
Appeal Decision

Site visit made on 8 November 2016

by Nicholas Taylor BA(Hons) MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/R3705/Y/16/3150828

Chapel End Church, Coleshill Road, Chapel End, Warwickshire CV10 0NZ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Warwickshire Partnership against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2015/0657, dated 25 October 2015, was refused by notice dated 11 February 2016.
 - The works proposed are conversion of Chapel End Church and rear buildings into 8 residential units with parking at rear and side of church. Demolition of rear lean-to kitchen block garage.
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Decision

1. The appeal is dismissed.

Procedural Matter and Main Issue

2. The appeal property is a Grade II listed building. A parallel application for planning permission (Council ref. PAP/2015/0656) was determined by the Council on 11 February 2016. However, the appeal before me concerns an application for listed building consent. Consequently, the main issue in this appeal is whether the proposal would preserve the listed building or its setting or any features of special architectural or historic interest it possesses (i.e. its significance).

Reasons

3. The appeal property is a large former non-conformist chapel, fronting Coleshill Road and with a side boundary onto School Hill. The surrounding area is predominantly residential with a number of nearby shops on Coleshill Road.
 4. The property comprises several elements. The chapel dates originally from 1840 and is prominent on Coleshill Road. It was substantially altered and extended by the construction to its rear of an attached Sunday school in 1853. At that time, the internal gallery which runs around three sides of the main auditorium was also extended. Further single storey lean-to service extensions were added later. There is limited external space around the front and sides of the building but the plot is more extensive to the rear, where there is a small graveyard and a small free-standing garage. The property has been vacant for several years.
 5. In considering whether to grant listed building consent, Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
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require decision makers to have special regard to the desirability of preserving the building or its setting. The *National Planning Policy Framework* (the Framework) requires¹ applicants to describe, and the decision maker to identify and assess, the significance of heritage assets affected by a proposal. From the listing description, the parties' evidence and my own observations, it is apparent that the building's significance as a heritage asset derives largely from its overall architectural form, both external and internal, its fittings and its historical associations with the social fabric of the local community. Notable architectural features include the external appearance of the church part of the building, with its neo-classical façade and tall, narrow round arch windows, which is distinctive and prominent on the Coleshill Road frontage. Also of importance is the spacious, galleried interior, with galleries supported on slender columns.

6. At the time of my site visit, many interior features, such as pulpit, pews and plaques, had been removed either off the site or stored within the building. Submitted photographs show that, when use for worship ceased in 2013, the interior remained fairly complete, with its still extant organ and sliding entrance doors, so that some of these internal features would, and still do, also make a considerable contribution to significance through, aesthetic, evidential and associative value.
7. Both parties acknowledge that the externally plain Sunday school part of the building is of lesser architectural value but it contains a number of attractive features of interest, including columns on the ground floor, doorways to the gallery and some windows. It too contributes through more modest, aesthetic, evidential and associative value to the overall significance of the building. I see no reason to disagree with the parties that the rear service lean-to has little historic or architectural merit. Finally, the currently overgrown graveyard contributes to the setting and historic significance of the property.
8. I turn next to the impact on the heritage asset of the proposed works, which would be intended to bring about the conversion of the property to residential use in the form of eight apartments. Demolition of the rear service lean-to and the garage would, as agreed by the parties, have a positive effect by better revealing the asset's significance. Proposed external alterations to the main building, mainly involving window and door openings to the Sunday school element, would, again as agreed by both parties, preserve that part of the building. The graveyard would remain, with a small number of parking spaces inserted at the rear of the building and a vehicular access reinstated from Church Hill. The Council raises concerns about the visual intrusion of "mass parking" at the rear of the building but I consider that, with sympathetic surfacing materials, insertion of a few spaces in a reasonably limited hard-surfaced area would have negligible adverse impact on the setting and thereby heritage significance of both building and graveyard.
9. Internally, sub-division into apartments would entail construction of a structural wall down the middle of the auditorium, supporting a new first floor just above the level of the galleries. Both the auditorium and Sunday school elements would be sub-divided by stud partitions into numerous rooms and staircases. Paragraph 017 of *Planning Practice Guidance* (PPG) states that substantial harm is a high test, which indicates that a key element of an asset's

¹ Paragraphs 128 and 129

special architectural or historic interest is affected. In this case, I agree with both parties that the sub-division of the auditorium into many small spaces on two floors, bearing very limited relationship to the existing layout, would amount to substantial harm. Retention of the church's entrance lobby, side staircases (albeit blocked off) and sliding doors, together with tall window openings, limits the harm to some extent. The fact that the columns would remain visible within apartments and that the galleries would be boxed in, remaining in situ but hidden, also offers some limited mitigation. Loss of internal fittings and features, notwithstanding that the appellants maintain that much of the removal of these items was carried out before they acquired the building, would add to the harm. Although theoretically reversible, the harm from loss of almost any sense of the internal spatial qualities and completeness of the church element in particular would remain substantial.

