



Appeal Decision

Site Visit made on 23 November 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2021

Appeal Ref: APP/B1930/W/21/3280346

Land Rear Of Nos 8-10 Prospect Road, St Albans AL1 2AX

- 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 Peter Kane against the decision of St Albans City Council.
 - The application Ref 5/21/0415, dated 12 March 2021, was refused by notice dated 23 July 2021.
 - The development proposed is erection of 3 detached houses on land rear of Nos 8-10, formation of new access to side of No 10, and associated landscaping and car parking.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of 3 detached houses on land rear of Nos 8-10, formation of new access to side of No 10, and associated landscaping and car parking at Land Rear of Nos 8-10 Prospect Road, St Albans AL1 2AX in accordance with the terms of the application, Ref 5/21/0415, dated 12 March 2021, subject to the conditions in the Schedule at the end of this decision.

Application for costs

2. An application for costs has been made by Mr Peter Kane against St Albans City Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The description of development in the header and decision is taken from the application form. The Council's decision notice and the appeal form include a different description which refers to the demolition of a garage. I saw that this garage has already been removed and the appellant indicates that this follows on from an extant planning permission affecting the site (the approved scheme). As such, the original description adequately describes the proposal.

Main Issues

4. The main issues are whether the development would preserve or enhance the character and appearance of the St Albans Conservation Area (the CA) and its effect on the setting and significance of locally listed buildings.

Reasons

5. The CA covers an extensive urban area in the centre of St Albans. The submitted character summary (CS) explains the significance of Prospect Road as part of a Victorian suburban residential development based around the nearby railway station. The appeal site lies towards the older, western part of the street where many of the roadside properties originate from the Victorian

period. These include the appeal property as well as its neighbours, a pair of semi-detached houses (Nos 6 and 8) and 12 Prospect Road (No 12). The CS defines these premises as locally listed buildings and given their age and architectural interest they contribute positively to the significance of the CA.

6. The backland position of the proposed dwellings would be at odds with the historic road frontage layout of development on the south side of Prospect Road. However, the proposal would be near to and seen with existing backland development at Ashwood Mews and The Brambles. Irrespective as to whether these neighbouring developments were built on garden land or not, the proposal would generally follow the building line of these schemes and so its layout would be compatible with its surroundings. Moreover, the approved scheme could still be implemented and would provide dwellings in a location towards the rear of the site with a similar loss of openness to the proposal.
7. Unlike the approved scheme, the development would incorporate part of No 8's rear garden. This has a close relationship with No 6's back garden as both are long and narrow. However, the CS does not identify No 8's garden as contributing to the significance of the CA, either on its own or as part of a pair. Also, its subdivision would be in keeping with the approved scheme and the resultant shortened plot length to the appeal property.
8. House 3 as shown on the plans would straddle the boundary between No 8 and 10 Prospect Road and so it would conflict with the historic plot widths. However, this would only be appreciated from the neighbouring properties. Moreover, the CS notes the irregularity of plot widths in the western part of Prospect Road and so the failure to conform to existing boundary lines would not undermine a defining aspect of the CA. The garden wall that would be partly removed is not formally identified in the CS as having historic or architectural significance. In any event, a significant part of it would be retained and reclaimed bricks would be used to form the new boundary to the rear of No 8. Therefore, the incorporation of part of No 8's back garden into the extent of the development would not harm the historic interest of the CA.
9. The proposed dwellings would be seen from the road along the access and from the rear of nearby properties. They would be of a modern style, unlike the older roadside houses. However, there is no marked uniformity in the design of local buildings and so this difference would not in itself be harmful to the nature of the area. Instead, through its layout and appearance, the proposal would provide an understandable distinction between modern and historic phases of development.
10. The houses would be tall but they would not unduly obstruct sight of the rear elevations of Nos 6, 8, 12 and the appeal property due to the separation distances. Also, the scheme would not significantly affect or detract from the most important street views of the locally listed buildings. As such, their significance and contribution to the visual qualities of the CA would remain.
11. For the above reasons, I conclude the development would preserve or enhance the character and appearance of the CA and would cause no harm to the setting or significance of locally listed buildings. In these regards, it would accord with policies 2, 4 and 85 of the St Albans District Local Plan 1994 (the LP). Amongst other things these seek to ensure development in conservation areas is sympathetic to its surroundings. LP policy 87 is referred to in the

Council's refusal reasons but this is not strictly relevant as the proposal does not include the demolition of a locally listed building.

