



Appeal Decision

Site visit made on 8 September 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Appeal Ref: APP/N5090/W/22/3312438

1C Shelley Close, Edgware, Barnet HA8 8DX

- 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 Ms Monica Khirya (Shelley Close London Ltd) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/4162/FUL, dated 11 August 2022, was refused by notice dated 11 October 2022.
 - The development proposed is demolition of the existing dwelling and garage and the erection of 4no. two storey semi-detached dwellings. Associated landscaping, car and cycle parking and refuse/recycling storage.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing dwelling and garage and the erection of 4no. two storey semi-detached dwellings. Associated landscaping, car and cycle parking and refuse/recycling storage at 1C Shelley Close, Edgware, Barnet HA8 8DX in accordance with the terms of the application, Ref 22/4162/FUL, dated 11 August 2022, subject to the conditions set out in the attached Schedule of Conditions.

Applications for costs

2. An application for costs was made by Shelley Close London Ltd against the Council of the London Borough of Barnet. This is the subject of a separate Decision.

Preliminary Matters

3. I have been provided with written confirmation that a revised description of development from that given on the planning application form has been agreed. Accordingly, I have used this revised description which I consider accurately describes the development proposed.
4. Prior to the Council making their decision on the planning application the appellant submitted to it a series of amended plans and documents. This included an amended transport technical note. Amongst other matters, this transport note included a parking survey which identified that 6 vehicular parking spaces would be provided within the site, an increase from the 4 proposed originally. These 6 parking spaces are identified on various other amended plans. The Council have submitted to me that they did not have opportunity to assess the amended transport note. However, on its decision notice the Council have set out the plans and documents which accompanied the planning application and which were received prior to them making their decision. This included the transport note. Furthermore, I have had submitted to me correspondence which indicates that when the Council received the amended transport note and other amended plans and documents, it intended on taking them into account when making its decision. Therefore, and for the avoidance of doubt, in my decision I have had regard to the amended plans

and documents submitted during the planning application inclusive of the parking survey and the 6 vehicular parking spaces shown.

5. Since the Council made its decision, the appellant has submitted an amended landscape plan and a biodiversity net gain calculation. The landscape plan has been amended to depict the 6 parking spaces in order to be consistent with other plans. The biodiversity net gain calculation seeks to quantify the change in the biodiversity value of the site that would result from the development proposed. Whilst these submissions provided updated and additional information, I am satisfied that the appeal proposals have not evolved and that the proposed development remains essentially the same scheme that was considered at the application stage. Again, therefore, I have had regard to the landscape plan and biodiversity net gain calculation in my decision.

Main Issues

6. The main issues are:

- The effects of the proposed development upon the character and appearance of the area;
- The effects of the proposed development upon the living conditions of the occupiers of neighbouring properties on Glendale Avenue with particular regard to their outlook and privacy;
- The effects of the proposed development upon biodiversity; and
- Whether vehicular parking provision would be acceptable.

Reasons

Character and appearance

7. 1C Shelley Close is a bungalow located within a residential area. It forms one of a small group of bungalows accessed via a gated entrance at one end of Shelley Close. No 1C is set within a spacious plot which contains trees and hedges particularly along its plot boundaries. The neighbouring bungalows in this group on Shelley Close are similarly set within spacious and verdant plots.
8. In the surroundings to the group of bungalows, the character and appearance of the area somewhat differs. There are still some bungalows but there are many houses, many are semi-detached and often they are principally 2 storey properties but with a third floor of accommodation within the roof spaces. These types of houses with 2 or 3 floors of accommodation are, like the bungalows, adjacent to the host property. Though still served by quite generous gardens, many of these surrounding houses do not have plot sizes akin to that of No 1C.
9. The precise dimensions of the 4 houses proposed may differ from those adjacent on Sterling Avenue. However, comprising of 2 pairs of semi-detached houses with 2 main floors of accommodation and a third in the roof space, they would nevertheless each be a form of house type which would be similar in form and scale to many houses in the area. Incorporating hipped roof profiles and pronounced gable features to their front elevations, the proposed houses would take some design cues from neighbouring properties. Though the size of each of the gardens which would serve the proposed houses would not be equivalent to the bungalow they would replace, they would still be adequately

