

## Appeal Decision

Site visit made on 8 September 2016

**by Jane Miles BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 14 November 2016**

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**Appeal Ref: APP/L3625/W/16/3150102**

**Land at Stanton Lodge and to the rear of 1-7 Shelveys Way, Tadworth, Surrey KT20 5QJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Chris Jasper of Devine Homes plc against Reigate & Banstead Borough Council.
  - The application ref: 15/02752/F, dated 4 December 2015, was refused by notice dated 31 March 2016.
  - The development proposed is the erection of 6 residential dwellings, associated parking and landscaping, and creation of new access drive onto Shelveys Way, following the demolition of Stanton Lodge.
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### Decision

1. *The appeal is allowed and planning permission is granted for the erection of 6 residential dwellings, associated parking and landscaping, and creation of new access drive onto Shelveys Way, following the demolition of Stanton Lodge on Land at Stanton Lodge and to the rear of 1-7 Shelveys Way, Tadworth, Surrey, KT20 5QJ, in accordance with the terms of the application, ref: 15/02752/F, dated 4 December 2015, subject to the conditions listed at the end of this decision.*

### Reasons

2. The **first main issue** in this appeal is the effect of the proposals on the character and appearance of the surrounding area. The **second main issue** is whether or not it is necessary to make provision for a contribution towards affordable housing.

#### *Character and appearance*

3. The appeal site is in a predominantly residential area, identified in the Council's Local Distinctiveness Guide (LDG) (2004) as '1930s-1950s Suburbia'. Stanton Lodge is the first property on the south side of Shelveys Way, at its eastern end near the junction with the A217 dual carriageway. The property's long eastern boundary adjoins the strip of woodland running along the western side of the A217 corridor, in the Metropolitan Green Belt. The Green Belt corridor is particularly narrow in this vicinity, with more residential development beyond the wooded strip which runs down the road's eastern side. Thus although there are no buildings in this narrow strip of Green Belt, the nearby residential
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- development to both sides and the volume of traffic on the dual carriageway are such that there is little sense of this part of the corridor as countryside.
4. The rear garden boundary of Stanton Lodge together with those of nos. 1-7 to the west adjoins an irregularly shaped area of woodland of varying widths. The woodland, curving around three sides of another area of housing further to the south-west of the appeal site, is land designated on the Proposals Map of the Reigate & Banstead Borough Local Plan (LP) (2005) as 'Urban Open Land'. The various wooded areas are undoubtedly attractive and contribute positively to the character and local distinctiveness of the appeal site locality. Even so, on the appeal site itself the character is primarily suburban, again with little sense of being adjacent to the countryside edge.
  5. The proposed redevelopment would involve removing trees and other vegetation but there is no specific objection from the Council in this respect and the most significant of the trees that would remain on and around the site are protected by a Tree Preservation Order (TPO). Moreover there would be scope for new tree planting (which could be secured by condition). Thus the immediate surroundings for both existing and proposed houses would remain generally green and sylvan. In particular, the visual impact of the proposed development on the A217 corridor in the Green Belt would not differ to any significant degree from that of the dwelling to be demolished.
  6. In this site-specific context, and even though the scheme would bring built development closer to the 'Urban Open Land', I find it difficult to understand the Council's concern that the scheme would fail to achieve an appropriate transition to the countryside. I find neither sufficient grounds to reject the scheme on this basis, nor any material conflict in this respect with saved LP Policy Ho9 (Design and Layout).
  7. Turning to how the appeal scheme would or would not fit into its residential context, the Council relies in part on development plan policies relating to maintaining character and amenity, particularly in infill and redevelopment schemes (saved LP Policy Ho13) and to developing back garden land (saved LP Policy Ho14). Policy Ho13 includes an expectation that proposals will 'conform' to the pattern of development in the surrounding area. Criteria in Policy Ho14 expect the area's general pattern and form of development to be maintained, with proposed plot sizes and spacings between buildings to reflect those predominating in the surrounding area.
  8. However any infill or redevelopment will inevitably change the existing pattern of development such that, realistically, it is unlikely there will be many instances where existing patterns, plot sizes and building spacings will be maintained. That expectation is all the more questionable given more recent guidance in the *National Planning Policy Framework* which advocates optimising a site's potential to accommodate development, and also boosting the supply of housing (in addition to highlighting the importance of good design, advice that development should respond to local character and reference to promoting or reinforcing local distinctiveness). These criteria of the LP policies are not wholly consistent with the *Framework*, which is an important material consideration. I therefore give greater weight to the *Framework* in assessing these aspects of the appeal scheme's layout, scale and form.
  9. The two detached and four semi-detached dwellings would occupy smaller plots than is characteristic along the south side of Shelveys Way and the spacing

