



Appeal Decision

Site visit made on 30 November 2020

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2020

Appeal Ref: APP/B1930/W/20/3246101

Rear of 44-50 London Road, St Albans AL1 1NG

- 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 Ms Rebecca Hill against the decision of St Albans City & District Council.
 - The application Ref 5/19/1998, dated 22 July 2019, was refused by notice dated 13 November 2019.
 - The development proposed is construction of six studio apartments.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The main parties have referred to the Council's emerging Local Plan. This has now been withdrawn from examination. Its policies are therefore accorded no weight in the determination of this appeal.

Main Issue

3. The main issue is whether the proposed development would preserve or enhance the character or appearance of the St Albans Conservation Area, with particular regard to the effect on existing trees.

Reasons

4. The appeal site lies between buildings fronting London Road, and the London Road car park. There are mature trees on the verge between the car park and appeal site, with the proposed new buildings falling within the root protection areas of three of these trees, labelled T1, T2 and T3. The site lies within the St Albans Conservation Area (the CA) and as a result the trees are protected.
5. The car park is a largely barren feature in the CA with planting around the edges that provide some visual benefit. The trees are well established and prominent in the local area, contributing to the character of the CA. The contribution of the trees is recognised in the St Albans Conservation Area Character Statement as being very positive in effect. The trees have been cut back along the boundary with the appeal site, with the crowns to the three trees principally projecting towards the car park and along the site boundary.
6. The submitted arboricultural impact assessment indicates that the appeal proposal could be carried out without harming the root systems of these three

- trees. However, even if this were to be the case the new buildings would be sited very close to the trees, with windows from five of the six apartments facing the trees, as well as a garden area to one of the apartments. The submitted arboricultural method statement indicates that further works to reduce the canopies of T1, T2 and T3 would be necessary to accommodate the development.
7. The submitted daylight and sunlight assessment indicates that daylight to the apartments would generally meet the British standard, and the canopies to these trees have been substantially cut back. However, at full spread of the remaining canopies they would overshadow the proposed apartments and restrict outlook from them, and there would be some overhang of the site boundary likely resulting in litter and droppings from the tree into the appeal site. Notwithstanding the findings of the daylight and sunlight assessment it is probable that future occupiers would seek further works to the trees to restrict their canopy spread, or even the removal of some or all of the trees in the vicinity of the site.
 8. Given the extent of works already carried out to the trees, further works beyond those set out in the arboricultural method statement to reduce the canopies could result in significant harm to their health or appearance. The further reduction or loss of one or more of these trees would result in the diminishing of their contribution to the character of the CA. The resulting harm would be experienced in the vicinity of the appeal site, with the trees being prominent in the landscape due to the general absence of planting otherwise than around the edges of the car park, but would not be experienced beyond that vicinity. This harm would therefore be less than substantial, when weighed against the significance of the CA as a whole.
 9. Where less than substantial harm would result from a development it must be weighed against the public benefits that would arise from it. In this case, the development would deliver six residential units in a town centre location. There would be short-term economic benefits from the construction of the apartments. The development would recycle a vacant site, and the overall appearance of the development would be in keeping with the character of the CA.
 10. The appellant also suggests that the affected trees could be replaced, as they have a relatively short life expectancy. However, the trees are projected to have in excess of a further twenty years of useful contribution, and therefore their replacement will not be required any time soon. This therefore attracts neutral weight in the determination of this appeal.
 11. The cumulative benefits arising from the appeal proposal would be significant particularly as the Council cannot demonstrate a five year supply of housing land, and given the Government's objective of significantly boosting the supply of homes. However, this must be set against the great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance. In this instance the public benefits arising from the development proposed would not outweigh the harm that would be likely to result. Given the importance of the trees in this setting, a precautionary approach to their protection is justified.
 12. The appeal proposal would therefore fail to preserve or enhance the character or appearance of the CA. It would conflict with the requirements of Policies 69,

70, 74 and 85 of the St Albans Local Plan 1994. These policies require, amongst other things, that development enhance or preserve the appearance of the CA and that buildings not be sited where they are likely to justify future requests for tree surgery for reasons of excessive shading or nuisance.

Other Matters

13. The Council does not have a five year supply of housing land. However, as the appeal proposal would be likely to result in harm to the CA the presumption in favour of sustainable development is not engaged because the application of policies in the Framework provide a clear reason for refusing the development proposed.
14. Both parties have drawn to my attention previous decisions relating to neighbouring sites. The permission granted by the Council on the neighbouring site at 40-42 London Road was for retail and office units. This use would be less likely to result in future pressure for the removal of trees than the residential use proposed in this appeal, and I note that only one mature tree was immediately adjacent to the site. There are therefore significant differences between that development and this appeal proposal, limiting the weight that can be accorded to the Council's decision.
15. The two appeals relating to the site at 52-58 London Road were for residential and office units. In both cases my colleagues found that the developments proposed would be likely to result in future pressure to reduce or remove the trees on adjacent land, resulting in harm to the CA. Given these similarities to the appeal proposal, these decisions attract significant weight in the determination of this appeal.

Conclusion

16. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR