



Appeal Decision

Site visit made on 12 February 2019

by G Jenkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2019

Appeal Ref: APP/B1930/W/18/3212516

Land adjacent to Dalton house, Dalton Street, St Albans, AL3 5QQ.

- 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 Burns against the decision of St Albans District Council.
 - The application Ref 5/2018/0459, dated 2 February 2018, was refused by notice dated 20 June 2018.
 - The development proposed is part demolition of office building and erection of 4 dwellings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

(i) whether or not the proposed development would preserve the setting of the Grade 2 Listed Building known as Dalton House;

(ii) whether or not the proposed development would preserve or enhance the character or appearance of the St Albans Conservation Area including having regard to the effect on trees protected by a Tree Preservation Order (TPO).

Reasons

3. The appeal site is located to the north of St Albans city centre, within easy walking distance of the services and amenities of the centre. It lies in a predominantly residential area within the St Albans Conservation Area. The site has frontages to Catherine Street, Normandy road and Dalton Street. The proposed development sites on a plateau above the level of Dalton House (formerly Bleak House), but is separated from it by an evergreen hedge.
4. In contrast with the Georgian style of Dalton House, properties along Dalton Street and on the corner of Catherine Street and Dalton Street are mainly of more humble design and simple proportions. These dwellings either front directly on to or sit in close proximity to the street behind low walls. A high brick wall and gate mark the boundary of the appeal site with Dalton Street. The wall and the open outlook above it are a striking contrast to the otherwise closely built up development in Dalton Street. The site currently comprises a single storey height building above the basement office building and associated car parking. This building is contemporary in design and sits

closely behind, but below the level of the Dalton Street wall, thereby retaining the open view above it.

5. The appeal proposal would be similar in height, scale and design to the Dalton Street terraces and would adopt a similar front alignment. The proposals would result in the removal of the wall and a significantly higher street frontage than existing. Thus, removing the visual openness at this narrow part of Dalton Street.

Whether or not the proposed development would preserve the setting of the Grade 2 Listed Building known as Dalton House

6. The appellant has referred to the wall along Dalton Street as not being listed, whilst the Council consider it a curtilage listed structure associated with the principal listed building, Dalton House. As a preliminary finding in this Decision, the wall is considered to be a curtilage listed structure by reason of its historic association with the principal listed building. The remaining question is as to its significance, taking account of its present association, and its contribution to the significance of Dalton House and the conservation area.
7. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
8. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Substantial harm to or loss of a Grade II listed building should be exceptional.
9. The Planning Practice Guidance (PPG) confirms that what matters in assessing whether a proposal causes substantial harm is the impact on the significance of the heritage asset, and that, in general terms, substantial harm is a high test and may not arise in many cases. Works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm.
10. The Heritage Assets within and surrounding the appeal site are therefore highly significant, to which I attach great weight. Dalton House is a Grade II Listed two storey, brick built, Georgian Mansion House. It faces the entrance gate from Catherine Street across a spacious foreground
11. The findings of four previous appeals relating to proposals on much the same area of the site are pertinent to this appeal. It is evident that significant weight has been given to the listed status of the wall in decision-making.

12. An Inspector writing in 2012 noted that the proposed office building would be no higher than the wall behind, which is the curtilage listed wall now being considered, and its location and form would not detract for the appreciation of Dalton House and hence would not harm the setting of the listed building or contribute to a piecemeal erosion of the curtilage. (Ref: APP/B1930/A/1/2164268). The second Inspector writing in 2014 considered a two storey detached dwelling above the existing basement and the use of the whole structure for residential purposes. The proposal would not have brought about the removal of the curtilage listed wall, but one of the main reasons why the Inspector dismissed the appeal was that unlike the office scheme its bulk would tower over the frontage wall, thereby harming its role in the street scene and intruding into the view above it from Dalton Street. (Ref; APP/B1930/A/13/2206681)
13. A third Inspector jointly determined two appeals in (2015) for the removal of the wall and erection of a two storey residential terrace; (Ref; APP/B1930/A/14/2228207 & APP/B1930/E/14/2228209). The Inspector held that whilst of limited architectural significance on its own, its removal would result in the loss of the significance of the wall as an historic enclosure, and that would not be reduced by the re-use of bricks and the rebuilding at a lower level. The Inspector concluded that the harm through its loss, and to the setting of the listed house would be substantial.
14. I acknowledge the comments from the appellant's Heritage Consultant that the appeal site was not originally part of the curtilage of Dalton House and that the plot's connection to Dalton house was most likely part of a bi-product of the suburban growth of St Albans as land around the property was sold off. I also note the point that the plot was never incorporated into the gardens of the house and is sited east of the main body of the estate. I accept that, whilst the wall is an attractive brick feature, from my site visit it was apparent that it is in a state of disrepair. I also acknowledge the findings of the appellant's Heritage Consultant and the fact that the exact date of the construction of the wall itself is not known although thought likely to have been built post 1959, thus later than the enactment of the legislation in 1948.
15. I therefore give great weight to the curtilage-listed wall in determining this appeal. It is of significant historical value in relation to the Grade II Listed Building, Dalton House and the removal of the wall would result in detriment to the setting of the Listed Building. Overall I find that the scale, position and siting of the proposed development would be detrimental to the setting of the Grade II Listed Building.
16. In conclusion on this main issue, I conclude that the proposed development which would result in the loss of the wall would cause harm, and would fail the statutory tests in the 1990 Act and be contrary to Policies 69, 70, 85 and 86 of the St Albans Local Plan Review 1994 (SALP) and the Framework, which amongst other things seek to preserve or enhance heritage assets. I conclude that the harm would be less than substantial and having regard to paragraph 196 of the Framework, this should be weighed against the public benefits of the proposal, a matter to which I return in the overall planning balance.