- proportioned and quite similar to some of the gardens serving neighbouring properties.
10. The appeal site is set on higher land than that which is adjacent. Given this and, given that the proposed houses would be taller than the bungalow they would replace, the proposed development would be more visible than the existing bungalow is. As a part of this, the upper sections of the proposed houses would be visible behind properties on Glendale Avenue. The increased height of the properties would also be noticeable from the rear of these neighbouring houses. However, the separation that would remain from the proposed houses to the existing houses on Glendale Avenue would be quite generous and it would be farther still to the street. The trees running along the common boundary of the appeal site and the properties on Glendale Avenue are proposed for retention and would provide some screening. The hipped nature of the roof pitches proposed would assist in breaking up the roofscape of the development. This combination of factors would mitigate the effects of the proposed houses being taller and being set on higher land than is adjacent. They would not, therefore, appear harmfully dominant.
 11. At the sides of each of the proposed houses would be a staircase projection. These projections would represent a different design feature from the neighbouring houses. However, given each of the proposed houses would share this staircase feature they would be a distinctive element common to all 4 houses. Together with the like designed front gable projections and the rear dormer windows, the staircase projections would bring cohesion to the proposed development as a whole. Each staircase feature would not be particularly wide and the top of each would be set well below the main roof ridge. Therefore, although they would add some mass to the proposed houses, they would not be unduly obtrusive features. Furthermore, there are houses in the surrounding area with stepped roof profiles, 2 storey side extensions and dormer windows. Consequently, that the proposed houses would have a relatively complex roofscape would not be out of character with the area.
 12. Therefore, the scale, mass and design of the proposed houses would be of high quality. The proposed houses would be sympathetic to those within the site's surroundings. In coming to this view, I accept that the host property, situated at the end of Shelley Close and partly concealed by trees, is within a relatively secluded setting. Nevertheless, for the above reasons, the proposed development would not be out of character with the area.
 13. The tree loss proposed would be quite significant and there would, I accept, be some erosion of its presently verdant character. Despite this, the submitted tree report submits that the individual trees and the tree groups proposed for removal are of low, rather than moderate or high quality. I have no substantive evidence before me which indicates otherwise. The existing trees on the rear boundary to be retained would include the single tree identified on the site as being of moderate quality. A proposed soft landscaping scheme would not be able to replicate the tree coverage on site presently, but it would, nevertheless, permit some additional planting which would complement that to be retained. Overall, an acceptable landscaped setting to the development proposed would be provided. Furthermore, given that I have identified that the scale, mass and design of the houses proposed would be acceptable, that mature trees would not remain to largely screen the houses on most sides would not be necessary to ensure that the development would acceptably assimilate into the area.

14. For the above reasons, the effects of the proposed development upon the character and appearance of the area would be acceptable. The proposed development would comply with Policies D3 and G7 of the London Plan, 2021 (LP), Policy CS5 of Barnet's Local Plan Core Strategy Development Plan Document, 2012 (CS) and Policy DM01 of Barnet's Local Plan Development Management Policies Development Plan Document, 2012 (DMP document). The proposed development would also comply with guidance contained within the Residential Design Guidance Supplementary Planning Document, 2016 (SPD). In summary and, amongst other matters, these policies and provisions require that development is of high quality and positively responds to local character and context. They also seek to ensure that trees to be lost are adequately replaced and proposals incorporate landscaping which would provide a suitable visual setting for the development.

Living conditions

15. In the local area the back gardens of many properties abut. This is the case with the host property and the properties on Glendale Avenue to the rear. It is part of the prevailing character of the area that rear elevations of properties are facing, separated by back gardens.
16. In the appeal scheme this typical arrangement is proposed. The evidence before me indicates that the separation distances from the proposed houses to the properties and gardens to their rear on Glendale Avenue would meet or exceed the recommended distances set out within the SPD. The distances provided would also be quite similar to those which are provided for in the local area.
17. Whilst it may be that some thinning out of the trees and the hedgerow on the common boundary between the appeal site and the properties on Glendale Avenue has taken place, the planting here remains quite significant. During the times of the year when it would be fully in leaf in particular, these trees and the hedgerow would partly screen the development. Even in winter it would still have some filtering effect, and this is regardless of whether the proposed landscaping scheme could meaningfully bolster the boundary further. That the trees and the hedgerow could be damaged and removed in the future cannot be ruled out. However, I have no compelling evidence that this is likely and that they will not endure in the long term.
18. The proposed houses would be taller than the existing bungalow and, in particular, would be taller than the neighbouring dormer bungalow 41 Glendale Avenue. The level differences between the site and the properties on Glendale Avenue would also exacerbate these height differences to some extent. As a result, I accept that when viewed from the rear of properties on Glendale Avenue the proposed houses would be more imposing than the bungalow they would replace.
19. Even so, the separation distances which would subsist coupled with the screening and softening effects of the boundary landscaping, would ensure the property relationships would be acceptable. The proposed development would not unacceptably infringe upon the privacy of the occupiers of neighbouring properties on Glendale Avenue, would not harmfully affect their outlook nor unacceptably reduce light entering their properties and plots.

