

Application Number and Registration Date	MO/2019/0641 (Variance of Conditions) 05-Apr-2019
Applicant	Miss N Sirs
Case Officer	Aidan Gardner
Amendments /amplifications	Amplified by email dated 16/05/19 and by plan No. 2017-12-01E dated 12/06/19.
Committee Date	3 July 2019
Ward(s)	Ashtead Park
Proposal	Variation of Condition 5 of approved planning permission MO/2017/0472 for erection of 1 No. detached bungalow with integral single garage accessed from Roebuck Close at rear of 10 Stag Leys, to allow the removal of 2 No. additional trees.
Site Description	1B, Roebuck Close, Ashtead, Surrey, KT21 2DN

RECOMMENDATION: Approve subject to conditions

Summary

The site lies within the Stag Leys estate on the southern side of Leatherhead Road (A24), Ashtead, within the Built Up Area. Roebuck Close is a small cul-de-sac of dwellings at the north eastern corner of the estate. In 2017, an outline planning application (MO/17/0472) for consideration of access and layout was submitted for the erection of a detached bungalow, forming a continuation of an extension to one side of the cul-de-sac. The application was reported to the DMC in July 2017 recommended for approval. The construction of the bungalow necessitated the removal of protected trees. However, Officers took the view that the removals were acceptable in visual terms since the trees formed a small part of a larger tree belt. The Committee did not share this view and resolved to refuse permission on the grounds of the loss of the trees. An appeal was lodged which was allowed in March 2018. The Inspector concluded that the proposed development would not result in any significant harm to the overall value of the group of trees and consequently would safeguard the character and appearance of the area. The details of the bungalow were approved under a

subsequent reserved matters application and the pre-commencement conditions have been discharged. The bungalow has been built and is occupied.

The 2018 permission has a condition (5) attached which requires the development to be carried out in accordance with the terms of the Arboricultural Report. It is now proposed to remove two Lime trees which are shown to be retained in the report. Permission is therefore sought for a variation of the condition to allow the removals.

It is considered that the contribution made by the Limes is limited in the context of the number of the existing trees on the site and in the locality. It is therefore considered that the removals are acceptable and, accordingly, permission for the variation of condition 5 is recommended subject to replanting condition

1. Development Plan

1.1. Built up area; Tree Preservation Order.

2. Relevant Planning History

MO/17/0472	Outline application for the consideration of access and layout for the erection of 1 No. bungalow with integral garage, accessed from Roebuck Close.	Refused 10/07/17. Appeal allowed 20/03/18.
MO/18/0867	Reserved matters application for consideration of appearance, landscaping and scale in respect of the erection of one bungalow with integral garage.	Permitted 13/07/18.
MO/18/1492	Discharge of conditions 5, 6, 9, 10 and 11 of approved permission MO/17/0472.	Approved 19/10/18.
MO/18/1777	Removal of condition 6 of approval MO/17/0472 to allow a fabric based approach for 10% energy reduction.	Permitted 08/12/18.

Description of Site

2.1. The site lies on the eastern side of the Stag Leys cul-de-sac. The properties within this part of the estate back onto allotments and there are a number of protected trees within the rear gardens of the houses in this area. 10 Stag Leys is a detached bungalow. In the 1980s, permission was granted for a development of eight detached dwellings at the rear of Nos. 5 to 8 Stag Leys which now comprise Roebuck Close. In 2001, permission was granted for a detached bungalow at the rear of 8-9 Stag Leys which was implemented; 1A Roebuck Close.



Background information

- 2.2. The application site comprises land to the rear of 10 Stag Leys and incorporates additional land retained by the applicant following the development at 1A Roebuck Close.
- 2.3. In July 2017, outline planning permission was refused (under ref: MO/17/0472) for the erection of a detached bungalow. Vehicular access was to be obtained from Roebuck Close using the existing driveway which serves 1A Roebuck Close. The application was reported to the DM Committee meeting in July 2017 recommended for approval. Members did not share Officer's views on the impacts of protected tree losses and resolved to refuse permission.
- 2.4. The application was refused in July 2017 for the following reasons:-

'The proposed development would result in the loss of mature protected trees which collectively make a pleasant contribution to the verdant character of this locality in that they reduce the visual impact on the built environment. The proposal would therefore conflict with policy CS15 of the Mole Valley Core Strategy, ENV25 of the Mole Valley Local Plan and AS-En3 of the Ashted Neighbourhood Development Plan.'