between the four building blocks would be less generous. However in the context of a new group of buildings that would be seen primarily from within the development, rather than in association with the Shelveys Way street scene, the plot sizes and the spacing between the buildings would not be unusual for this type of development: they would not result in an unduly cramped form of development. Moreover, no objection is raised by the Council to the scale, massing or external appearance of the two storey dwellings.

10. The width of the corridor for the access road and the overall layout in front of the houses would create opportunities for additional landscaping despite the relatively small spaces of differing sizes and shapes directly in front of each house. Thus taking the development as a whole, including trees to be retained on and around the site, I find insufficient grounds to conclude that it would be a car-dominated layout. Moreover whilst I note guidance in the LDG seeks to avoid vehicles dominating 'the street frontage', the layout in this scheme would not create a traditional street frontage character as such. Rather it would create a grouping of new houses in an informal cul-de-sac more akin to a private drive, thus resulting in a development with its own character without causing any material harm to the established character of Shelveys Way.
11. I have had regard to all other matters raised on this issue, including various references to developments permitted elsewhere in the wider locality. However having assessed the appeal scheme on its own merits in its particular site context it is primarily for the reasons set out above that I conclude it would not result in any material harm to the character and appearance of the surrounding area or its local distinctiveness. I further conclude there would be no material conflicts in this respect with the development plan or with the *Framework*.

#### *Affordable housing*

12. Policy CS15 of the Reigate and Banstead Local Plan: Core Strategy (CS) (2014) supported by an Affordable Housing Supplementary Planning Document (SPD) (2014) sets out the Council's approach for negotiating to achieve affordable housing. That approach includes taking account of viability and it aims to secure at least 1,500 new affordable housing units between 2012 and 2027. Schemes of 1-9 dwellings (net), such as this appeal scheme, are expected to make a financial contribution broadly equivalent to 10% affordable housing provision. The Council officers' report on the appeal application suggests the appellant was initially willing to make such a contribution, but no means of securing it was in place when the application was refused.
13. Nor has any provision subsequently been made, and it is not the appellant's case that a contribution would make this scheme unviable. Rather, in the light of a Court of Appeal (CoA) judgment<sup>1</sup> (issued since the appeal application was refused) and current advice in the national *Planning Practice Guidance* (PPG), the appellant considers no contribution should be payable. In these circumstances the absence of any provision for an affordable housing contribution conflicts with Policy CS15.
14. The PPG<sup>2</sup> now reflects the content of a Written Ministerial Statement (WMS) of 28 November 2014 which includes a statement that local planning authorities

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<sup>1</sup> Secretary of State for Communities and Local Government v West Berkshire Council and Reading Borough Council [2016] EWCA Civ 441

<sup>2</sup> In paragraph 031, ID: 23b-031-20160519

should not seek affordable housing contributions from developments of less than 10 dwellings. The intention is to reduce the financial burden for small-scale developers and help boost the supply of housing, which is a key element of the *Framework*. This advice is to be treated as Government policy and, as such, it is a very significant material consideration.