20. The living conditions of the occupiers of neighbouring properties on Glendale Avenue would be acceptably preserved and, accordingly, the proposed development would comply with Policy D3 of the LP, Policy DM01 of the DMP document, Policy CS5 of the CS and guidance within the SPD. These policies and provisions require developments to be designed to deliver appropriate outlook, privacy, and amenity for existing and proposed occupiers and, respect local context.

Biodiversity

21. The planning application was not accompanied by a biodiversity net gain calculation. A landscape design document and landscape plan, arboricultural report, tree protection plan and a preliminary ecological appraisal and preliminary roost assessment were submitted at that time. Although these show that quite significant tree loss would result from the development, they also identify that the site in general is of low or limited ecological value. These documents further identify that planting with mixed native species is proposed and other mitigation measures could secure on site gains for biodiversity. These submissions therefore indicated that the proposed development could deliver more diverse habitats to the benefit of wildlife.
22. The biodiversity net gain calculation submitted as part of the appeal builds upon the findings of some of the documents mentioned above. The calculation submits that, once delivered, the proposed development would result in substantial biodiversity gains in comparison to the existing baseline. I have no substantive evidence before me which indicates otherwise.
23. Consequently, I find that the effects of the proposed development upon biodiversity to be acceptable. Given my above findings and the evidence which is before me, the amount of advice provided in relation to biodiversity at the pre-application or validation stage is not a determinative factor in my decision. The proposed development would comply with Policy G6 of the LP and Policy DM16 of the DMP document which set out that development proposals should manage impacts on biodiversity and aim to secure net gains.

Parking

24. As existing, the appeal site has a gated vehicular access with vehicular parking provided within the plot. A further gate is in place controlling access to the group of bungalows the host property forms a part of. Beyond this gate, Shelley Close is subject to yellow line parking restrictions with marked on-street parking bays in place with a controlled parking zone (CPZ) in operation the effect of which restricts parking to permit holders between 10am and 11am Monday to Friday. Some of the properties on this part of Shelley Close are served by driveways and garages. Similar parking conditions prevail on neighbouring streets.
25. The parking standards set out within both Policy DM17 of the DMP document and Policy T6.1 of the LP are maximum rather than minimum standards. The Council have set out that the maximum parking provision applicable to the development ranges from between 6 to 8 spaces. In the proposal 6 parking spaces would be provided and this would match the lower figure in this range. Applying the higher figure, there would be a shortfall of 2 spaces.

26. The results of the parking survey undertaken indicate that the parking stress levels within the survey area were not high with many unoccupied parking spaces identified. The results show that there would likely remain capacity to cater for off-site parking demand which may emerge from the development. Given that the parking restrictions controlling parking bays in the area are limited to one hour on week days, this also indicates to me that there would be opportunity for visitor parking within these bays at many times. Given these findings, I have no compelling evidence that the proposed development would result in indiscriminate parking to the detriment of other highway users or highway safety.
27. For these reasons, the vehicular parking provision proposed would be acceptable. The proposed development would comply with Policies T4 and T6.1 of the LP, Policy CS9 of the CS and Policy DM17 of the DMP document. These policies require that development proposals do not increase road danger, establish maximum parking standards for development and further set out that where development is proposed within a CPZ with insufficient parking capacity, future occupiers will be restricted from obtaining street parking permits.

