



Appeal Decision

Site visit made on 7 January 2025

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2025

Appeal Ref: APP/L3625/W/24/3344490

Land to the rear of 60 - 64 Shelveys Way, Tadworth, Surrey KT20 5QF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Joseph Fowler of Devine Homes Plc against the decision of Reigate and Banstead Borough Council.
 - The application Ref is 24/00080/F.
 - The development proposed was originally described as the construction of a single detached 3 bedroom bungalow with a detached double garage on land to the rear of 60 Shelveys Way, with vehicle and pedestrian access taken from the permitted 4 unit residential scheme, on land at 62 & 64 Shelveys way, together with a repositioned detached double garage to serve plot 4 of the permitted scheme.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a single detached 3 bedroom bungalow with a detached double garage to the rear of 60 Shelveys Way, with vehicle and pedestrian access, together with a further detached double garage, at land to the rear of 60-64 Shelveys Way, Tadworth, Surrey KT20 5QF, in accordance with the terms of the application, Ref 24/00080/F, subject to the conditions in the attached schedule.

Preliminary Matters

2. Planning permission has previously been granted for the demolition of 64 Shelveys Way and the construction of 4 dwellings on land to the rear of 60-64 Shelveys Way (ref: 21/02108/F). I understand that the development subject of this permission has been commenced. Although the access proposed as part of this appeal duplicates much of that within the 21/02108/F scheme, it would be lengthened to serve a fifth dwelling to the rear of number 60 Shelveys Way.
3. It is not within the scope of this appeal to vary development authorised by another planning permission. To avoid uncertainty in this respect, the description of development within the formal decision is amended. The main parties have agreed to this change.
4. Amended plans have been submitted at appeal stage, altering the elevations and the roof form of one of the proposed garages. These changes do not substantially alter the scheme. Moreover, interested parties and consultees have been notified of the proposed amendments, and they have had the opportunity to comment on them at the appeal stage. No parties would therefore be prejudiced by my decision to accept the amended plans.
5. Having reviewed the amended plans, the Council has raised an additional concern regarding the design of the garage closest to number 116 Fleetwood Close, and

the effect that this structure would have on the character and appearance of the area. It is therefore necessary to consider this matter as a main issue.

Main Issues

6. The main issues are the effect of the development on;
- the living conditions of the occupiers of 115-118 Fleetwood Close, with particular regard to privacy, outlook, noise and disturbance; and
 - the character and appearance of the area.

Reasons

Living conditions

7. The properties at 115-118 Fleetwood Close (numbers 115-118) comprise houses with front and rear gardens. The rear gardens of these properties back onto the appeal site, and the rear elevations of these houses have several windows and other clear-glazed openings at both ground and first-floor levels. Through these windows, the immediate outlook is over and above the rear garden serving the associated dwelling. From the upstairs windows, parts of nearby houses and gardens and several dwellings which are under construction are also clearly visible. Tall close-boarded fencing around the relatively modest-sized rear gardens at numbers 115-118, restricts the sense of openness within these gardens. Nevertheless, the occupiers of these properties are still able to secure a reasonable outlook both from within the rear gardens and through the openings in the rear of the houses.
8. The ground floor levels of both the proposed dwelling and the garage close to number 116 Fleetwood Close, would be similar to that of the houses at numbers 115-118. That being the case, the intervening tall close-boarded fencing between the appeal site and numbers 115-118, would prevent views through the side-facing kitchen window of the proposed dwelling into the rear gardens and ground floor rooms of these neighbouring properties. While there would be intervisibility between this kitchen window and the rear-facing first-floor windows in the houses at numbers 115-118, the distance between them would be sufficient to prevent any harmful loss of privacy for the occupiers of these neighbouring properties.
9. The dwelling would be constructed several metres from the site's shared boundary with numbers 115-118. It would also have a low eaves height. and a roof plane which would slope up and away from the site's shared boundary with these neighbouring properties. Furthermore, and despite the proximity of a large part of the rear boundary of number 116, from within the rear garden of that property, only a small part of the upper sections of the proposed flat roof garage would be visible above the intervening tall close boarded fence. For these reasons, the change to the outlook from within the rear gardens and rear-facing ground floor rooms of numbers 115-118 would be small and not harmful to the living conditions of the occupiers of these properties.
10. Within views from the rear-facing upstairs windows of these same properties, the proposed dwelling would be fairly prominent. However, it would be seen in the context of other nearby residential development. As such, and given both its low height and the presence of the intervening gardens, it would not be oppressive in such views.

11. Due to the proximity of the appeal site to the houses and rear gardens at numbers 115-118, it is likely that the occupiers of these neighbouring properties would be able to hear vehicle movements and other noises associated with the normal residential use of the proposed dwelling. However, the appeal site is within a built-up and mainly residential area, where a reasonable amount of associated noise and activity can ordinarily be expected. Albeit the intensification of the residential use of the appeal site can be expected to result in some increased noise and activity, the effects of these would not be harmfully intrusive to the occupiers of numbers 115-118. This is partly because access to the site would be off Shelveys Way - terminating away from the shared boundary between the appeal site and numbers 115-118, and partly because of the intervening tall close boarded fencing. It is also because the noise and activity levels would be similar to that resulting from the residential use of other nearby development.
12. For the reasons given, the development would not cause harm to the living condition of the occupiers of number 115-118 Fleetwood Close, with particular regard to privacy, outlook, noise and disturbance. Consequently, in respect of this main issue, it would comply with policies DES 1 of the Reigate & Banstead Borough Council - Reigate & Banstead Local Plan Development Management Plan – adopted September 2019 (the Local Plan). Amongst other things, this policy requires development to not adversely impact the amenity of occupants of existing nearby buildings.

Character and appearance

13. The appeal site is within a built-up and mainly residential area, within which the properties are of a variety of styles and designs. These include a collection of residential properties on nearby Fleetwood Close, which appear to have flat roofs.
14. The site layout plan associated with planning permission ref 21/02108/F shows a series of structures which are of different shapes and have differing roof forms. As such, and even if that permission did not authorise any structures with flat roofs and/or small parapets, the form of the proposed flat-roofed garage would not jar with the previously permitted scheme. Moreover, this garage would be of a modest scale, it would have the same facing brickwork as the proposed host dwelling, and its roof form would be similar to that of nearby properties on Fleetwood Close. It would not therefore be incongruous with either the previously permitted scheme or other nearby development.
15. For these reasons, the development would not cause harm to the character and appearance of the area. In respect of this main issue, it would comply with policies DES1 and DES2 of the Local Plan. Collectively, and amongst other things, these require new development to respect the scale and form of existing buildings in the locality, and to promote and reinforce local distinctiveness.

Other Matters

16. Part of the appeal site is subject to a tree preservation order (TPO) - ref TPO BAN 114. It is proposed to remove some of the low-quality trees on the site -including some within the area of the TPO. However, the proposed buildings would be located away from the area of land subject to the TPO. Moreover, a series of tree protection measures have been identified within the submitted Arboricultural Method Statement. Subject to these measures being implemented, the

development would not cause unacceptable damage or loss to those trees which are to be retained, be they within or close to the site.

17. Concerns have been expressed that some trees were removed from the site prior to the planning application being submitted. However, there is nothing before me to suggest the removed trees were protected or the works to remove them was unauthorised.
18. Survey work was undertaken to inform the badger monitoring report dated November 2023. At the time of the survey, it was found that mammal holes within the site were not in use by badgers. The report also suggested that badgers were not utilising the site. On the basis that this remains the case, the development would not cause harm to badgers. Nevertheless, before the development is commenced, updated survey work should be undertaken to determine whether there is active badger use of the site. If there is, then a badger mitigation scheme should be submitted to and agreed by the Local Planning Authority prior to the commencement of the development. This should be secured by a condition.
19. The preliminary ecological survey dated October 2023 indicates that trees and structures within the site have negligible bat roosting potential. It also indicates that the development could be delivered without harming the ecological functionality of the local landscape. As such, and in the absence of any compelling evidence to the contrary, I am satisfied that the development would not have an adverse effect on bats. This is subject to the imposition of a condition requiring the provision and delivery of a biodiversity mitigation scheme.
20. The evidence indicates that the site is at low risk of flooding from surface waters and from rivers or the sea. As such, and subject to an appropriate scheme for surface water drainage being implemented, the development would not lead to a harmful increase in flood-risk, either on or off-site.
21. The part of the site access onto Shelters Way is in the same position and duplicates the access authorised by planning permission ref: 21/02108/F. The appeal scheme would not further reduce on-street parking provision in the area from that authorised by the previous permission.

Conditions

22. The Council's suggested conditions have been altered where appropriate. This is for clarity, to keep the number of conditions to a minimum, and, to meet the six tests within paragraph 57 of the Framework.
23. The statutory condition which specifies the time-period for the implementation of the permission, is imposed. For clarity, a plans condition is also added which identifies the plans to which the permission relates.
24. To ensure that the development does not lead to increased flood risk or environmental pollution, a condition is needed to secure the implementation of an appropriate surface water drainage scheme. This needs to be a pre-commencement condition, as groundworks are likely to influence how the rest of the development is delivered.
25. Biodiversity, landscaping and tree conditions are needed to ensure that the development would protect and benefit the biodiversity value of the site, and to prevent harm to any protected species that use it. Details of the biodiversity

mitigation and enhancement strategy and method statement are required to be submitted to and agreed by the Council before the development is commenced. This is to prevent/minimise harm to biodiversity during site clearance and excavation works.

26. A further reason for the landscaping and tree conditions is to protect the character and appearance of the area. A materials condition is also needed for this purpose. The development plan has specific policies to ensure new homes have a good standard of digital connectivity; support the efficient use of resources; and minimise carbon emissions arising from developments. Associated conditions are therefore justified.
27. To protect the living conditions of the occupiers of neighbouring properties, a condition is imposed to secure the provision and retention of 1.8m high close-boarded fencing. A parking and access condition is also necessary, to ensure that the development does not cause harm to highway safety.
28. The Council has requested conditions which would remove certain permitted development rights for the enlargement and alteration of the dwelling. However, I am not satisfied that such extensions or alterations would cause harm in respect of the living conditions of the occupiers of nearby properties. As such, these conditions would not be necessary or reasonable.
29. 2 car parking spaces are shown to the front of the flat-roofed garage. This amount of car parking provision meets the standard set out within TAP1 and annex 4 of the Local Plan. As such, there is no parking-related need for a condition in respect of the flat-roofed garage. Nor would it be necessary for this garage to be constructed before the first occupation of the dwelling. This is because the garage is not necessary to protect the living conditions of the occupiers of neighbouring properties.
30. It would not be reasonable or relevant to the development to be permitted, to impose a condition preventing the occupation of a dwelling subject of a previous planning permission, before certain works have been undertaken on the appeal site. Consequently, the 19th condition requested by the Council is not imposed.
31. Section drawings have been provided which show the relationship between the proposed development and nearby land and buildings. As such, a condition requiring details of existing and proposed ground and finished ground floor levels of the buildings is not necessary. Nor is a condition needed requiring the provision of an electric vehicle charging point. This is because Building Regulations ordinarily require such provision to be made.

Conclusion

32. For the reasons given above, and having regard to the development plan as a whole and any other material considerations, I conclude that this appeal should be allowed.

V Simpson

INSPECTOR

Cont.

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos; 21008-A-PL-070-Rev B, 21008-A-PL-071-Rev C, 21008-A-PL-072-Rev D, 21008-A-PL-073-Rev D, 21008-A-PL-054-Rev B, 21008-A-PL-075-Rev D, 21008-A-PL-076-Rev B, 21008-A-PL-077-Rev C, 21008-A-PL-079-Rev A, 211413-TR-03, and 211413-TR-04.
- 2) The development hereby permitted shall begin not later than three years from the date of this decision.
- 3) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.
 - a. The submitted details shall:
 - i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii. include a timetable for its implementation; and,
 - iii. provide, a management and maintenance plan for the lifetime of the development.
 - b. The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.
- 4) No development shall take place, and no site clearance in preparation for the development hereby permitted shall be undertaken until a biodiversity mitigation and enhancement strategy and method statement has been submitted to and approved in writing by the Local Planning Authority.

This scheme should be based on the recommendations and mitigation measures identified within the Preliminary Ecological Appraisal dated October 2023 and the Badger Monitoring Report 2023 dated November 2023 - both of which were produced by Ecology partnership.

The submitted scheme shall also include an updated badger monitoring report produced by an appropriately qualified and experienced ecologist. If signs of active badger activity are found within the site during the associated survey work, then also prior to the commencement of the development, a badger mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority.

The development shall subsequently be carried out in accordance with the approved scheme/s.

- 5) No development above ground level shall take place until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing

by the local planning authority. The development shall be carried out in accordance with the approved details / samples.

- 6) The dwelling hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing no. 21008-A-PL-072 rev D for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. Thereafter, those spaces shall be kept available at all times for these purposes.
- 7) The dwelling hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
- 8) The dwelling hereby permitted shall not be occupied until a scheme of energy efficiency measures in respect of the dwelling hereby permitted, together with an implementation programme, has been submitted to and approved in writing by the Local Planning Authority. The development shall subsequently be carried out and retained in accordance with the approved details.
- 9) The dwelling hereby permitted shall not be occupied until 1.8m high close-boarded fencing has been erected in those locations where '1.8mcb fence' is indicated on drawing no 21008-A-PL-072 rev C. Thereafter this or equivalent fencing shall be retained.
- 10) The dwelling hereby permitted shall not be occupied until the necessary infrastructure to enable its connection to a superfast broadband network or alternative equivalent service, has been provided.
- 11) The dwelling hereby permitted shall not be occupied until a soft landscaping scheme has been submitted to and approved in writing by the local planning authority. This scheme shall include the retention of those trees identified as 10, G3, 20, 24, 25, and 26 on the Tree Protection Plan at appendix 2 of the Arboricultural Method Statement by David Archer Associates dated October 2023. Thereafter, all planting, seeding or turfing comprised in the approved scheme shall be carried out prior to the occupation of the dwelling or in the first planting and seeding seasons following the occupation of the dwelling. If any trees or plants which within a period of 5 years from the occupation of the dwelling, die, are removed or become seriously damaged or diseased, these shall be replaced in the next planting season with others of the same or a similar species.
- 12) The development shall be undertaken in accordance with the measures set out in the Arboricultural Method Statement by David Archer Associates dated October 2023.

End of conditions