
Appeal Decisions

Site visit made on 6 November 2019

by Penelope Metcalfe BA(Hons) MSc DipUP DipDBE MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 17th February 2020

Appeal A Ref: APP/W1850/W/19/3224127

Alba, 57 Bargates, Leominster, Herefordshire, HR6 8EY

- 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 Andrew MacLachlan against the decision of Herefordshire Council.
 - The application Ref 182023, dated 28 May 2018, was refused by notice dated 7 September 2018.
 - The development proposed is retrospective application for the approval of building works to an existing building to create a single dwelling house.
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Appeal B Ref: APP/W1850/Y/19/3224128

Alba, 57 Bargates, Leominster, Herefordshire, HR6 8EY

- 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 Mr Andrew MacLachlan against the decision of Herefordshire Council.
 - The application Ref 182024, dated 28 May 2018, was refused by notice dated 7 September 2018.
 - The works proposed are retrospective application for the building works to an existing building to create a single dwelling house.
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Decisions

Appeal A Ref: APP/W1850/W/19/3224127

1. The appeal is dismissed.

Appeal B Ref: APP/W1850/Y/19/3224128

2. The appeal is dismissed.

Main issues

3. The main issues in Appeal A are the effect of the development on the living conditions of the occupiers of 57 Bargates by reason of noise, disturbance and loss of privacy, whether it would preserve the special architectural or historic interest of the listed building, 57 Bargates, and the listed group of which it forms a part, including their settings and whether the development would preserve or enhance the character or appearance of the Leominster Bargates conservation area.
4. The main issue in Appeal B is whether the works would preserve the special architectural or historic interest of the listed building, 57 Bargates, and the

listed group of which it forms a part, including their settings and whether the works would preserve or enhance the character or appearance of the Leominster Bargates conservation area.

Procedural matters

5. Works to convert the building into a dwelling have been carried out and include the replacement of original windows and door with "brown oak" coloured uPVC windows and door. The plans submitted with the applications show the works as carried out. I am therefore determining these appeals on the basis of the works as they have been carried out in accordance with the details specified on the applications.
6. Since the Council determined the applications for planning permission and listed building consent, the National Planning Policy Framework 2019 (the Framework) has been updated (2019) and the Leominster Neighbourhood Development Plan has been made (22 March 2019).

Reasons

Appeal A

7. The appeal building, Alba, is a detached part two storey and part single storey brick outbuilding to the rear of 57 Bargates. The latter is one of a terrace of modest two storey houses built of brick fronting directly onto the street and with long narrow gardens to the rear. Several of them, including No. 57, have small single storey brick outbuildings. These are physically separated by approximately 4 metres from the main rear elevation of each house and there is a right of way across this space for the occupiers of the houses. The outbuildings are of brick with corrugated iron roofs, apart from that at No. 57, Alba, which has a slate roof.
8. On the basis of the information before me it appears that all the outbuildings were historically within a common curtilage forming the gardens to the terrace. There is no conclusive evidence before me as to why the outbuilding at No. 57 is larger than the other small outbuildings and whether it was in some form of ancillary domestic use or, as the appellant suggests, that it may have been a coach house.

Living conditions

9. Alba is physically separated from No. 57. In my view, there is no harm in the principle of its separate use as a dwelling. It provides a small residential unit in a sustainable location within the town centre. However, the close proximity of the kitchen window in the north elevation of Alba to a window in the rear of No. 57 causes some loss of privacy for the occupiers of No. 57. This is already compromised by the existence of the rights of way across the rear, but, in my view, the use of clear glazing in the kitchen window has resulted in an unacceptable further reduction in privacy.
10. Access to the site and to the rear of No. 57 is by a pedestrian path and there would be no additional noise and disturbance caused to the occupiers of No. 57 by the movement of vehicles in that area. While the addition of a new residential unit would result in some increase in general activity arising from the presence of additional residents, the property itself is small, with one bedroom, and I consider that it would be acceptable in this urban context.

11. I consider that the absence of private amenity space for No. 57 does not cause sufficient harm, on its own, to justify dismissing the appeal. The existing garden itself is overlooked by several properties, including a new development of houses close to the site boundary immediately to the west. I understand that No. 57 is rented out, and whilst any planning permission runs with the land irrespective of present or future ownership, not everyone wants access to or responsibility for a garden, particularly in a rented property. In this instance, and in view of the presence of other recently constructed properties in the immediate area which I understand lack private amenity space, I consider the situation to be acceptable.
12. I find that the conversion of Alba to a dwelling is acceptable in principle. The Council states that it is unable to demonstrate a five year housing land supply and therefore acknowledges the presumption contained in the Framework in favour of permitting sustainable housing development unless it can be demonstrated that there is demonstrable harm to other factors that outweigh the need for new housing.
13. In this instance, I consider that the development provides a small but useful contribution to the housing supply. In this respect, it is consistent with policy SD1 of the Herefordshire Local Plan: Core Strategy 2011-2031 (the Core Strategy), which supports the creation of sustainable development, and LANP3 of the Leominster Area Neighbourhood Plan 2019 (the NP), which relates to the provision of housing in Leominster town and aims to support opportunities for small scale development within the settlement boundary.
14. I consider that the lack of private amenity space for the occupiers of No. 57 is not so harmful that it outweighs the benefit of a new additional dwelling and that any increase in the level of noise and disturbance from the dwelling would not be excessive in the context of the surrounding built up area. However, I find that the proximity of the clear glazed kitchen window to the rear window of No. 57 results in an unacceptable loss of privacy and therefore does not meet the requirement in policy SD1 to safeguard residential amenity.