10. The subdivision of the Sunday school, particularly of its first floor space, uncertain incorporation of ground floor columns into the room layout and loss of connecting doorways to the gallery along with remaining fittings, would also be harmful but, in isolation, less than substantial.
11. The preservation of the building envelope, with its exterior largely intact, and the removal of detrimental parts, are important considerations. But, although some aspects of the works would individually constitute less than substantial or negligible harm, overall, the impact of the proposed scheme would represent substantial harm.
12. Listed buildings are all nationally important and possess special interest. Paragraph 132 of the Framework states that when considering the impact of a proposal on a designated heritage asset, great weight should be given to the asset's conservation. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to a grade II listed building should be exceptional.
13. Paragraph 133 of the Framework goes on to say that substantial harm to a designated heritage asset should be refused, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh the harm or that four further tests are all passed.
14. The preservation of the building envelope is a public benefit but I have already assessed that it would not prevent my finding of substantial harm to the asset's significance. Provision of eight apartments, adding to the area's housing stock, would amount to a significant public benefit. The appellants' very brief *Affordable Housing Viability Report* states that the apartments would be let at rents similar to social housing levels in the area but I have been given no indication that that would be anything other than a market rent for the type of accommodation or that appropriate mechanisms are in place to ensure that the accommodation would meet the Framework's definition² of "affordable". Consequently, I attach limited additional weight to the assertion that the housing would be low cost or affordable. In summary, I am not convinced that the public benefits of the particular scheme put forward would outweigh the substantial harm to the heritage asset.
15. Moving on to the four tests in paragraph 133, the first is whether the nature of the asset prevents all reasonable uses of the site. I accept that the property

² See Annex 2: Glossary

- presents a number of constraints, including its age, size and attendant maintenance burden, internal configuration and tight external space incorporating a graveyard and proximity to neighbouring dwellings, which restrict the range of functions for which the property would be ideally suited.
16. The appellants assert that sub-division of the auditorium is inevitable to enable the building's continued use and that no other building layout than that proposed is economically viable. Taking into account marketing, on which I comment further below, together with the lack of evidence of serious investigation of alternative conversion scenarios, I am not convinced that a viable use, which would enable the auditorium space to be largely retained, is unlikely to be found. Nor, even if the auditorium was to be sub-divided, is it clear that there is no potentially viable scheme which would enable a greater preservation and appreciation of its spatial qualities.
 17. Moreover, the Sunday school element provides greater scope for conversion and sub-division which would expand the potential range of uses, possibly in combination with each other. For the avoidance of doubt, I consider that sensitive sub-division of both existing floors of the former Sunday school could be acceptable in principle if part of an otherwise acceptable scheme for the building as a whole. I note the Council's concerns regarding access and parking but, all in all, there is no strong evidence that all reasonable use of the building is prevented by the very nature of the asset.
 18. The second test is that no viable use of the asset itself can be found in the medium term through appropriate marketing that will enable its conservation. Paragraph 016 of PPG advises that the aim of marketing is to reach all potential buyers. In this case, the report by the appellants' letting agent was written after just 9 months marketing, although the appellants state that marketing has continued thereafter without success. This is a fairly modest period in the context of such an unusual property, although I accept that the agents may have worked hard to generate the level of interest achieved. Moreover, it appears to have been marketed only for rent on set terms and it is not clear that alternative models of disposal, financial arrangements or uses were seriously sought or considered. Although interest was limited, it was clearly not absent, including from potential religious users. All in all, despite the property's physical and locational constraints, it is not clear that potential interest from viable users in the medium term has been exhausted.
 19. Regarding the third test, I accept that, in the current climate, grant funding, with or without public or charitable ownership, would be likely to be very difficult if not impossible to access for the appeal property. Whilst I have been given no evidence of any serious effort to investigate such options, the Council has not suggested a possible source of funding or ownership.
 20. The final test is whether the harm to the heritage asset is outweighed by the benefit of bringing the site back into use. I note the advice from Historic England³, referred to by the Council, that sensitive conversion of former places of worship should be appropriate to the building's historic character whilst being economically viable in the particular location. It advises that internal fittings, and I would include in this case also internal space, constitute a large part of such buildings' historic character and that some degree of compromise over use may be required. The Council says that it is prepared to countenance

³ *New Uses For Former Places of Worship*, Historic England, updated 2012

a mixed use and I do not demur. It has not been demonstrated here that a residential conversion of the kind and intensity proposed is the only viable way of bringing the site back into use.

21. PPG paragraph 014 confirms that disrepair and damage to a listed building and its effect on viability can be material considerations but should be disregarded where deliberate. Although, leaving aside the deliberate removal of some features, fittings and materials, some deterioration of the appeal property was evident at my site visit, I have not been provided with any detailed, structural or other evidence to support the contention that significant works are required to secure the structure. Whilst the appellants argue that the fabric of the building has deteriorated since falling vacant, with maintenance of the roof a particular concern, I give that limited weight, as basic on-going maintenance should be a normal expectation of a responsible owner. The condition of the building has not been shown to pose an existential threat to the building as a whole and the cost of repair has not been clearly shown to be prohibitive. Overall, therefore, I am not convinced that the benefit of bringing the site back into use would outweigh the harm in this case.
22. I conclude that the building is of strong historic and architectural value, contributing to its significance as a designated heritage asset. The proposed works would amount to substantial harm to the designated heritage asset. It has not been demonstrated that the required tests set out in the Framework have all been passed or that strong public benefits would ensue which would be sufficient to outweigh the harm.
23. Accordingly, the proposal conflicts with the overarching statutory duty, which must be given considerable importance and weight, and with the Framework. Although not determinative in a s20 appeal, the scheme would conflict with the development plan, taken as a whole. In particular, there would, overall, be conflict with the requirement of Policies NW10, NW12 and NW14 of the *North Warwickshire Local Plan Core Strategy* (CS) and saved Policy ENV16 of the *North Warwickshire Local Plan 2006* to conserve the historic environment. The proposal would partly comply with CS Policy NW10 to the extent that it would focus development on brownfield land and re-use of a redundant building.

Other Matters

24. The main parties dispute the outcome of the parallel application for planning permission. Similarly, a number of issues and concerns of third parties relevant to the planning application but not the application for listed building consent are raised in the Council's decision report. I confirm that these matters have little bearing on my conclusions in this appeal case.

Conclusion

25. For the reasons set out above, the appeal should be dismissed.

Nicholas Taylor

INSPECTOR