
Appeal Decision

Site visit made on 2 June 2016

by Emma Tinsley-Evans BSoc.Sc MA MRTPI

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

Decision date: 20 July 2016

Appeal Ref: APP/B1930/W/16/3146093

Priory Court, Old London Road, St Albans, Hertfordshire AL1 1PR

- 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 Des Allen against the decision of St Albans City & District Council.
 - The application Ref 5/15/1278, dated 23 April 2015, was refused by notice dated 8 September 2015.
 - The development proposed is 14 self-contained flats with parking and landscaping. Partial demolition of existing block. Reconstruction, alterations and extensions to existing 5 storey building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There have been some discrepancies between the list of drawing numbers set out in paragraph 4.1 of the appellant's Statement of Case and those listed in the Council's decision notice. The appellant has indicated that an error has occurred in paragraph 4.1 and that those listed in the Council's decision notice are the correct drawings. For the avoidance of doubt, I have determined the appeal based on the drawings listed in the Council's decision notice.
3. Since the determination of the planning application, the St Albans Conservation Area Character Statement (SACACS) has changed in status from draft to final publication in March 2016. I have therefore considered the appeal having had regard to the SACACS dated March 2016.

Main Issues

4. The main issues are the effect of the proposed development on:
 - The character and appearance of the Conservation Area and the setting of the adjacent locally listed buildings; and
 - The living conditions of the occupants of neighbouring properties with regard to outlook, light and privacy.

Reasons

Character and appearance

5. Priory Court is a prominent building occupying a site between London Road and
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Old London Road. It is located in the extensive St Albans Conservation Area (SACA), a designated heritage asset as defined in the glossary at Annex 2 of the National Planning Policy Framework (the Framework).

6. Paragraph 132 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets and I have a statutory duty, under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. This duty is confirmed in Policy 85 of the Council's Local Plan¹.
7. Given the extent of the SACA, it is divided into specific character areas. The appeal site falls within Character Area 7d Alma Road and Priory Park. In this area Old London Road is identified as being the most ancient route in the Character Area and the listed and locally listed buildings feature amongst its positive characteristics. The SACACS for Character Area 7d shows that the two residential terraces to the west of the appeal site are locally listed buildings and beyond these, fronting Old London Road, are 5 Grade II listed buildings.
8. I acknowledge that Priory Court is currently in a poor state of repair and does not contribute positively to the character and appearance of this part of the SACA. At 5 storeys high, the existing development is also prominent in the street scene, although the three-legged / T-shaped design serves to reduce its bulk and mass and there are currently perceptible gaps between the existing building and its immediate neighbours. This also allows for significant parts of the current building to appear set back from London Road and Old London Road which provides a sense of space in this part of the SACA.
9. The appeal proposal would reduce these gaps considerably as built development would be brought significantly closer to the street and to the site boundaries with neighbouring buildings. The mass and bulk of the existing building would be increased and its size, scale and the degree to which it extends along the site boundaries would result in a form of development that has a negative impact on the street scene. From London Road particularly, the scale, mass and bulk of the proposed building would be exaggerated further as the appeal site is set up from the street level on an embankment.
10. The proposal would see the built form brought forward to align with the adjacent 2 storey dwelling at 202 London Road, which is part of a locally listed terrace. These properties, along with the locally listed buildings in Winston Terrace adjacent to the appeal site on Old London Road, represent the historic development of the area. They are identified in the SACA as 'plainer Victorian terraces' and feature as positive characteristics of this part of the SACA.
11. The appeal proposal would result in the current break in development between the existing Priory Court and No 202 being filled in. Due to its height and proximity, the proposals would visually dominate the adjoining properties in London Road and would, in my opinion, harm the setting of this locally listed terrace. The development would not, however, extend significantly further towards 8 Winston Terrace than the existing building. Given the separation that would remain between the appeal building and Winston Terrace, there would be no harm to the setting of these locally listed buildings. Furthermore, there would be no harm to the setting of the statutorily Grade II listed