Plan showing location of protected trees



- 2.5. An appeal was lodged which was allowed in March 2018. A copy of the decision is appended for information. The reserved matters of appearance, landscaping and scale were approved 13/07/18 under MO/18/0867 and the pre-commencement conditions imposed by the Inspector were discharged under MO/18/1492. The bungalow has been completed and is occupied.

Block plan of permitted bungalow



Front elevation of permitted bungalow



Current proposal

- 2.6. Under the current application, permission is sought for a variation of condition 5 of MO/17/0472 for the erection of detached bungalow to allow the removal of 2 No. additional trees in the rear garden. Condition 5 states:-

'The construction of the proposed development shall be carried out in accordance with the Arboricultural Method Statement by Challice Consulting Ltd including the Tree Protection measures shown on drawing No. TPP-CC/1710 AR 3218.'

- 2.7. The proposal is to remove two Lime trees. Permission is required to vary condition 5 since the trees in question were shown in the tree report accompanying MO/17/0472 to be retained. The position of the two Limes is shown on the plan below and are

identified as T3 and T4 in the Arboricultural Report. The northern-most of the two trees is subject to a Tree Preservation Order (TPO/103/5/H). The protected trees in this Order are marked on the plan at 3.4 above.



2.8. The applicant has advised the reasons for the tree removals as follows:-

'The trees are poor quality specimens with decay and deadwood visible. Their removal would improve the growing conditions for the nearby high quality trees and would reduce the overbearing and shadowing to the rear of the property at 1b Roebuck Close.'

3. Consultations

- 3.1. SCC Highways: Not consulted since the current proposal does not have ramifications for access and parking arrangements.
- 3.2. Tree Officer – Concludes that the loss of the two Limes trees would not result in significant harm to the leafy character of the area and that sufficient justification has been provided to fell the trees. It is therefore recommended that the application should be granted, subject to the imposition of informatives

4. Representations

- 4.1. Three representations have been received, including one from the Ashted Tree Wardens, in which the following summarised points are raised:-
- There is no justification for the proposal as both trees are healthy and are part of the beauty of the area;
 - The trees should be kept being so close to the largest motorway in Europe;

Officer comment: The trees stand some way from the motorway which also lies to the west of the site. It is considered that the contribution of the limes to noise reduction would not be significant.

- In allowing the appeal, the Inspector stated that he was satisfied that any adverse impact on the living conditions of future occupiers from the remaining trees could be resolved through limited pruning works which would be unlikely to result in any significant harm to the overall benefits or health of the retained trees.

Officer Comment: - The condition of the trees has been considered and set out in the initial report and the recommendation has regard for the applicant's reasons. Whereas the larger Beech and other trees would tolerate some modest appropriate pruning the condition of the two Lime trees would negate effective pruning. The amenity value of the trees has been assessed with respect to the visibility of the trees and their contribution to the character and appearance of the wider area as things now stand and any harm they might occur as a result of the works. As with all tree-work applications, and from the Tree Officer's perspective, the proposals should be determined on the basis of the impacts to the existing situation and not the previous development consent.

- The Ashted Tree Wardens are of the view that insufficient justification has been provided by the applicant for the removal of trees protected by a TPO. In this case, one of the trees in question is protected, the other is required to be retained under a condition. The appeal Inspector took the view the tree group at the site make a positive contribution to the character and appearance of the area;

Officer comment: The applicant has provided reasons for the tree removals and these are set out at 2.8 above.

- No decision should be made on the application until a visit to the site has been made.

Officer comment: The Tree Officer has carried out a site visit together with the case officer.

- To allow the application would be to go against the Inspector's comments with regard to the value of the trees.
- The construction of the site is completed so there is no justification for the removals aside from cosmetic reasons.

5. Main Planning Policies

5.1. Mole Valley Core Strategy

CS15 – Biodiversity and Geological Conservation.

5.2. Mole Valley Local Plan

ENV25 – Landscape Design of New Development.

Ashted Neighbourhood Development Plan (NDP)
AS-En3: Retaining Character

6. Main Planning Issues

6.1. The main planning issues for consideration is:-

- The effect of the removal of the two Lime trees on the character and appearance of

the area and the impact on the outlook from neighbouring occupiers.
- the effect on biodiversity.

