



Appeal Decision

Site visit made on 14 November 2017

by Rachael A Bust BSc (Hons) MA MSc LLM MEnvSci MInstLM MCMi MRTPI

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

Decision date: 07 December 2017

Appeal Ref: APP/B1930/W/17/3180306

Land adjacent to 7 Chene Mews, Waverley Road, St Albans AL3 5QF

- 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 5/17/0143, dated 19 January 2017, was refused by notice dated 9 May 2017.
 - The development proposed is the erection of an attached one bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for an attached one bedroom dwelling at land adjacent to 7 Chene Mews, Waverley Road, St Albans AL3 5QF in accordance with the terms of the application, Ref 5/17/0143, dated 19 January 2017, subject to the conditions set out in the attached Schedule.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the site and surrounding area.

Reasons

3. The appeal site is located within a predominantly residential area within the urban area, close to neighbourhood services, facilities and the Victoria Playing Field open space. There are bus stops within walking distance of the site which would provide access to services and facilities without reliance upon the private car. It is currently part of the side and rear garden to No 7 Chene Mews. Nos 7 and 8 Chene Mews form a pair of 3-bedroom semi-detached town houses. They both benefit from a garage and driveway located adjacent to No 8.
4. The appeal proposal would sever the garden of No 7 to create a plot for a one-bedroom 2-storey dwelling. The proposed dwelling would be attached to No 7 thereby creating a terrace of three dwellings. The proposed dwelling would measure approximately 6.7m in depth, around 3.8m in width and just under 9 metres in height. As with Nos. 7 and 8 the proposed dwelling would comprise accommodation within the roofspace. Two rooflights (one front and one rear) would be inserted into the roof; the ground floor would have a small front projection with a pitched roof.
5. The character of the surrounding area is mixed. To the north-east, and on an elevated site, is the 2-storey building of the Oak Tree Manor Nursing Home. To

the north-west lies Nos 1 – 6 Chene Mews a row of modern 2-storey townhouses with dormer windows in the front roofslopes. Nos 1 and 6 are detached dwellings with hard surfaced driveway parking areas to the front. Nos 2-4 are two pairs of semi-detached dwellings with integrated garage and hard surfaced driveway.

6. To the west of the appeal site is the rear car park for the Waverley Sports and Social Club, a 2-storey detached building which fronts onto Waverley Road to the south-west. Nos 7 and 8 Chene Mews to the south-east present a slightly different design to Nos 1-6 which is reflective of their later construction. It is a dense urban environment and the surrounding area has limited soft landscaping with only a few trees. From Waverley Road only Nos 7 and 8 Chene Mews are visible together with a substantial and mature sycamore tree.
7. The appeal proposal would be seen in the context of its immediate surroundings, that is Nos 7 and 8 Chene Mews. The proposed dwelling would replicate the height of the overall design including pattern of fenestration and front projecting canopy and materials of Nos 7 and 8.
8. The frontage of the proposed dwelling would be slightly narrower in width by around 1.2 metres to that of its immediate neighbours. However, due to the slight set-back on the plot, the proposed dwelling would appear subservient and subordinate to Nos 7 and 8. This would help to reduce any sense of dominance of built development in this location arising from a semi-detached pair of dwellings becoming a terraced row of dwellings.
9. I note that the access to the rear of the proposed dwelling would be provided through a cut-away corner. Whilst I agree with the Council that this is not a feature of the existing character and appearance of either Nos 7 and 8 or the other dwellings within Chene Mews, it is not unduly prominent such that it could be considered to be harmful. The current garden area of No 7 makes no particular contribution to the character and appearance of the surrounding area, accordingly its loss would not result in harm.
10. Consequently, I find that the appeal proposal would not harm the character and appearance of the site and surrounding area. Accordingly, it would not conflict with Policies 69 and 70 of the St Albans District Local Plan Review 1994 (LPR). These policies seek, amongst other things, to ensure that all development will be of high standard of design and reflect the character and appearance of the surrounding area.

Other matters

11. It is accepted by the main parties that the Council does not have a demonstrable five year housing land supply. As I have concluded that the proposal accords with the development plan, the presumption in favour of sustainable development set out in Paragraph 14 of the National Planning Policy Framework (the Framework) is engaged. Therefore, this further supports the grant of planning permission for this proposal.
12. I have had regard to the concerns raised by interested parties. These include the impact on the sycamore tree; parking; general maintenance of the site; adherence to plans; ownership of land and operation of adjacent facilities, namely the Waverley Sports and Social Club.