¹ City and District of St Albans District Local Plan Review 1994

- buildings to the west as they are physically and visually separated from the appeal site by the locally listed buildings on London Road.
12. I acknowledge that the use of terraces would go some way to reducing the bulk and mass of the building; nonetheless, it would rise to 5 storeys and extend across much of the width and depth of the appeal site. This would result in a form of development that would dominate the street scene on this part of London Road and Old London Road and fail to relate to the scale and character of this part of the SACA.
 13. Notwithstanding this, I also recognise the current building's incompatibility with this part of the SACA, where tall modern housing developments such as Priory Court are identified as negative features that are out of scale with the area and dominate the adjacent Victorian buildings. However, as the appeal proposal would have a greater mass and bulk than the existing building and would extend further out towards the site boundaries, it would be a more dominant form of development than the existing building. I therefore consider that the proposed building would fail to preserve or enhance the character and appearance of this part of the SACA.
 14. I am mindful that the SACACS describes this Character Area as having a mixed character overall; however, the appeal building would back onto Old London Road which is the most ancient route in the Character Area, and it would sit immediately adjacent to locally listed terraces. The proposed building would therefore be seen in the context of these identified positive characteristics.
 15. I note that the appellant has sought to re-order the emphasis of the elevations compared to a previously refused scheme. Whilst I consider that there has been some improvement to the overtly horizontal emphasis of the earlier design, there is still a prominence of horizontal features in the current scheme that would be out of keeping with the generally vertical emphasis of buildings in this part of the SACA.
 16. For the reasons outlined, the appeal proposal would have a harmful effect on the character and appearance of this part of the SACA and the setting of the adjacent locally listed buildings on London Road. As Alma Road and Priory Park is identified as a specific Character Area within the SACA, I consider that harm to this part of the Conservation Area would fail to preserve or enhance the character and appearance of the Conservation Area as a whole.
 17. However, the harm to the significance of the Conservation Area and locally listed buildings is less than substantial in this case and I have had regard to the public benefits put forward by the appellant.
 18. I note the current building's state of disrepair and that its redevelopment would result in a modern, accessible and more sustainable form of development that would provide a better standard of accommodation for its future occupiers. To my mind however, it is questionable whether these benefits would be benefits for the public at large. Moreover, the existing flats are two-bedroom units and all but two of the proposed new flats would also have two bedrooms. There would, however, be a net gain of two flats, each with three bedrooms and I accept that this would be a benefit of the proposal. Notwithstanding this, I do not think that this public benefit is sufficient to outweigh the harm to the character and appearance of the Conservation Area.

19. The proposal would deliver economic benefits during the period of construction, but these would be relatively short-lived. However, I agree with the appellant that there would be environmental benefits including the reuse of an existing structure, minimising waste and reducing demand on landfill space. The use of modern materials and insulation would also help to reduce CO2 emissions. These would be public benefits of the proposal.
20. I am also aware that the Council cannot currently demonstrate a 5 year supply of housing land and in accordance with paragraph 49 of the Framework, relevant policies for the supply of housing should not therefore be considered up to date. In such instances paragraph 14 of the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted. Examples of policies restricting development are identified in footnote 9 and include those relating to designated heritage assets.
21. Paragraphs 134 and 135 of the Framework require a balancing exercise to be undertaken. Having considered the public benefits and having regard to the great weight that should be given to the conservation of designated heritage assets, I do not consider that the wider public benefits of the appeal proposal outweigh the harm to the character and appearance of the Conservation Area in this case.
22. I conclude that the proposed development would have a harmful effect on the character and appearance of the Conservation Area and the setting of the adjacent locally listed buildings on London Road. The proposed development would be contrary to Policies 69 and 70 of the Council's Local Plan which seek, amongst other things, to ensure that development takes into account its context including the setting, scale and character of its surroundings. The proposed development would also conflict with Policy 85 of the Local Plan as it would not preserve or enhance the character or appearance of the Conservation Area.
23. The appellant has drawn my attention to the approved 'Eversheds' scheme further along London Road. I am aware that this is a significantly larger and more comprehensive redevelopment scheme of a former industrial site. Whilst I do not have the specific details of this scheme before me, from the information that I have been provided with and from my site visit, it appears that where this scheme 'bleeds out' onto on London Road and Alma Road, it is at a more sympathetic scale with its neighbours than the appeal site would be with its immediate neighbours.
24. Furthermore, although one of the main terraces of the Eversheds scheme runs along London Road, only the rear elevations of this terrace would be visible. It appears that the terrace would be set back from London Road and separated from it by an existing petrol filling station. The rear gardens of the properties and landscaping would also soften its appearance in the street scene.
25. In contrast, the appeal proposal would have five stories of built development on an elevated site, closer to the street frontage with London Road and would dominate the London Road street scene much more than the Eversheds scheme. To my mind there are differences between the Eversheds scheme and the appeal proposal such that they are not directly comparable.

26. Similarly, the appellant makes reference to other large developments in the area, including Ziggart House. I note that Ziggart House is in a different Character Area and I do not have the details of this Character Area in front of me. However, the appeal site is in the Alma Road and Priory Park Character Area where the SACACS states that tall buildings should not set the benchmark for new development as they do not fit into the scale of the area and are over dominant.