15. The Council accepts the WMS and PPG are material considerations, but it has produced a Position Statement (PS) to support its case that the level of need for affordable housing in the Borough is so great that CS Policy CS15 should continue to apply to developments of 1-9 dwellings (net). As the appellant has noted in responding to the PS, this document does not appear to have been subject to any form of public consultation. Nor does it appear to have the status of an adopted guidance document, such as an SPD. These are matters which limit the weight it can be given.
16. The PS does set out the background to the undoubted need for and challenges of affordable housing provision in the Borough, as well as the importance of contributions from small-scale developments and the Council's approach to reducing the burden on small-scale developers. It includes statistics relating to the affordability of market and rented housing, and to the numbers of completions by various types of developer.
17. The completions data shows that 25% of new homes built in the 7-year period before CS Policy CS15 came into effect were completed by small-scale developers, compared with 28% in the 2 subsequent years<sup>3</sup>. Those figures feed into the Council's finding of substantive evidence that viability on small sites has not been affected by requiring affordable housing contributions. However it is not entirely clear how that conclusion has been reached, not least as the figures are annual totals for completions by 'small-scale developers' (defined as those delivering up to 100 units per annum) without any breakdown to identify what proportion of the total comprises developments of just 1-9 dwellings.
18. That is just one query arising from the PS, and others are raised in a recent appeal decision put before me<sup>4</sup>, albeit that relates to a proposal for just one dwelling. I note also that although the PS has appended to it an appeal decision relating to a site in Elmbridge<sup>5</sup>, in which the Inspector found in favour of that Council's similar approach to this matter, the appellant in this case has produced three other appeal decisions for sites in Elmbridge<sup>6</sup> where Inspectors reached the opposite conclusion.
19. In these circumstances, including the question of the weight that can be given to the PS, I have serious doubts about relying on it as justification for departing from the approach advocated in the WMS and PPG. Notwithstanding the undoubted need for affordable housing in this Borough, I therefore give greater weight in this case to the WMS, PPG and policy guidance in the *Framework* which seeks to boost the supply of housing than to CS Policy CS15. Thus, despite the conflict with CS Policy CS15, I find insufficient grounds to conclude it is necessary to make provision for a contribution towards affordable housing.

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<sup>3</sup> That is, 1 April 2014 to 31 March 2016

<sup>4</sup> Appeal ref: APP/L3625/W/16/3151612, decision dated 11 October 2016

<sup>5</sup> Appeal ref: APP/K3605/W/16/3146699, decision dated 12 August 2016

<sup>6</sup> Appeal refs: APP/K3605/W/15/3129629 (+2), decision dated 7 July 2016; APP/K3605/W/16/3150955, decision dated 31 August 2016; APP/K3605/W/16/3149477, decision dated 8 September 2016

*Other matters, overall conclusions and conditions*

20. Of the various additional concerns expressed by local residents and a Residents Association the most significant relate to matters of highway safety. I have borne in mind that Shelveys Way is a relatively busy road and that the proposed access drive would meet it at a point relatively close to the junction with the A217. However the Highway Authority is satisfied the proposed access and parking arrangements would be acceptable. On balance I find insufficient grounds to conclude the access arrangements for a net increase of five dwellings in this location would compromise highway safety. Neither this nor any other matter raised is sufficient to alter or outweigh my conclusions on the two main issues. These lead me to conclude overall that the appeal should succeed and permission should be granted subject to conditions.
21. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. Some additional details to supplement the submitted Tree Report/Tree Protection Plan are necessary to protect the health and well-being of trees that contribute to the area's amenity. A Construction Management Plan is justified in the interests of highway safety and residential amenity. Details of external materials and a landscaping scheme are needed in the interests of visual amenity. Conditions relating to provision of the vehicular access, turning and parking facilities are necessary in the interests of highway safety.
22. To protect privacy at neighbouring properties it is only necessary to require obscure glazing of side-facing windows in plots 4 and 6, given the nature of the site and individual dwelling layouts. Also for this reason it is appropriate to remove permitted development rights for additional windows at first floor and roof levels. However given the non-specific nature of saved LP Policy Ho9(xii), the content of a WMS of 25 March 2015 and the current requirements of the Building Regulations, it would not be appropriate to require a scheme to provide at least 10% of the development's energy needs by renewable methods. The conditions which follow are based on those suggested by the Council, with some amendment in the interests of precision and clarity.
23. *Planning permission is therefore granted subject to the following conditions:*
- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans, drawing nos:

15003-A-PL01-revB	Site location plan;
15003-A-PL03-revC	Proposed site layout (coloured);
15003-A-PL04-revB	Block plan;
15003-A-PL05-revB	Plots 1 & 2, floor plans & elevations;
15003-A-PL06-revB	Plot 3, floor plans & elevations;
15003-A-PL07-revB	Plot 4, floor plans & elevations;
15003-A-PL08-revB	Plots 5 & 6, floor plans & elevations;
15003-A-PL09-revB	Plot 6, car barn plan & elevations;
15003-A-PL010-revA	Existing and proposed street sections;
15003-A-PL011-revB	Site sections;

15003-A-PL012-revA Proposed street scene within site;  
BLC150163 Tree Survey Plan;  
BLC150170 revA Tree Protection Plan.

- 3) No development shall take place (including groundworks and demolition) until a scheme of supervision for the tree protection measures [set out in the approved Tree Protection Plan and the 'Arboricultural Implications Assessment and Method Statement for No-Dig Construction' (the Tree Report) by Bourne Landscape Consultants, dated 30 November 2015] has been submitted to and approved in writing by the local planning authority. The scheme shall include provisions for: a pre-commencement meeting between the retained arboricultural consultant, local planning authority Tree Officer and individuals/personnel responsible for implementing the approved development; a supervision and monitoring regime; a process for reporting to the local planning authority.
- 4) No development shall take place (including groundworks and demolition) until tree protection measures have been put in place in accordance with the Tree Protection Plan, Tree Report and the supervision scheme approved pursuant to condition 3. The tree protection measures shall remain in place and development shall be carried out at all times during the construction period in accordance with those measures and with the supervision scheme approved pursuant to condition 3.
- 5) No development shall take place (including groundworks and demolition) until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of provisions for the parking of vehicles of site personnel, operatives and visitors; loading, unloading and storage of materials; provision of any boundary hoarding behind any visibility zones; a programme of works including measures for traffic management. Works shall be carried out in accordance with the approved Plan at all times during the construction period.
- 6) No development shall take place until details of the materials to be used in the external surfaces of the buildings hereby permitted, including fenestration, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include: details of hard landscaping materials; details of soft landscaping including planting plans/specifications and plant schedules with species, numbers/densities and size at planting; an implementation and management programme. All hard and soft landscaping shall be carried out in accordance with the approved scheme.

Any trees or shrubs which within a period of 5 years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise approved in writing by the local planning authority.
- 8) No dwelling hereby permitted shall be first occupied unless and until the proposed vehicular access to Shelveys Way has been constructed and made available for use in accordance with the approved layout plan and

with details of visibility splays that have first been submitted to and approved in writing by the local planning authority. The visibility splays shall be retained thereafter and kept clear of any obstruction exceeding 1.05m in height.

- 9) No dwelling hereby permitted shall be first occupied unless and until facilities for vehicle parking (including garages) and turning have been provided and made available for use in accordance with the approved plans. The vehicle parking and turning facilities shall be retained and kept available for such purposes at all times thereafter.
- 10) First floor windows in the side elevations of the dwellings hereby permitted on plots 4 and 6 shall be fitted with obscure glazing and fixed shut, apart from top-hung opening fanlights with a cill height not less than 1.7m above internal floor level. Those windows shall be retained in that condition thereafter.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no first floor windows, dormer windows or rooflights other than those expressly authorised by this permission shall be constructed at any dwelling hereby permitted.

*Jane Miles*

INSPECTOR