13. The substantial mature sycamore tree is not within the appeal site and is therefore outside of the control of the appellant. It is not protected in its own right through the means of a Tree Preservation Order. However, it does have amenity value and as such makes a general contribution to the character and appearance of the surrounding area. The submitted tree survey, arboricultural impact assessment and method statement indicated that it has a life expectancy of at least another 20 years. Accordingly it is appropriate to impose a planning condition to ensure its long term health and well-being is not adversely affected by the construction works.
14. Concerns have been raised regarding the impact on highway safety and the lack of parking. I note that the Highway Authority has raised no objection to this scheme. The appeal proposal would provide an additional one bedroom dwelling with no parking; however the Council has not refused the proposal on the lack of compliance with the parking standards set out in Policy 40 of the LPR. Being mindful of the accessible urban location, within walking distance of services and facilities together with bus routes for wider travel, I consider that it is reasonable that no allocated parking is necessary. I saw on my site visit, which I acknowledge is only a snapshot in time that notwithstanding the restrictions, there was some capacity for on-street parking within the surrounding streets and within the application site boundary itself.
15. I note the comments raised regarding the condition of the site and potential compliance with plans. All planning applications and appeals are judged on their own individual merit and the condition of a site rarely justifies planning permission. The degree of compliance with plans and other conditions are a matter for the local planning authority and as such not a matter for this appeal.
16. Several comments have been made regarding land ownership. The appellant has confirmed that the relevant notice has been given to the landowners. Land ownership is a private matter and accordingly is not a matter for this appeal.
17. I appreciate the concern raised by the Waverley Sports and Social Club. I have had regard to the indicative sketch layout indicating a line of proposed fencing. However, as the fencing is not presently erected and I have no indication of when the fence would be erected I have to determine the appeal on its own merit. In any event this appears to relate to issues of land ownership and control which is a private matter. Accordingly, I can give this matter limited weight.

Conditions

18. The Council has suggested 9 conditions. I have considered these against the advice in the Planning Practice Guidance and where necessary and in the interests of precision, I have merged and amended them to bring them in line with guidance.
19. In addition to the statutory time limit for implementation (condition 1) a condition requiring the development to be carried out in accordance with the plans (condition 2) is necessary to provide certainty.
20. Conditions requiring the submission, approval and implementation of materials and both hard and soft landscaping are necessary in the interests of protecting the character and appearance (conditions 3 and 4). A condition to ensure that protection of the nearby sycamore tree is secured by implementing the

protection methods set out in the submitted Tree Survey, Arboricultural Impact and Assessment and Method Statement (condition 5).

21. The introduction of a window into a habitable room at first floor on the elevation facing the Oak Tree Manor Care Home could give rise to some perceived impact on privacy. Accordingly it is reasonable to attach a condition requiring obscure glazing and restricted opening to this window and the bathroom window (condition 6).
22. The Council has sought the inclusion of a condition removing permitted development rights. The Framework advises that such conditions should only be imposed where there is a clear justification to do so. In this case the Council has put forward no such justification; therefore such a condition is unreasonable.

Conclusion

23. I have had regard to all matters raised, including those of interested parties, and conclude that the appeal should succeed and planning permission should be granted subject to conditions.

Rachael A Bust

INSPECTOR

Schedule of Conditions (6 in total)

- 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:
 - Drawing number CM 101-OS Revision B (Location Plan)
 - Drawing number CM 101-1 (Existing Floor & Roof Plans)
 - Drawing number CM 101-5 (Existing Elevations)
 - Drawing number CM 102-1 Revision A (Proposed Floor & Roof Plans)
 - Drawing number CM 102-5 Revision B (Proposed Elevations)
 - Drawing number CM 102-10 Revision A (Proposed Block Plan)
- 3) No development shall commence until samples of materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 4) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) earthworks showing existing and proposed finished levels or contours;
 - ii) retained trees, hedgerows and other soft landscaping features, where relevant;
 - iii) all plant species, planting sizes, planting densities, the number of each species to be planted and plant protection;
 - iv) means of enclosure and boundary treatments;
 - v) pedestrian access and circulation areas;
 - vi) hard surfacing materials; and
 - vii) an implementation programme.

The hard landscaping works shall also be carried out in accordance with the approved details prior to the occupation of the dwelling or in with a programme to be agreed in writing with the local planning authority.

The soft landscaping works as approved shall be carried out in the first planting and seeding seasons following the occupation of the buildings 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.
- 5) All the recommendations within the submitted "tree survey, arboricultural impact assessment and method statement" (referenced 640.16), dated May 2015, shall be implemented during the construction process. No site clearance, preparatory work or development shall take place on site until all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced) are in place on site. This includes: tree root protection area fencing; a pile foundation; on-site arboricultural supervision; hand digging for

foundation excavation and a compound for concrete and materials storage.

- 6) The building hereby permitted shall not be occupied until the windows to be created in the first and second floor side elevation facing towards Oak Tree Manor Care Home and the bathroom window in the first floor rear elevation have been fitted with obscure glazing, and no part of those windows that is less than 1.7 metres above the finished floor level of the room in which it is 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 and not altered in any way without the prior written approval of the local planning authority.

End of Schedule