Whether or not the proposed development would preserve or enhance the character or appearance of the St Albans Conservation Area (CA) including having regard to the effect on trees protected by a Tree Preservation Order (TPO).

17. As set out above the government attaches great weight to heritage assets. The Framework states that these assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
18. The St Albans CA Character Statement notes that Dalton House is the oldest and architecturally most important building in this area. The dwelling was built in the Georgian period as a grand and imposing town house and originally it would have occupied a large plot, in keeping with this grandeur. Whilst development along the Normandy Road side of the main house has partially eroded the sense of spaciousness around the dwelling, there is still a sense of space, separation and openness at the front and to the east of the main building. The setting allows Dalton House to be a landmark building in the local area and the CA.
19. This spaciousness was noted by the previous Inspector in 2014 who stated the proposal would reduce the apparent openness of the wider site, turning the plateau area into a part of the more humble townscape, and divorcing the house from its grander, landed, setting which would be harmful to the CA.
20. The proposed dwellings have been sensitively designed to blend in with the existing street scene and would be positioned at the furthest point on the appeal site from the Listed Building. Nonetheless, I consider that the proposed two storey dwellings immediately adjacent to the road would result in a loss of visual openness that would be detrimental to the street scene. They would result in a sense of enclosure within this already narrow section of the road and would detract from the openness of this area of the CA.
21. Policy 74(i)(c) states that buildings shall not be sited where they are likely to justify future requests for tree felling or surgery for reasons of safety, excessive shading, nuisance or structural damage, and Policy 85(i)(i) contains similar requirements with particular regards to Conservation Areas. The trees in question are protected by reason of being within the Conservation Area and there are two trees that are protected by Tree Preservation Orders (TPOs). Trees grow and whilst acceptable to a householder in the first instance, may prove to be a nuisance or hazard in the future. It is for those reasons that good planning seeks to avoid placing buildings, and residential ones in particular, within too close a proximity of trees.
22. The trees make a positive contribution to the CA and they are an important feature to the significance its character and appearance and the setting of the listed building. I therefore find it is right that they should be protected for those reasons. The proposed house on Plot 4 in particular would be shaded by the canopy and risks suffering from tree litter or a perception of danger in high winds. The next one, Plot 3, would be similarly affected but to a lesser degree, and possibly pressure from that householder could be successfully resisted. In the absence of an arboricultural report there is no evidence to convince me otherwise.

23. In conclusion, there is a real and serious risk of applications for harmful tree work or removal being found irresistible with regard to Plot 4, and such works would fail to preserve the character and appearance of the Conservation Area or the historic grounds of the listed building, contrary to the tests in the 1990 Act. In view of this risk, the placement of Plot 4 would be contrary to Policies 74(i)(c) and 85(i)(i) of the SALP.
24. I therefore conclude that the proposals would fail to preserve or enhance the character or appearance of the CA and would therefore be contrary to Policies 69, 70, 85 and 86 of the St Albans Local Plan Review 1994 (SALP) and the Framework, which amongst other things seek to preserve or enhance heritage assets. I conclude that the harm would be less than substantial and having regard to paragraph 196 of the Framework, this should be weighed against the public benefits of the proposal, a matter to which I return in the overall planning balance.

Planning Balance and Conclusion

25. The provision of four dwellings at this sustainable location close to the town centre, transport and facilities would make more efficient use of the land and would further the social and economic dimensions of sustainable as set out in the Framework. The proposal would therefore be acceptable in principle.
26. There is a national requirement to boost the supply of housing. The Council are currently unable to demonstrate a 5-year housing land supply and the site falls adjacent to a settlement boundary where additional development is required.
27. Nonetheless, in accordance with Paragraph 11d)i of the Framework, where the application of policies protecting assets of particular importance (which include designated heritage assets in footnote 6) provide a clear reason for refusing the development proposed, which I find they do in this instance, the proposal should be refused even though there is no 5-year housing land supply. The heritage issues relating to the site are significant; I attach Great weight to the importance of the CA and the Listed Building and the importance of the protected trees within this setting. Thus I conclude that the public benefit that the provision of four additional dwellings would bring would not be sufficient to outweigh the detrimental harm that this proposal would result in.
28. For the reasons outlined above and having considered all evidence before me and from what I saw on my site visit, I conclude that the appeal should be dismissed.

Gemma Jenkinson

INSPECTOR