Variation of condition process

- 6.2. Section 73 of the Town and Country Planning Act 1990 (as amended) provides a mechanism for the variation or non-compliance with conditions imposed on planning permissions.
- 6.3. Section 73 (2) (a) and (b) are pertinent to this application. This section states that:-

(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and-

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, they shall refuse the application.
- 6.4. The Local Planning Authority therefore has a duty to consider a valid application.
- 6.5. In considering such an application Section 70 of the Town and Country Planning Act 1990 (as amended) requires Local Planning Authority's to "have regard to the provisions of the development plan, so far as material to the application, any local finance considerations, so far as material to the application, and to any other material considerations.'
- 6.6. Accordingly, the application to vary the condition detailed below must be considered against the Development Plan and any other material considerations.

Policy

- 6.7. Policy CS15 of the Core Strategy 'Biodiversity and Geological Conservation' states that, inter alia, planting and other schemes that promote biodiversity will be expected as part of all development schemes, focusing on native species from the locality and particularly trees, a key feature of the environment of Surrey.
- 6.8. Policy ENV25 of the Mole Valley Local Plan advises that proposals for development should demonstrate that particular care has been taken in the provision, use and design of spaces between buildings and that the hard and soft landscape design is suitable for the site and form of development. Sufficient space should be allowed to enable existing trees of significant public amenity value to be retained.
- 6.9. Policy AS-En3 of the Ashted NDP advises that all development should be visually integrated with their surroundings and designed with regard to the character of the surrounding area. All development should be designed to include gardens and/or green space that maintains or enhances the character of the local area.

Character and appearance

- 6.10. In his assessment of the appeal, the Inspector commented on the trees as follows (please refer to attached decision for reference):-

Paragraphs 4-8.

'The existing trees on the site form part of a wide group of trees which together make a positive contribution to the character and appearance of the area. The siting of the proposed bungalow and access would require the removal of several existing trees.'

Two of these trees are subject to a Tree Preservation Order. However, the trees to be removed are on the periphery of the main group and are not particularly significant in terms of their visual contribution to the wider area. Their setting and proximity to other trees has precluded them from developing to their full potential. The trees of the most significant amenity value to the group as a whole would be retained towards the rear of the site.

Appropriate tree protection methods to safeguard retained trees during construction works can be secured by a condition.

The trees towards the rear of the site would overshadow large parts of the rear garden of the proposed dwellinghouse. However, I am satisfied that any adverse impacts on the living conditions of future occupiers could be resolved through limited pruning works which would be unlikely to result in any significant harm to the overall benefits or health of the retained trees. I note that in this respect that given the orientation of the site, the retained trees would not obstruct sunlight for much of the day which would reduce the likelihood of any significant works being required.

The trees that would be retained would ensure that a suitably pleasant setting is retained for both the proposal and the existing surrounding development. The amenity value of the overall group of trees would not be significantly affected. There would be only modest difference to the appearance of the site and its surroundings in views from either Stag Leys or Roebuck Close.

I am therefore satisfied that the proposed development would not result in any significant harm to the overall value of the group of existing trees and consequently, would safeguard the character and appearance of the area. The proposal would satisfactorily accord with the landscape and design aims of policies CS15 of the Mole Valley Core Strategy DPD (October 2009) ENV25 of the Mole Valley Local Plan (October 2000) and AS-En3 of the Ashted Neighbourhood Plan (December 2016).'

- 6.11. The rear of the site contains a group of seven mature trees including the two Lime trees in question and several large mature Beech and Horse Chestnut of up to 20 m+ in height. The tree group is visible to the street and to the public allotments behind and to the east. As a group the trees collectively make an attractive contribution to the wider character and appearance of the area in their capacity to soften the visual impact of the surrounding developments. The trees also provided a pleasant outlook for a number of adjoining neighbours. As a consequence of the trees landscape contribution strong reasons should be proportionately required to justify extensive works to, or the loss of any of the trees in the group that contribute to the amenities of the locality.
- 6.12. The two Lime trees are described within the original site development tree report as being mature 17 m tall trees of normal vigour with stem diameters of approximately 45 cm and of fair condition. However, deadwood was identified in their crowns and the decline was suggested to be a result of reduced root activity. The trees are tall and slender with limited canopies as result of being shaded and suppressed by the other nearby, larger Beech and Horse Chestnut trees. During the recent site visit the Limes are clearly in a much poorer condition than originally reported. They are shorter than previously described and are around 15 m and less tall. Both have lost their tops and there is decay with the upper stems of both and deadwood throughout their small crowns. As such both Lime trees are not prominent in the group given the presence of larger trees in the vicinity. However, whilst the trees in themselves are not considered to be of major amenity significance, they do play a role in providing a visual backdrop to the views in the local area and softening the impact of the buildings. Therefore, it is

considered that it would be appropriate to secure replacement planting through a condition and the applicant would be agreeable to this.

