
Appeal Decision

Site visit made on 3 January 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 30 January 2017

Appeal Ref: APP/N5090/W/16/3156589

51 St Margarets Avenue, Whetstone London N20 9LL

- 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 Nicholas Charalambous (Empyrean SMA) against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/4030/FUL, dated 17 June 2016, was refused by notice dated 15 August 2016.
 - The development proposed is demolition of two semi-detached houses, No. 51 and 53 and replaced by one building comprising two 3 bed flats, construction of five 4 bedroom houses and two 3 bedroom houses to the rear land of No 51-55.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of two semi-detached houses, No. 51 and 53 and replaced by one building comprising two 3 bed flats, construction of five 4 bedroom houses and two 3 bedroom houses to the rear land of No 51-55 at 51 St Margarets Avenue, Whetstone, London N20 9LL in accordance with the terms of the application, Ref 16/4030/FUL, dated 17 June 2016, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect the proposed houses would have on the character and appearance of the area and consequently the effect this would have on the living conditions of the occupiers of neighbouring dwellings, with particular reference to views from adjoining gardens.

Reasons

3. A similar scheme was allowed on appeal in September 2016¹. Since September 2016 there have been no changes to the development plan and my attention has not been drawn to any developments nearby which have altered the character or appearance of the area in any way. I therefore attach significant weight to the September 2016 appeal decision and the fall back position provided by the approved scheme.
4. In September 2016, the Inspector found the proposed development would be of high quality design which responds positively to its built and natural context. It was also found the proposed development would not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings. Furthermore, the Inspector in September 2016 stated the proposal

¹ Appeal ref: APP/N5090/16/3149519

would comply with the character and amenity requirements of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) (DMP) Policy DM01. Moreover, the Inspector in September 2016 concluded that as adequate outlook for adjoining occupiers would be retained the proposal would comply with criterion e. of DMP Policy DM01.

5. The scheme before me is virtually identical to the scheme which formed the subject of the September 2016 appeal decision except for the proposed houses to the rear of the site which adjoin No 49 and No 57 St Margaret's Avenue, have been reduced at the roof level so that they are part two storey above ground level. Furthermore, the materials have been amended to include a mixture of brick and bronze cladding on some of the dwellings.
6. Thus, in my view the proposed reduction in scale would assist the proposed dwellings to blend into their setting and reduce their prominence when viewed from the dwellings nearby. Furthermore, the proposed materials would add interest to the proposed dwellings and would enhance their overall visual appearance.
7. That said, consistent with the Inspectors findings in September 2016 and given the fall back position I find the proposed development would not harm the character and appearance of the area and consequently it would not harm the living conditions of the occupiers of the neighbouring dwellings, with particular reference to views from adjoining gardens.
8. As such the proposal would accord with the development plan, specifically Policies 3.5, 7.4 and 7.6 of the London Plan², Policy CS5 of Barnet's Local Plan Core Strategy Development Plan Document (2012), Policy DM01 of the DMP and the guidance contained within the Barnet Residential Design Guide Supplementary Planning Document (2012) which taken together seek to ensure good design and that new development does not harm the character and appearance of the area or the living conditions of nearby residents.

Other Matters

9. I have noted the concerns raised by residents living nearby including the effect of the proposed development on parking, traffic, highway safety, sewage and drainage and biodiversity. However, all of these matters were considered in detail in the September 2016 appeal decision and given the fall back position of the approved scheme and that the appeal proposal is very similar I have not reconsidered these matters in detail in this decision.

Conditions

10. In accordance with the reasons given for imposing conditions on the September 2016 decision the conditions I have imposed are identical to those imposed on the September 2016 decision except where I have adjusted them to reflect the specific details of the appeal scheme and in line with the guidance contained within the Planning Practice Guidance.
11. I have imposed a condition specifying the approved plans and documents as this provides certainty. Conditions requiring a construction management plan, controlling the hours of construction, requiring obscure glazing and restricting

² The London Plan the spatial Strategy for London Consolidated with Alterations Since 2011 (2016)

the installation of additional openings are all necessary to safeguard the living conditions of nearby residents.

