
Appeal Decision

Site visit made on 23 May 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 03 July 2017

Appeal Ref: APP/B1930/W/17/3168115
51 Marshalswick Lane, St Albans AL1 4UT

- 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 M Khan against the decision of St Albans City & District Council.
 - The application Ref 5/16/2363, dated 28 July 2016, was refused by notice dated 23 September 2016.
 - The development proposed is demolition of existing property and erection of two, three-bedroom dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing property and erection of two, three-bedroom dwellings at 51 Marshalswick Lane, St Albans AL1 4UT in accordance with the terms of the application Ref 5/16/2363, dated 28 July 2016, subject to the conditions set out in the Schedule attached to this decision.

Main Issue

2. The main issue is whether the proposed development would meet the housing needs of the area.

Reasons

3. The appeal proposal would involve the demolition of a building containing four flats and the redevelopment of the site to create two detached dwellings, thus resulting in a net loss of two dwellings.
4. Policy 10 of the St Albans District Local Plan Review (1994) (LPR) makes clear that proposals which result in the loss of a dwelling will normally be resisted except where among other things it is impractical to retain the existing dwelling because satisfactory and viable living conditions cannot be created.
5. Even though the Council have not adopted a policy on housing standards the Technical housing standards – National described space standard (THS)¹ are a good indication of the amount of internal space required within dwellings to avoid harmful living conditions for the occupants.
6. The existing four flats are all relatively small residential units. Two of the flats are particularly small such that they do not comfortably accommodate any living space which the occupants could sit or eat in comfortably which is not

¹ Technical housing standards – National described space standard, DCLG, March 2015

within a bedroom. These flats would fall some way short of the THS for such accommodation. Furthermore, on my site visit, I observed limited circulation space in the two smaller flats with the internal space eroded by the limited opportunity to store personal belongings. Overall, I find the two flats without a living room to be a cramped form of accommodation which results in harmful living conditions for their occupants.

7. The Council has not provided any guidance on what is necessary to demonstrate that viable living conditions cannot be created as required by saved Policy 10 of the LPR. However, in my view, acceptable living conditions could only be achieved by creating additional internal space. I am not satisfied that this could be achieved without the loss of a residential unit or extending the building which may generate other harms.
8. I acknowledge that the Council is unable to demonstrate a five year land supply in accordance with paragraph 47 of the National Planning Policy Framework (the Framework). However, I have found the proposal would only result in the loss of dwellings which provide harmful living conditions. Thus, there is no net loss of housing which provides an acceptable standard of living accommodation and by providing two new dwellings the proposal would equate to stock renewal and thus contribute towards meeting the housing needs of the area.
9. Overall, on the basis of the evidence before me, I am satisfied that the scheme meets one of the exceptions to saved Policy 10 of the LPR and would accord with its overall aim to maintain a stock of quality housing in the area.

Conditions

10. The conditions imposed are those which have been suggested by the Council but with some variation in the interests of clarity and precision having regard to the advice on imposing conditions in the Planning Practice Guidance.
11. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
12. As requested by the Council I have also imposed conditions requiring finishing materials and a landscaping scheme to be agreed in the interests of safeguarding the character and appearance of the area. For the same reasons and to safeguard trees I have imposed conditions which require a tree protection method statement and tree protection measures to be put in place during construction.
13. In the interest of highway safety a condition requiring the parking areas to be laid out before occupation is also necessary.

Conclusion

14. For the reasons given above the proposal would accord with the development plan and thus having had regard to all other matters raised I conclude that the appeal should be allowed.

L Fleming

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: Existing Plans Drawing No 51-AB-101, Existing Elevations Drawing No 51-AB-102, Site Location Plan, Proposed Roof Plans Elevations & Block Plan Drawing No ML 102-10 , Proposed Plot A Plans & Elevations Drawing No ML 102-1, Proposed Plot B Plans & Elevations Drawing No ML 102-2 and Car Parking Layout.
- 3) No development shall commence 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.
- 4) No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.

These details shall include (a) proposed finished levels and contours; (b) means of enclosure; (c) car parking layouts; (d) other vehicles and pedestrian access and circulation areas; (e) hard surfacing materials; (f) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc); (g) proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc, indicating lines manholes, supports etc.); (h) retained historic landscape features and proposals for restoration where relevant; (i) existing trees to be retained; (j) existing hedgerows to be retained.

Soft landscape works required to be submitted shall include planting plans; written specifications (including cultivation and other operations associated with the plant and grass establishments); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and an implementation programme.

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of either of the dwellings hereby approved or in accordance with the programme agreed with the local planning authority.

- 5) In this condition "retained tree" means an existing tree which is to be retained in accordance with approved plan and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use.

(a) no retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the local planning authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work);

(b) if any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and the tree shall be of

such size and species, and shall be planted at such time as may be specified in writing by the local planning authority;

(c) the erection of fencing for the protection of any retained tree shall be undertaken in accordance with the recommendations set out in BS 5837 (2005) and the approved plans and particulars before demolition or any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

- 6) No development shall commence until a method statement has been submitted to and approved in writing by the local planning authority to cover the protection of trees during demolition and construction phases based on guidelines set out in BS5837. Thereafter the development shall be carried out in accordance with these approved details.
- 7) The proposed parking spaces shall be provided prior to the occupation of either of the dwellings hereby approved in accordance with the details approved in accordance with Condition 4 and shall measure a minimum 2.4m x 4.8m each. Thereafter, the spaces shall be maintained for this use as an ancillary to the development.

END OF SCHEDULE