Living conditions

27. The appeal proposal would see a significant increase in the amount of built development on the site extending outwards towards the site boundaries and bringing the building closer to the neighbouring flats at Tollhouse Point and the 2 storey residential terrace at 202 London Road.
28. The existing gap between Priory Court and Tollhouse Point would be considerably reduced and the proposed covered parking area and first floor terrace would sit on the appeal site's boundary with this neighbouring building. Given the differences in site levels, these elements would extend almost up to the height of the first floor windows with Tollhouse Point and whilst the proposed building would be stepped in slightly from second floor level and above, overall it would be significantly closer to Tollhouse Point.
29. I am aware that the windows in Tollhouse Point that face the appeal site are side windows and the units they serve at ground and first floor level also have glazed patio doors providing the main source of light and outlook. Whilst this may be so, the new building would be much closer to these side windows than the existing building and given its overall height and bulk, I consider that it would be a dominant and oppressive form of development that would have an overbearing impact on the units at ground and first floor level that would also result in a loss of light to these units.
30. However, I note that the flank wall of Tollhouse Point is stepped back at second and third floor levels. Given that the appeal building is also set in at second floor level and above, I consider that a sufficient distance would be maintained between the buildings such that there would not be an overbearing impact or loss of light to the upper units in Tollhouse Point.
31. The appeal proposal would also see an increase in built form towards the boundary with 202 London Road. However, the position of the existing flank wall of Priory Court would remain unchanged and whilst it is also proposed to extend to the rear of the existing flank wall, this would be set well back from the boundary with the rear garden of No 202. Therefore, I do not consider that the appeal proposal would have an overbearing impact on the rear garden that would materially harm the living conditions of the occupants to any greater degree than at present.
32. The remodelled Priory Court would be brought forward to align with the front of No 202, but I agree with the appellant that it would not be in an area that would be readily perceived by the occupants of No 202. I do not therefore consider that the appeal proposal would result in an overbearing form of development that would harm the living conditions of the occupants of No 202 with regard to outlook, nor do I consider that there would be significant loss of light to the property or garden.

33. Turning to issues of privacy, I acknowledge that the existing balconies and windows in Tollhouse Point can be seen from the public realm and surrounding development. However, the wider public are likely to have only temporary views as they pass by or get in and out of their cars. The 3 storey flatted development at Devon Court opposite is sufficiently separated from Tollhouse Point and has no directly facing balconies or terraces. Furthermore, the existing Priory Court building as it faces Tollhouse Point does not appear to have balconies of the sort that would be used to sit out on and the windows are some distance away. I therefore consider that the degree of overlooking towards Tollhouse Point is not particularly significant at present.
34. In contrast, the appeal proposal would be much closer to the boundary with Tollhouse Point. At ground floor level, the proposed covered parking area includes narrow vertical windows which would be only a short distance away from the first floor windows and corner balcony of Tollhouse Point. Whilst I am of the opinion that there would be a degree of overlooking, were I minded to allow the appeal, this could be adequately mitigated by a condition requiring the use of obscure glazing in the car park windows.
35. At first floor level, the proposed building would have wide terraces extending up to the site boundary with Tollhouse Point. At second floor level and above, the proposed balconies would be set in from the boundary; however, all of the main habitable rooms of the proposed new flats would be much nearer Tollhouse Point than at present.
36. Having regard to Policy 70 of the Local Plan, all windows in the elevation of Tollhouse Point nearest the appeal site serve habitable rooms. Policy 70 sets out that a tolerable level of visual privacy should be provided between dwellings and a window to window distance of 27m between habitable rooms should normally be achieved. Although I accept that this distance is unlikely to be met at present, the appeal proposal would result in a worsening of the existing situation. The proposed first floor terraces at Priory Court would allow overlooking into the first floor windows and onto the first floor corner balcony at Tollhouse Point. I therefore consider that there would be a loss of privacy for the occupants of the first floor units of Tollhouse Point that would be harmful to their living conditions.
37. Above first floor level, I consider that sufficient distance would be maintained between Tollhouse Point and the appeal building to ensure the privacy of the occupants of the second and third floor units of Tollhouse Point would not be unduly harmed.
38. With regard to 202 London Road, the balconies of the appeal proposal that would face this property are already present and the proposed terraces and balconies nearest No 202 would be side on. The windows in the western elevation of the appeal proposal would look towards the flank wall of No 202 and those facing the rear garden would be set well back from the boundary such that I do not consider there would be a significant level of overlooking or loss of privacy.
39. I do not therefore consider that that the appeal proposal would have a harmful effect on the living conditions of the occupants of 202 London Road with regard to outlook, light and privacy.

40. However, the appeal proposal would have a harmful effect on the living conditions of the occupants of Tollhouse Point with regard to outlook, light and privacy. The proposal would be contrary to Policy 70 of the Council's Local Plan which seeks to ensure, amongst other things, that new development has regard to its setting and that the massing and siting of buildings creates attractive spaces of human scale. It also requires that there is a tolerable level of visual privacy in habitable rooms. I also find conflict with one of the Framework's Core Principles which is to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other matters

41. I have had regard to other local concerns about the impact of the proposed development on issues of highway safety, parking and refuse collection. I have no evidence before me to suggest that I should take a different view to that of the highway authority or Local Planning Authority who have raised no objections to these matters.

Conclusion

42. For reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Emma Tinsley-Evans

INSPECTOR