12. Conditions requiring tree protections measures, landscaping, materials and boundary treatments to be agreed are necessary to protect the trees and safeguard the character and appearance of the area.
13. In the interests of appropriate site drainage and water efficiency conditions are necessary to ensure details for such are agreed. Conditions are also necessary to ensure appropriate cycle storage, electric car charging points and parking provision in the interests of highway safety and to encourage sustainable transport. A condition is also necessary to ensure energy efficiency to meet the requirements of the development plan.

Conclusion

14. For the reasons set out above, having had regard to all other matters raised, the appeal is allowed.

L Fleming

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and specifications: Drawing No PL_SMA_601 Site Location; Drawing No PL_SMA_602 Existing Site Layout Plan; Drawing No PL_SMA_603 Existing Section A-A; Drawing No PL_SMA_604 Proposed Site Layout; Drawing No PL_SMA_605 Proposed Section B-B; Drawing No PL_SMA_606 Proposed Front Elevation (rear houses 1-7) with and without planting; Drawing No PL_SMA_607 Proposed Rear Elevation (rear houses 1-7) with and without planting; Drawing No PL_SMA_608 Proposed North-East Flank Elevation (no planting); Drawing No PL_SMA_609 Proposed North-East Elevation (with planting and fence); Drawing No PL_SMA_610 Proposed South-West Flank Elevation (no planting); Drawing No PL_SMA_611 Proposed South-West Flank Elevation (with planting and fence); Drawing No PL_SMA_612 Proposed Plans (rear houses 1-7); Drawing No PL_SMA_613 Proposed Plans – House Type A (house No 3-5); Drawing No PL_SMA_614 Proposed Plans – House Type B (house No 2 and 6); Drawing No PL_SMA_615 Proposed Plans – House Type C (house No 1 and 7); Drawing No PL_SMA_616 Existing Site Layout (flats – building 8); Drawing No PL_SMA_617 Existing Section (flats – building 8); Drawing No PL_SMA_618 Proposed Site Layout (flats – building 8); Drawing No PL_SMA_619 Proposed Section C-C (flats – building 8); Drawing No PL_SMA_620 proposed Plans (flats – building 8); Drawing No PL_SMA_621 Proposed Elevations (flat – building 8); Drawing No PL_SMA_622 Existing Streetscape (flats – building 8); Drawing No PL_SMA_623 Proposed Streetscape (with and without planting); Drawing No PL_SMA_624 Visualisation of Proposed North East Elevation (right flank); Drawing No PL_SMA_625 Visualisation of Proposed North East Elevation (right flank, looking from No 57);); Drawing No PL_SMA_627 Existing Site Layout With Proposed Overlay; Drawing No 914402 Land Survey; Drawing No 1387.02B Planting Plan; Phase II Arboricultural Impact Assessment - May 2015 (by Arbol EuroConsulting); Preliminary Ecological Appraisal - July 2015 (by Thomas Ecology); Arboricultural Survey - July 2015 (by Thomas Ecology); Arboricultural Impact Assessment - November 2015 (by Thomas Ecology); Bat Inspection - May 2015 (by Thomas Ecology); Internal Building Inspection for Bats and Dusk Emergence and Dawn Return to Roost Survey - July 2015 (by Thomas Ecology); Energy Statement - October 2015 (by Build Energy) including Appendix A - F; Drainage Strategy Report - October 2015 (by Ellis + Moore); Transport Statement - October 2015 (by Transport Planning Consultants); Assessment of Impact on Landscaping Character (including proposed landscaping) - February 2016 (by Colvin & Moggridge)
- 3) No demolition, development or site preparation works shall take place on site until a Demolition & Construction Method Statement (the Statement) has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - i. access to the site;
 - ii. the parking of vehicles for site operatives and visitors;

- iii. hours of demolition and construction, including deliveries, loading and unloading of plant and materials;
- iv. the storage of plant and materials used in demolition and the construction of the development;
- v. the erection of any means of temporary enclosure or security hoarding, and;
- vi. measures including washing and cleaning of vehicles, to prevent mud and debris being carried on to the public highway and ways to minimise pollution.

