The objectors will have the opportunity to comment on the proposals through the planning process and will have the comfort that scrutiny of design details and an assessment of the impact on neighbours will be part of that process.

23. The objectors say that the restrictions are not obsolete because there is no evidence of appreciable change in the neighbourhood since they were imposed and they continue to protect the nature of the original development. If modification were allowed, this itself would lead to a change in the neighbourhood and would set an undesirable precedent. The objectors see no need for discharge or modification of the business restriction simply to enable the applicants to work from home or run a business from home. If the restriction was modified to allow more significant business use that would be detrimental to a residential neighbourhood and cause significant access and parking problems. When making their objections the objectors had not been provided with a detailed proposal for the extension and once this was made available no further submissions were made on the likely impact on their respective properties.

Evidence for the applicant

24. In his written evidence, submitted with the application in November 2020, Mr Naidu explains that he and his wife have lived at the Property since purchasing it on 20 April 2009. They have children aged (at that time) 11 and 16 and wish to extend their property to provide more independent space for them and a comfortable working environment for the family. Both Mr and Mrs Naidu are able to work from home in their current employments and wish to have the flexibility to do so if they became self-employed people running their own businesses.
25. Mr Metcalfe's planning statement was submitted as written evidence of his expert opinion on the applicants' proposals, and their application to the Tribunal, from a planning perspective. He had visited the Property on 15 February 2022. Regarding the restriction preventing use for business purposes, it is his opinion that a change of use of the Property from Class C3 (residential) to Class B2/B3 or E(c), to allow it to be used exclusively for some form of business purpose and not as a dwelling, would not be appropriate in the residential area and would be unlikely to gain planning permission. However, working from home or running a business from the property where the primary function remained as a private residential property would not be 'development' as defined in section 55 of the Town and Country Planning Act 1990 and would be considered appropriate in a residential area.
26. Mr Metcalfe reviewed the planning history of the Property, which was constructed following grant of planning permission for the terrace of three houses in 1987. Permission was granted subject to eight conditions but permitted development rights were not removed. Mr Metcalfe concludes that had the Council been concerned that permitted development could result in detriment to the Property, the amenity of neighbours or the character of the area they would have removed permitted development rights. In December 2001 an application for permission to erect a detached garage at the Property was refused, and an appeal against the decision was dismissed in September 2002. In his decision the inspector identified that the open area beside No. 52 made "...a significant contribution to the open character of the area,

being located in a prominent position between the two terraces and almost a focal point of the estate as three roads meet.” He also stated that it would “...appear particularly intrusive because it would extend beyond the building line of the adjacent terrace.” Mr Metcalfe distinguishes the current proposal because it would be attached to the house, set back from the street at a lower level and the established building line of the terraces would not be broken. He says that the general openness of the property and how it contributes to the wider character of the area would not be materially affected.

27. It is Mr Metcalfe’s opinion that the design, scale, mass and proportions have been well considered by the applicants and their architect. The extension would remain subservient to the existing property due to its lower height and stepped back front elevation, which follow the Council’s published guidance on home extensions. The location, design and proportion of the fenestration would reflect the existing character of the Property and comply with the Council’s guidance. Because the Property is partially screened by laurel and conifer hedging, and sits at a level lower than the approach road, its prominence within the wider setting of Beechcroft Manor would be reduced. The extension would be read as part of the existing terrace and the juxtaposition with the adjacent terrace would not be significantly altered.
28. Mr Metcalfe considered the impact of the proposed extension on the objectors’ properties, in particular the adjoining No. 53 and adjacent No.51. He concluded that there would be no loss of light or overbearing impact on No. 53, and no loss of privacy since all new windows in the extension would share the same orientation as in the existing Property. The gable end wall of No. 51, which sits above the Property and at an angle to it, has no windows which could lose light or privacy, or experience an overbearing impact as a result of the proposed extension at a lower level.
29. The existing garden to the side and rear of the Property is generous in size and Mr Metcalfe considered that the smaller reconfigured garden which would result from construction of the extension would still be materially larger than the gardens of most other properties. The only notable tree in the garden is a silver birch at the rear, which would not be affected by the extension. The proposal would not therefore result in a detriment to the ‘green’ character of Beechcroft Manor. The provision of an additional parking space at the front of the property would still leave a good balance of parking and planting on the corner plot.