Other Matters

12. The proposed dwellings would be seen from nearby properties and the site rises in level towards the rear. However, the houses would be set far enough away to avoid any unacceptable loss of light to windows in neighbouring residences or any significant loss of outlook. The proposal would overshadow and would cause an overbearing effect to the end of adjoining rear gardens. However, these are already affected to a degree by mature trees at the rear of the site and so the scheme would not cause significant harm in these regards. The development would avoid unacceptable overlooking of adjoining residences through separation distances, boundary features and the use of obscure glazing. As such, the scheme would maintain satisfactory living conditions for the occupants of neighbouring properties.
13. There is little information before me on the reasons why an extension was refused planning permission to No 6. However this relates to a different scheme to the current proposal and land outside the appeal site. As such, this decision has little bearing on my assessment.
14. The proposal would include gardens of a sufficient size. While these would be overshadowed by retained trees, they would be similar to those allowed under the approved scheme. Therefore, I find the development would provide satisfactory living conditions for future occupiers.
15. The development would lead to the loss of garden vegetation. However, new planting is proposed and could be secured through the imposition of a planning condition. As such, the scheme would have an acceptable impact on the natural qualities of the site and biodiversity.
16. The proposal would include sufficient parking and turning areas and so it is unlikely to increase demand for roadside parking. In any event, parking is allowed on Prospect Road and there is no substantive evidence that shows there is excessive demand. The access drive is wide enough to ensure safe movement of cars and pedestrians and the scheme would not prejudice highway safety.
17. I am referred to no development plan policy that requires the provision of electric vehicle charging points. In line with the National Planning Policy Framework (the Framework), the proposal would allow the charging of plug-in vehicles. There is no evidence to show the scheme would cause unacceptable pollution.
18. None of the above concerns provide sound reason to refuse planning permission. As such, they do not affect my overall conclusion on the appeal.

Conditions

19. I have considered the conditions suggested by the Council, having regard to the tests set out in the Framework. Where appropriate, I have amended the wording for precision reasons and to avoid unnecessary pre-commencement requirements.

20. To ensure the development is carried out in accordance with the submissions, I impose a condition that refers to the appeal drawings. The appellant has agreed to a suggested pre-commencement condition that relates to a construction management plan. This is required in the interests of highway safety and to protect living conditions at neighbouring residences.
21. A drainage condition is imposed to ensure no risk of flooding or damage to the adjoining railway. For similar reasons and to ensure the development does not cause excessive overshadowing or overbearing effects, a condition is included on ground levels and earthworks.
22. To protect trees, a condition is required to ensure the development is carried out in line with the submitted arboricultural report. To ensure a satisfactory appearance, a landscape condition is imposed, although I have amended the suggested wording to avoid repetition with other conditions. A condition that requires a noise assessment and appropriate mitigation is included to ensure the development provides an appropriate living environment.
23. To prevent unacceptable overlooking, a condition is imposed that requires the provision and retention of obscured glazing to specified windows. Limited justification has been provided to include the suggested condition that would remove a significant number of permitted development rights from the properties. Instead, to ensure the proposal does not lead to unacceptable overlooking, I impose a condition that removes permitted development rights which allow new windows to be inserted in the principal elevations of the houses. Permitted development rights already provide sufficient safeguards to ensure additional windows in the side elevations do not cause a loss of privacy.
24. There is no evidence that indicates the site could be subject to ground contamination. As such, the suggested condition in this respect is unnecessary and has not been imposed.

Conclusion

25. In light of the above, I find the proposal would comply with development plan policies and there are no factors that justify refusing planning permission. Therefore, I conclude the appeal should succeed.

Jonathan Edwards

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: P1001, P1111, P1112, P1261 revision A and P1262.
- 3) No development hereby permitted shall be carried out until a construction management plan has been submitted to and approved in writing by the local planning authority. The construction of the development shall be carried out in

accordance with the approved details. The construction management plan shall include details of:-

- (a) traffic management requirements;
 - (b) construction and storage compounds (including areas designated for car parking);
 - (c) siting and details of wheel washing facilities;
 - (d) cleaning of site entrances, site tracks and the adjacent public highway;
 - (e) timing of construction activities;
 - (f) the management of crossings of the public highway and other public rights of way; and
 - (g) post construction restoration/reinstatement of the working areas and temporary access to the public highway.
- 4) No construction works above ground level shall be carried out on the development hereby permitted until details of the disposal of both surface water and foul water away from the adjoining railway 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.
- 5) Apart from the formation of the access, no part of the development hereby permitted shall be commenced until full details of finished ground levels as well as earthworks and excavations to be carried out as part of the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the details so approved.
- 6) All recommendations in the David Clarke Arboricultural Report dated March 2021, including the details as set out on the Tree Protection Plan numbered TPP/810PRSAH/010 B shall be implemented and followed during the construction of the development hereby permitted. No works apart from the formation of the access shall take place until the recommended tree protection measures to BS5387 standard are in place on site.
- 7) No construction works above ground level 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. These details shall include:-
- (a) means of enclosure;
 - (b) hard surfacing materials;
 - (c) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc);
 - (d) planting plans, cultivation details, schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate; and
 - (e) an implementation programme.

The development shall be carried out in accordance with the approved details and implementation programme.

- 8) The dwellings hereby permitted shall not be occupied until a noise assessment including details of noise and vibration levels within the dwellings and the associated garden areas following completion of the development has been submitted to and approved in writing by the local planning authority. The assessment shall include details of any noise mitigation measures to be incorporated as part of the development to ensure satisfactory living conditions. The development shall not be first occupied until any approved noise mitigation measures have been implemented and thereafter any such measures shall be retained and be maintained so as to be operational.
- 9) The windows as shown on the approved plans as being obscure glazed or satin privacy glazing shall only be fitted with obscured glazing. The windows as shown on the approved plans as being fixed shall be non-opening windows. The windows shall be retained as such thereafter.
- 10) 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 or installed at first floor level or above in the principal elevations or front roof slopes of the dwellings hereby permitted.