Other Matters

28. In the main issues I have concluded that the living conditions of the neighbouring occupiers within properties on Glendale Avenue would be acceptably preserved. This is partly owing to the separation distances which would be provided for in the development. Similar separation distances would be provided to the neighbouring properties on Hillside Gardens. Shorter separation distances to the bungalow 1b Shelley Close and to the neighbouring property on Sterling Avenue would be provided. Even so, in the proposal, these houses would not be very close to one another and it would be the proposed side elevations rather than front or rear elevations which would be adjacent to these existing properties. Windows within the proposed side elevations would be either obscurely glazed or would not serve the main living spaces within the proposed houses. The pitch of the roofs of the proposed houses would slope away from No 1b Shelley Close and from Sterling Avenue to the highest point of the roof ridges. Given these factors, again, the effects upon the outlook and privacy of the occupants and the levels of light their properties would receive would be acceptable.
29. Reference has been made to incidents of flooding that have taken place in the past and the adequacy of drainage infrastructure. However, I have no reason to conclude that the drainage design of the proposed development would not be adequate or that the risk of flooding would increase as a result of the development.
30. In replacing a single bungalow with 4 houses the occupancy of the site would increase and some additional noise, comings and goings and vehicular movements would result. However, the effects of the intensification of the site occupancy would be quite modest.
31. It is submitted to me that the proposed development may establish a precedent for future similar redevelopment proposals which, in turn, could result in unacceptable cumulative effects. My decision is based firmly on the specifics of the development proposed having regard to the appeal site's particular characteristics. As such, it does not set any precedent that should be applied more generally to the area. Should other redevelopments be proposed

of a similar nature, they would require assessment on their own merits having regard to any potential for cumulative effects.

32. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 (Equality Act), which sets out the need to eliminate unlawful discrimination, harassment, victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The Equality Act sets out the relevant protected characteristics which includes age and disability. In allowing the appeal a bungalow potentially suitable for occupation by the elderly or the disabled would be demolished and replaced with houses potentially less suitable for such individuals. However, it does not follow from the PSED that the appeal should fail. In my view the adverse effects of the proposed development upon those with protected characteristics would not be sufficient to dismiss the appeal.
33. It is submitted to me that the tree protection plan refers to a different development to that which is proposed. However, both the tree protection plan and the accompanying arboricultural report were amended during the planning application process. I have no reason to conclude that they are inaccurate or deficient.
34. Public representations refer to the proposed development enabling vehicles to travel directly between Shelley Close and Sterling Avenue. However, the submitted plans and evidence shows that Shelley Close would remain a dead end. Some objection is raised to the plans to provide cycle parking. However, it is appropriate to promote the more sustainable modes of transport such as cycling. Finally, I have no substantive evidence that the condition of the road would unacceptably deteriorate as a result of the development proposed.

Conditions

35. I have imposed the standard condition in respect of time limitation and a plans condition in the interests of certainty. I have restricted the list of approved plans to those which it is necessary for the development to comply with. I have imposed a condition requiring the devising of a construction and demolition method statement to ensure that the effects of these phases of the development upon the living conditions of neighbouring occupiers would be acceptable. This condition is a pre-commencement condition. This is necessary as the measures to control construction and demolition must be determined before those activities commence.
36. I have imposed a condition to ensure that suitable ecological mitigation and enhancement measures are implemented. This is also a pre-commencement condition and, this is necessary as some mitigation measures must be agreed prior to works on site taking place. For instance, measures to prevent mammals being trapped within open excavations.
37. Some details of the materials to be utilised in the construction of the proposed houses, of their finished levels and of the cycle parking and refuse provision are included within the submitted plans. However, more precise details are necessary to ensure that the development is appropriate having regard to the character and appearance of the area and living conditions. To avoid ground works altering site levels inappropriately and, before those levels are agreed, the levels condition is, necessarily, a pre-commencement condition.

38. Section 197 of the Town and Country Planning Act 1990 (as amended) places upon me a duty to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation of trees. I have therefore imposed a condition to this end. Furthermore, in the interests of the character and appearance of the area and biodiversity, conditions to ensure an adequate landscaping scheme and its implementation are necessary. A drainage condition is needed to ensure that the development is adequately drained in regard to both surface and foul water.
39. The Council have suggested conditions which relate to sound insulation, water consumption and carbon dioxide emission reduction which would require the proposed development to either comply with or exceed the relevant building regulation requirements. The evidence before me, including the development plan policies, that there is an identified need and clear justification for these measures and requirements is not compelling. Therefore, I have not imposed the suggested conditions.
40. A parking survey has been submitted and in the main issues I have concluded that the development's vehicular parking provision would be acceptable. A condition requiring the undertaking of a parking survey, as suggested by the Council, is therefore unnecessary. However, in the interests of precision and highway safety a condition is necessary to ensure the satisfactory demarcation of the parking spaces.
41. The Council have suggested a condition which would remove a range of permitted development rights citing the need to safeguard the living conditions of neighbouring occupiers and, the health of protected trees. However, it has not been shown to me that there are any trees protected by virtue of a tree preservation order which would be likely to be impacted upon by development within the site. Furthermore, given the layout of the development proposed and the site and, given the distances between the proposed houses and neighbouring properties, it has not been shown to me that there is a clear justification for the removal of the freedoms to carry out domestic alterations afforded by permitted development rights. I have, therefore, not imposed the suggested condition.
42. In the interests of precision or clarity I have in some instances made some general amendments to the wording of the suggested conditions but in so doing I am satisfied that neither party's interests would be prejudiced.

Conclusion

43. For the above reasons, having taken account of the development plan as a whole and all other relevant material considerations, including the National Planning Policy Framework, I conclude that the appeal is allowed subject to the conditions in the following schedule.

H Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - P-Lo-D-011 Rev A
 - P-Si-D-012 Rev A
 - P-00-D-013 Rev A
 - P-01-D-014 Rev A
 - P-02-D-015 Rev A
 - P-R-D-016 Rev A
 - E-F/R-D-017
 - E-S-D-018 Rev A
 - X-AA/BB-D-019
 - Tree Protection Plan Rev 1
 - SHE-PPC-XX-XX-DR-C-212 Rev P2
- 3) No development shall take place until a Construction and Demolition Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide details of:
 - a) the access and egress arrangements of the development site and any associated directional signage;
 - b) the parking of vehicles for site operatives and visitors;
 - c) the loading and unloading of plant and materials;
 - d) the storage of plant and materials used in demolition and construction;
 - e) site cabins;
 - f) vehicle washing facilities;
 - g) measures to control the emission of dust and dirt during demolition and construction;
 - h) measures to control the emission of noise and vibration during demolition and construction
 - i) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - j) the hours during which deliveries, demolition and construction works may take place including the operation of any plant and machinery.

The approved Construction and Demolition Method Statement shall be adhered to throughout the construction period of the development.

- 4) No development nor any vegetation clearance or removal shall commence until a scheme of ecological mitigation and enhancement measures, inclusive of a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The submitted scheme shall, amongst its content, include precise details of the recommended measures and, the biodiversity enhancement measures, detailed at Table 8 of the submitted Preliminary Ecological Appraisal and Preliminary Roost Assessment.

Development shall be carried out in accordance with the approved details.

- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the buildings and, of the parking and shared surface

serving the development hereby permitted in relation to the existing ground level and, existing adjacent building levels, have been submitted to and approved in writing by the local planning authority.

Development shall be carried out in accordance with the approved levels.

- 6) No development other than demolition shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of soft and hard landscaping works. The scheme shall be based upon the details provided on Landscape Plan SHC-ULA-00-00-DR-L-1000 dated 23.11.22 and shall include:
- a) details of proposed planting including the species, plant supply sizes, planting locations and plant numbers/densities
 - b) details of all hard surfaced areas and of hard surfacing materials
 - c) details of any means of enclosure and retaining structures

Development shall be carried out in accordance with the approved details. The development shall not be occupied until the means of enclosure, retaining structures and hard surfaced areas have been implemented.

- 7) All planting, seeding and turfing comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) All works to trees and tree groups shall accord with the details within the Arboricultural Report Rev 1 and the Tree Protection Plan Rev 1. No demolition, site clearance, preparatory work or other development shall take place until all trees and tree groups scheduled for retention have been protected in accordance with the details submitted within the Arboricultural Report Rev 1 and the Tree Protection Plan Rev 1. The protection measures shall be retained until the completion of the development works. All working methods and solutions to safeguard trees during the construction phase of the development as detailed within the submitted Arboricultural Report Rev 1 shall be adhered to during the construction phase of the development.
- 9) No development involving the erection of any sections of the external walls or roof of the development hereby permitted shall take place until details of the materials to be used in the construction of the external walls and roof have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) The development hereby permitted shall not be occupied until cycle parking has been implemented, the details of the location and design of which shall have first been submitted to and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and the cycle parking provision retained thereafter.
- 11) The development hereby permitted shall not be occupied until the vehicular parking spaces to serve the development have been implemented, the details

of the demarcation of which shall have first been submitted to and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and the vehicular parking provision retained thereafter.

- 12) The development hereby permitted shall not be occupied until refuse and recycling storage has been implemented, the details of the location and design of which shall have first been submitted to and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and the refuse and recycling storage provision retained thereafter.
- 13) The development hereby permitted shall not be occupied until the surface and foul water drainage system as shown on drawing SHE-PPC-XX-XX-DR-C-212 Rev P2 has been implemented. The drainage system shall be retained thereafter and shall be maintained in accordance with the details at section 10 of the submitted Drainage Strategy (SUDS) Rev 1.