The arguments and my conclusions on grounds (a), (aa) and (c)

Ground (a): Are the restrictions obsolete?

30. Ms Francis submitted that changes in the character of the neighbourhood are about to happen as a result of planning consent recently granted for additional floors to be constructed above the three storey blocks of flats in Beechcroft Manor. However, I was shown no evidence of this consent, nor evidence of any other changes in the character of the Property or the neighbourhood, nor any other material circumstances to suggest that the restrictions ought to be deemed obsolete. Ground (a) cannot therefore be satisfied.

Ground (aa):

Is the proposed use reasonable and do the restrictions impede that use?

31. I will address the business restriction first since this can be dealt with simply. The objectors are concerned that removing the restriction might allow a commercial enterprise to be run from the Property in the future, which would be detrimental to the residential nature of Beechcroft Manor. The applicants say that they wish to work from home and possibly run businesses as self-employed people in the future. Mr Metcalfe has explained that use of the Property exclusively for a business would not gain planning permission. Working from home or running a business from home do not require planning permission and are not considered in planning terms to be inappropriate in a residential area. The objectors do not consider that the restriction needs to be modified to permit these types of activity. I understand that the applicants took a precautionary approach in respect of the business restriction, but in my judgment the restriction does not impede the uses they propose, in which business use will remain ancillary to the primary residential use of the Property. Ground (aa) cannot therefore be satisfied.
32. Turning now to the building restriction, there is no doubt that the restriction impedes construction of the proposed extension. The existence of a planning consent is often viewed as good evidence of a proposed use being reasonable. There is as yet no consent, but the response to a pre-application enquiry described the proposal as conditionally acceptable and so, in the absence of submissions to the contrary, I would consider the proposed use as a reasonable one in general terms.

Does impeding the proposed use secure practical benefits of substantial value or advantage?

33. I received no submissions or evidence on value and I confine myself to considering whether the practical benefits that I have identified are of substantial advantage.
34. I will first consider each objector's property individually and then the general situation of the objectors as owners of neighbouring properties within Beechcroft Manor.
35. No. 54 is separated from the Property by No. 53 and also by its situation at the bottom of a sloping road. There would be no visibility of the proposed extension from No. 54, and no impact on light or privacy. An additional car parked in front of the Property would be visible outside, but this would be no different from the two cars which can be parked at the front of No. 54.
36. No. 53 is attached to the Property and would have no visibility of the proposed extension on its other side. The first floor balcony at the rear of the Property is supported by vertical brick walls, which rise to door height at each side of the balcony to provide screening. These protruding walls would remain and would screen much or all of the view of the proposed extension from the garden of No. 53. I agree with Mr Metcalfe that Mr and Mrs Sweeney at No. 53 would suffer no loss of light or privacy and would not suffer from any overbearing impact.

37. No. 51 is situated above the rear garden of the Property and is likely to have the benefit, to an unknown extent, of structural support provided by and behind the retaining walls in the garden. The Council's response to the pre-application enquiry referred to the need to provide details of how a new retaining wall would be achieved safely. This may be assumed to include the safety of the occupiers, the builders and the neighbours. My site inspection confirmed this to be a significant concern, which would need to be allayed by the advice, drawings and specification of a structural engineer. Ms Francis said that it was the intention of the applicants to instruct an engineer in due course but that the expense would not be incurred until the planning situation was clearer. There was no intention to cause a problem to the owner of No. 51. Nonetheless, I perceive this to be a risk and concern to the owner of No. 51.
38. There are no windows in the gable end of No. 51 but the extension would be visible from its curtilage, in particular when approaching the gate which gives access to the rear garden. The path to the rear is bounded by a high panel fence, reducing visibility over the Property for all but tall people. From the raised rear garden of No. 51, the extension would mostly be screened by the mature birch tree in the garden of the Property, but only when it was in leaf and so long as that tree remained in situ. Inevitably there will come a time when it has grown so large that it will need to be trimmed back, or even taken out, and then the top floor of the extension would be visible from the rear garden. The top floor would have a new bathroom window facing No. 51, but this would not be considered to create any loss of privacy by overlooking.
39. In my judgment the building restriction, in impeding the proposed extension, protects from risk the structural integrity of the house and grounds of No. 51 as they were originally constructed and therefore secures an important practical benefit to the owner. A further small practical benefit is that the outlook from the rear garden is protected from change.
40. In more general terms, the objectors say that the building restriction provides practical benefits in protecting the uniformity and continuity of the terraced houses, and their aesthetic value within a tranquil private development. None of the other eight terraced houses has sought to have the restrictions discharged or modified to allow an extension to be built. They suggest that to allow this at No. 52 would set an undesirable precedent. I will comment first on aesthetic value and then on the issue of precedent.
41. On my site inspection I observed that the façade of the upper terrace, Nos. 46 – 51, is notable for its uniformity and lack of alteration since construction. I have already described how the three houses Nos. 52 – 54 are not uniform in appearance, but some of their individual design features are shared with each other and with the upper terrace so that they sit comfortably together as houses from the same period and development. The restriction has prevented the owners of houses in both terraces from carrying out any minor extensions and alterations within the definition of permitted development, so there are no unsightly new porches, replacement windows or altered roof lines to detract from the appearance of the two terraces. The upper two stories of the Property's end elevation form part of the view from the approach road of the junction between the two terraces. The same would be true of the proposed extension, which would be closer to the road but with similar design features.

42. I return to the planning history of the Property and the words of the inspector who referred, in 2002, to the open character of the area adjacent to the Property, in a prominent position between the two terraces. High laurel and leylandii hedges now bound part of the garden of the Property, so the description of an open area does not apply today, but the position remains prominent within the setting of Beechcroft Manor, as Mr Metcalfe acknowledges. The inspector commented that the proposed garage would appear intrusive because it would extend beyond the building line of the adjacent terrace. Mr Metcalfe says that the juxtaposition of the Property with the adjacent terrace would not be significantly altered by the proposed extension. But a 3.5m wide extension would push the north east corner of the Property further forward of the building line of the adjacent terrace and thereby alter the original design.
43. In my view there is some aesthetic value in the nature and appearance of the two terraces as they stand, unaltered except for the significant growth of boundary hedges around the originally open area adjacent to the Property. But I bear in mind that the terraces sit in a wider estate setting in which the other buildings are all three storey blocks of flats. All the houses look out and away from each other, so any benefit derived from the aesthetic value of the terraces is experienced only on the approach to them, not from the individual houses.
44. The objectors fear that modification of the building restriction to allow the proposed extension would set an undesirable precedent. However, every decision of this Tribunal is made on the facts and merits of the case and it is not bound by any previous decisions because all cases are different. I note from the plan that only Nos. 52 and 54 have a plot size sufficiently large to allow an extension of any scale, for which this application might set a precedent. But they are two very different properties in different situations within the development and the facts supporting any application from No. 54 would be different. The same considerations would be applied by the Tribunal but in a different context. Moreover, as Mr Metcalfe states in his evidence, even without the building restriction any development of significance is still subject to control through the planning system, with the opportunity for public comment. In this case I do not perceive that a practical benefit arises from preventing the risk of precedent.
45. Overall, it is my conclusion that the building restriction secures specific practical benefits to Mrs Morton at No. 51 but no discernible practical benefits to the objectors in general. If the practical benefits secured by the restriction are of substantial advantage to any of the objectors, then ground (aa) will not be made out. I must therefore consider whether the benefits secured to Mrs Morton are sufficient to be described as substantial.
46. A substantial advantage in the context of a s.84 application is generally held to be one which is “considerable, solid, big”, as explained by Carnwath LJ in *Shephard v Turner* [2006] 2 P&CR 28, at [19] – [23]. Although I take seriously the benefits secured by the building restriction for Mrs Morton, I am conscious that the controls provided within the planning system are there to ensure that the adverse impact on neighbours of proposed development is mitigated by a framework of national policy and guidance. The additional protection provided by the restriction is important but, in this case, I do not consider it to be a substantial advantage.

Would money be an adequate compensation for the loss or disadvantage caused by modification?

47. Whether money would be an adequate compensation for the disadvantage which Mrs Morton might suffer from modification I cannot judge in the absence of a planning permission with its associated conditions. If a planning permission is obtained which recognises within its conditions the importance of structural engineering drawings for excavation and reconstruction of the retaining wall, and those conditions are followed rigorously, then in principle modification should cause no permanent loss or disadvantage requiring monetary compensation. There would inevitably be temporary disruption and disturbance during the construction phase but, in an appropriate case, the Tribunal would have no difficulty in assessing a small sum as compensation for any such temporary inconvenience.

General considerations

48. S.84(1)(B) requires the Tribunal to take into account the development plan and any declared or ascertainable pattern for the grant or refusal of planning permissions in the relevant area. I received evidence on this in Mr Metcalfe's planning statement, in which he stated that the planning history of the neighbourhood revealed little that had required the benefit of planning permission since construction of the Property. His review of local planning policy documents confirmed that the design of the proposed extension meets the requirements of the development plan for the area. The result of the applicants' pre-enquiry application supports this contention.
49. The Tribunal is also required to take into account the period at which and context in which the restrictions were created or imposed and any other material circumstances. When the restriction was imposed, in the 1989 transfer, it was for the final phase of development in the Beechcroft Manor estate, which has since remained unchanged. However, national planning policy has evolved considerably over the intervening period of 33 years and that context is very different today, as evidenced in the previous paragraph.

Ground (c): Will the proposed modification cause injury to persons entitled to the benefit of the restrictions

50. In the absence of a planning permission with conditions, it is not possible to say whether modification might cause injury to Mrs Morton at No. 51 and so ground (c) is not satisfied.

Determination

51. I am satisfied that jurisdiction is made out under ground (aa) for me to modify the building restriction, which impedes a reasonable use of the Property and does not secure to the persons entitled to the benefit of it practical benefits of substantial value or advantage. But this is only the first step in my determination.
52. In *Alexander Devine Children's Cancer Trust (Respondent) v Housing Solutions Ltd (Appellant)* [2020] UKSC 45, the Supreme Court confirmed that while an applicant may be

able to make out one of the grounds of section 84(1) it is then necessary for the Tribunal to decide whether it should exercise its discretion to modify.

53. A lack of planning permission is not necessarily fatal to an application for modification, as demonstrated by the decision of the Tribunal (Mr P D McCrea FRICS) in *Smith v Goodwin* [2021] UKUT 145 (LC) where a conditional modification was granted. In this case, however, the structural concerns affecting Mrs Morton at No. 51 require specialist engineering input, for which a conditional modification would be inappropriate. I am therefore not prepared to exercise my discretion to modify the building restriction before scrutiny and determination through the planning process have taken place.
54. If planning permission is obtained, the applicants will have the option of renewing their application to this Tribunal for modification. They will also have the option of engaging directly with the objectors, in particular Mrs Morton, to see whether the concerns underlying the objections have been satisfied by the permission and its conditions.

Mrs Diane Martin MRICS FAAV

Member, Upper Tribunal (Lands Chamber)

4 August 2022

Right of appeal

Any party has a right of appeal to the Court of Appeal on any point of law arising from this decision. The right of appeal may be exercised only with permission. An application for permission to appeal to the Court of Appeal must be sent or delivered to the Tribunal so that it is received within 1 month after the date on which this decision is sent to the parties (unless an application for costs is made within 14 days of the decision being sent to the parties, in which case an application for permission to appeal must be made within 1 month of the date on which the Tribunal's decision on costs is sent to the parties). An application for permission to appeal must identify the decision of the Tribunal to which it relates, identify the alleged error or errors of law in the decision, and state the result the party making the application is seeking. If the Tribunal refuses permission to appeal a further application may then be made to the Court of Appeal for permission.