Appeal A and Appeal B

Special interest

15. No. 57 is one of a terrace of seven houses dating from the late C18th/early C19th, listed Grade II and of Group Value. Nos. 49-57 are modest two storey houses built of brick fronting directly onto the street. On the basis of the information before me I am satisfied that Alba has the status of a curtilage listed building. I understand that there is historic mapping evidence from the late C19th to the late C20th which shows it as a building within the curtilage of No. 57. It was in the same ownership at the time of listing historically, and is in close proximity to No. 57. Following various alterations to the building, there is no remaining evidence of any specific historic uses, but it was common for buildings of this period to have outbuildings for a variety of domestic activities associated with the main house.
16. The significance of Alba as a curtilage listed building lies in its own character and its historical relationship with the main listed building on the road frontage, and, in combination with the other outbuildings, its role in the setting of the listed buildings on the road frontage. I understand all the outbuildings were part of a whole curtilage which was historically common to the terrace of

houses. Although it is larger than the other outbuildings, that part of it closest to the main house is of the same scale and appearance. Its character is of a subsidiary domestic outbuilding of simple construction with traditional, natural materials, likely to have been used for ancillary domestic uses.

17. Paragraph 193 of the National Planning Policy Framework 2019 (the Framework) states that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to that asset's conservation.
18. The architectural and historic interest of the terraced houses derives from their location on the main road within the historic core of Leominster as examples of late C18th/early C19th domestic properties, with their modest scale and traditional brick construction and architectural detailing, including timber windows and doors. In this context, the retention of original timber windows and doors in both the main houses and the outbuildings, or their repair or replacement with traditional natural materials serves to preserve both the historical and architectural interest of the buildings and to contribute to their heritage significance.
19. I consider that the form, colour and plastic materials of the replacement windows and doors are out of keeping with the character and appearance of the outbuilding and of No. 57. I accept that the condition of the original windows and door might have been such that reuse and repair of the original timber was not feasible. However, the use of an artificial wood effect has resulted in an incongruous effect which is unsympathetic to the traditional character and appearance of the building and consequently causes harm to the significance of the heritage asset.
20. I saw that some properties nearby have plastic windows, though most of the small outbuildings appear to still have timber windows in the elevations facing the main terrace. However, I consider that these examples of plastic windows do not justify their use in this context where traditional materials and joinery profiles contribute to the traditional detailing and natural materials used in the listed buildings.
21. I consider that, since the original function of the outbuilding is likely to have been domestic and ancillary to the main house, the principle of its conversion to a separate dwelling does not cause harm to the significance of either the outbuilding or No. 57 and the rest of the terrace. However, I conclude that the installation of the plastic windows and door causes less than substantial harm to the significance of the listed building and its setting.
22. Paragraph 196 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
23. I attach considerable importance and weight to the harm to the heritage asset. I have found that the use of Alba as a separate dwelling causes harm insofar as there is an unacceptable loss of privacy for the neighbour. This would not necessarily be sufficient to justify dismissing the appeals as the kitchen window glazing could reasonably be modified and there would be some public benefit from the provision of a new dwelling. However, this is not sufficient to outweigh the harm to the significance of the heritage asset in terms of the impact of the works on the character and appearance of the building.

24. I find, therefore, that there are no public benefits which outweigh the harmful use of the windows and door, which fail to preserve the special architectural or historic interest of the listed building and its setting, and fail to achieve the statutory duties set out in Sections 16(2) and 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended, (the PLBCAA). The works are also contrary to policy LD4 and SS6 of the Core Strategy which relate to the protection of heritage assets and local distinctiveness.

Conservation area

25. The site lies within the Leominster Bargates Conservation Area. This extends over much of the historic centre of Leominster and its character is one of a mix of residential and commercial properties. The buildings appear modest in scale, generally of two or three storeys, often grouped in terraces, close to the road. They are of traditional construction, mainly of brick or painted render, with a small number of timber framed buildings and several modern buildings. That part of the conservation area adjacent to the site has a domestic character and appearance manifest in the terrace of houses of which No. 57 is part. The modern care home opposite maintains the overall scale of the surrounding buildings.

26. I consider that the installation of the plastic windows and door at Alba would not bring undue harm to the conservation area. Although I have found that they cause harm to the listed building and its setting, in the context of the conservation area they are not visible from the public realm and would preserve the character and appearance of the area, in accordance with Section 72(1) of the PLBCAA.

Conclusion

27. In balancing my findings on the conversion and alterations as carried out, I conclude that the principle of the use of Alba as a dwelling is of benefit, both in providing a small housing unit and in maintaining a curtilage listed building in good repair. However, this is outweighed by the harm to the living conditions of the occupiers of No. 57 through loss of privacy, contrary to Core Strategy and NP policies, and the harm to the significance of the heritage asset through the installation of the plastic windows and door, thus failing to meet the statutory duties set out in the PLBCAA.

Appeal A

28. For the reasons given above, the appeal is dismissed.

Appeal B

29. For the reasons given above, the appeal is dismissed.

PAG Metcalfe

INSPECTOR