Effect on views and outlook from neighbouring occupants

- 6.13. Because the Lime trees are not prominent, the visual impact of their removal is judged not to be significant and would not harm the overall appearance of the group to wider views. The removal of the Lime trees would most certainly reduce the competition to the other more prominent trees and improve conditions for the remaining trees. The site has a relatively cramped rear garden and it is not considered necessary to retain a dense tree cover having regard to the living conditions and the shade created by having seven large trees about the rear garden space

View of tree group from Stag Leys and seen across roof of new bungalow (Limes marked red)



- 6.14. Having regard to the above factors, it is also considered that the loss of the Limes would not have a material impact on the outlook from neighbouring occupiers.
- 6.15. Concern has been expressed that permitting the tree removals would run counter to the appeal Inspector's sentiments about the value of the trees collectively. However, in paragraph 7 of his letter the Inspector stated that the trees that would be retained would ensure that a suitably pleasant setting is retained for both the proposal and the existing surrounding development. He went on to say that the amenity value of the overall group of trees would not be significantly affected and that *there would only be modest difference to the appearance of the site and to its surrounds in views both from Stag Leys or Roebuck Close.* (Officer emphasis).

Biodiversity

- 6.16. Policy ENV15 of the Core Strategy relates to Biodiversity and Geological Conservation, The policy seeks to retain trees in development sites as far as practicable. Only where no realistic alternatives are available or replacement of such features elsewhere in the site would result in biodiversity enhancements above what already exists, will removal of such features be permitted. In these cases, the replacement will be expected to result in biodiversity enhancements to what previously existed and where possible should seek to contribute to a network of green infrastructure. Finally, CS15 advises that planting and other schemes that promote biodiversity will be expected as part of the development schemes, focusing on native species from the locality and particularly trees.
- 6.17. As stated in paragraph 6.12 above, whilst it is considered that the two limes are not individually of amenity value, they do provide a collective value. Added, to this, the trees do confer biodiversity benefits which would be lost by their removal. This adds to the desirability of securing replacement tree planting within the site.

Conclusion

- 6.18. For the above reasons and having regard to all other matters raised, it is concluded that the loss of the two Limes trees would not result in significant harm to the leafy character of the area and that sufficient justification has been provided to fell the trees. It is therefore recommended that permission can be granted for the variation of the condition subject to replanting condition.

7. Recommendation

Permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be carried out and completed in all respects strictly in accordance with the submitted location plan and plan No. 2017-12-01E contained within the application and no variations shall take place.

Reason: To accord with the terms of the submitted application and to ensure minimal impact on local amenity and the environment in accordance with Mole Valley Core Strategy policy CS14 and Mole Valley Local Plan policy ENV22.

2. The parking area at the site as shown on the plan No. 2017-12-01E shall be permanently retained and maintained for its designated purpose..

Reason: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users, in accordance with the National Planning Policy Framework, the Surrey Transport Plan, and saved policies MOV2 and MOV5 of the Mole Valley Local Plan.

3. The proposed boundary treatment shown on plan No. 2017-12-01E shall be completed prior to the first occupation of the dwelling and thereafter shall be permanently retained as such.

Reason To preserve the visual amenity of the area and protect neighbouring residential amenities in accordance with Mole Valley Local Plan policy ENV22 and policy CS14 of the Mole Valley Core Strategy.

4. A replacement tree shall be planted within the curtilage of the property in the first planting season following the felling of the tree hereby consented to be removed. The replacement tree shall be an extra heavy standard tree with a minimum of 12-14cm in girth and shall be maintained for a period of five years, such maintenance to include the replacement of the tree should it die. The owner shall inform the Local Planning Authority when the tree is planted.

Reason: In the interests of visual amenity and to ensure the retention of trees which enhance the existing character of the locality.

Informatives

1. The protected Horse Chestnut identified as T8 in the submitted plan has significant die-back of its upper crown. The removal of the deadwood may therefore be carried out at the owner's convenience without any further formalities.
2. In accordance with section 17(4)(a) of the Town and Country Planning (Tree Preservation) England) Regulations 2012, this consent is valid for a period of 2 years from the date of this decision.