The hours of demolition and construction to be specified in the Statement shall provide that demolition or construction works do not take place outside the hours of between 0800 and 1800 on Mondays to Fridays or outside the hours of between 0800 to 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays. The development shall thereafter be implemented in accordance with the measures detailed within the Statement.

- 4) No demolition, site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved before any demolition, site clearance, preparatory work or development takes place and any tree protection measures shall remain in position until after the development works are completed and no equipment, material or soil shall be stored within the protected areas at any time. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 5) No development other than demolition and site preparation works shall take place until a scheme of hard and soft landscaping, including details of existing trees to be retained and size, species, planting heights, densities and positions of any trees and soft landscaping, shall be submitted to and agreed in writing by the local planning authority. All work comprised in the approved scheme shall be carried out before the end of the first planting and seeding season following the first occupation of any of the dwellings or the completion of the development, whichever is sooner. Any existing tree shown to be retained or trees or shrubs to be planted as part of the approved landscaping scheme which are removed, die, become severely damaged or diseased within five years of the completion of development shall be replaced with trees or shrubs of a similar size and species in the next planting season.
- 6) No development other than demolition and site preparation works shall take place until details of the materials to be used for the external surfaces of the buildings hereby approved, including those for balconies, balustrades and joinery, have been submitted to and approved in writing by the local

- planning authority. The development shall thereafter be carried out in accordance with the approved materials.
- 7) No development other than demolition and site preparation works shall take place until details of the fenestration, including cross sections, elevations, reveals and glazing bars, have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
 - 8) Before any dwelling hereby permitted is first occupied, details of the means of enclosure including: i) boundary treatments, and; ii) enclosures and screened facilities for the storage of recycling containers and wheeled refuse bins and/or other refuse storage containers where applicable, together with a satisfactory point of collection, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before each dwelling hereby permitted is first occupied and retained as such thereafter.
 - 9) Houses Nos 1 and 7 (as identified on Drawing No PL_SMA_604 Proposed Site Layout) hereby permitted shall not be occupied until the windows indicated on Drawing No PL_SMA_606 Proposed Front Elevation (rear houses 1-7) with and without planting and Drawing No PL_SMA_608 Proposed North-East Flank Elevation (no planting) as being fitted with obscured glazing have been fitted with such, and no part of those windows which are less than 1.7 metres above the floor of the room in which they are installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
 - 10) No dwelling hereby permitted shall be first occupied until foul and surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. These details shall include for the disposal of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version). 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 which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
 - 11) Before the development hereby permitted is first occupied the parking spaces shown on Drawing No PL_SMA_604 Proposed Site Layout) shall be provided, retained thereafter and shall not be used for any purpose other than the parking of vehicles in connection with the approved development.

- 12) The development hereby permitted shall make provision for cycle parking and cycle storage facilities to be provided on the site in accordance with details to be submitted to and approved in writing by the local planning authority. The cycle parking and cycle storage facilities shall be provided in full prior to the first occupation of the dwellings they serve and shall be retained thereafter.
- 13) The dwellings shall not be first occupied until the Building Regulations Optional requirement Part G2(2)(b) (or the equivalent standard in such measure of water efficiency which may replace that scheme in future) has been complied with.
- 14) Prior to the first occupation of the development hereby permitted, full details of Electric Vehicle Charging facilities to be installed in the development shall be submitted to the local planning authority and approved in writing. These details shall include provision for not less than 1 in 5 of the proposed car parking spaces to be provided with Electric Vehicle Charging facilities. The development shall be implemented in full accordance with the details approved by this condition prior to the first occupation of the development and maintained as such thereafter.
- 15) The dwellings shall not be first occupied until the relevant requirements of a level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Homes have been met and the details of compliance provided to the local planning authority.
- 16) 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 windows other than those expressly authorised by this permission shall be constructed on the side elevations (facing the gardens of Nos 49 and 57 St Margarets Avenue) of Houses Nos 1 and 7 (as identified on Drawing No PL_SMA_604 Proposed Site Layout)) hereby permitted.

END OF SCHEDULE