



Appeal Decisions

Site visit made on 15 September 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Appeal A: APP/M4510/W/19/3242815

Walbottle Hall Cottage, Queens Road, Walbottle, Newcastle upon Tyne NE15 8JD

- 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 Norman Richardson against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref: 2019/0671/01/DET, dated 18 April 2019, was refused by notice dated 3 October 2019.
 - The development proposed is described as: Erection of detached garage and removal of a tree protected by TPO.
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Appeal B: APP/M4510/Y/19/3242816

Walbottle Hall Cottage, Queens Road, Walbottle, Newcastle upon Tyne NE15 8JD

- 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 Norman Richardson against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref: 2019/0672/01/LBC, dated 18 April 2019, was refused by notice dated 3 October 2019.
 - The works proposed are described as: Erection of detached garage.
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Decisions

Appeal A

1. The appeal is dismissed

Appeal B

2. The appeal is dismissed.

Procedural matters

3. The combined application form for planning permission and listed building consent is not dated. The appeal forms state that the applications were made on 18 April 2019 and the Decision Notices issued by the Council also give the received date as 18 April 2019. I have, therefore, used that date as the date of the applications.
4. The application form describes the proposal as 'Erection of a detached garage. Removal of a tree and planting of a new one'. The tree in question is covered

by a Tree Preservation Order. The description given the by the Council on the decision notice for the planning application is more accurate in this respect and whilst the change does not appear to have been agreed with the appellant previously, the appellant has stated on the appeal form that he has no objection to this. Consequently, I have used the Council's description for the purposes of the planning appeal. For the same reason, I have used the Council's more abbreviated description for the listed building consent appeal.

5. As the proposal relates to a listed building, in determining the appeals, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
6. The Newcastle upon Tyne Development and Allocations Plan (the DAP) was adopted on 24 June 2020, after the decisions on the applications were made and after the date of the submission of the appeals. The DAP supersedes the policies from the Newcastle upon Tyne Unitary Development Plan that are cited on the Council's Decision Notices. The views of the parties were sought on any implications that the adoption of the DAP may have on their respective cases. The appellant confirmed that he did not wish to add any further comments and the Council advised of which policies from the DAP were now relevant to the appeal proposals. I have, therefore, determined the appeal based on the relevant policies in the DAP and those in the Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2015 (the CSUCP).

Main Issues

7. The main issues are:
 - Whether the proposal would preserve a Grade II listed building, Walbottle Hall (Ref: 1024980), and any of the features of special architectural and historic interest that it possesses; and
 - The effect of the proposal on the character and appearance of the area with regard to the loss of a protected tree.

Reasons

8. Walbottle Hall is a large house¹, with a two story element dating from the eighteenth century to which a three storey, crenellated, addition in baronial style was added in the nineteenth century. To the west side and rear is a single storey outbuilding range, part of which is in residential use as Walbottle Hall Cottage. To the east of the Hall, a small development of three, later twentieth century, two storey, detached houses has been constructed on part of the former grounds of the Hall. The Hall and its grounds are bounded by a high wall.
9. To the rear of the outbuilding range is an open grassed area lying between this structure and the boundary wall. Against the north boundary wall, opposite the outbuilding range, are several small structures that include the remains of a greenhouse or orangery. The boundary wall defines the historic curtilage of Walbottle Hall and its former grounds and it, along with the attached structures, are consequently also listed. Whilst these are not in the list description, listings are primarily for identification purposes and do not provide an exhaustive or complete description of the special interest.

¹ Listed as Walbottle Hall, Numbers 4 and 5 Walbottle Hall Gardens and Outbuildings.

10. The appeal proposal is to construct a double garage against the boundary wall in the north west corner of the garden of Walbottle Hall Cottage, adjacent to the remains of the former greenhouse.

The effect on the listed building

11. Neither party has submitted any substantive evidence regarding the significance of the listed building, other than the list entry. The application for listed building consent was not accompanied by a heritage statement supported by information from the historic environment record, as required by paragraph 189 of the National Planning Policy Framework (the Framework).
12. From what I saw when I visited the site, the significance of the heritage asset, in so far as it relates to these appeals, lies in its historic and evidential value as an example of a large house occupied by a wealthy owner, together with its associated ancillary and service buildings. This is because it provides evidence of an earlier house being extended and updated to reflect the architectural tastes of a later occupier, and the range and functions of ancillary accommodation required to service, and upkeep, a substantial house and grounds. It is illustrative of the hierarchy of buildings associated with this use, from the grand main house through the outbuildings for accommodating stables, storage, carriages etc., to small garden structures built against the boundary wall. It also provides evidence of different building techniques over time.
13. The proposed garage building would be constructed of stone with a monopitch roof finished in slate. The garage would be fitted with a double garage door in the front elevation, together with an arched head window that the Design and Access Statement states is to be taken from the existing cottage. The Design and Access Statement is unclear as to where on the existing cottage the arched window to be used in the garage will be taken from and what it will be replaced with. The proposed garage has been designed to not exceed the height of the other historic structures located adjacent to the north boundary wall. However, because of the necessary depth of plan to accommodate vehicles, the pitch of the roof would be shallower than the remaining standing walls of the former greenhouse and the other outbuilding attached to the boundary wall. The garage building would also project significantly further from the wall than these other ancillary garden structures.
14. The design of the proposed garage features a single, wide, garage door and there is no information in respect of the material to be used for this door or the method of opening. The width of the opening would, however, be inconsistent with other larger door openings in the L-shaped outbuilding range to the rear of the Hall. Whilst there is some evidence in this building of a wider opening spanned by a single long lintel, this opening has subsequently been infilled. However, it was apparent from my observations that this was carried out some time ago and there is no evidence as to the original purpose of this opening.
15. The proposed arched window, whilst reflecting similar windows in outbuilding range, would also be inconsistent with the window present in the extant garden building against the boundary wall. This window is smaller, roughly square, and has a three pane upper light and timber hit and miss shuttering on the lower light.

16. In addition to projecting substantially further from the boundary wall and having a shallower roof plane, the proposed garage would translate architectural features from the outbuilding range into the group of ancillary garden buildings attached to the boundary wall. This would erode the currently clear and legible hierarchy of functions of the buildings within the site and disrupt the current uniform projections and style of the garden buildings. This would significantly erode the historic legibility of these utilitarian structures, thus harming the historic value of the asset.
17. Paragraph 193 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 194 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that any harm should have a clear and convincing justification. Given the proposal would not affect the principal building, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal, which includes the securing of optimal viable use of listed buildings.
18. The appellant has not identified any specific public benefits that would result from the proposals. The availability of a garage is primarily a private benefit for the occupiers of Walbottle Hall Cottage. The proposal may result in parked cars being removed from outside the outbuildings, however, it would not be possible, or practical, to require through the planning process that the appellant's vehicles were parked within the garage when not in use. Rights of access to adjoining land are a private matter between the parties concerned. Whilst the removal of parked cars may open up views of the frontage of this part of the outbuilding range, views of the property are constrained by the high boundary wall and only limited views of the outbuildings are thus available from the gateway to the grounds of the Hall. Consequently, little weight can be attributed to these points.
19. The appellant argues that without a garage Walbottle Hall Cottage is far from its optimum viable use and that the site for the proposed garage is currently underutilised. However, there is no substantiated evidence which indicates that without a garage, the property is unsuitable for its current use as a dwelling house or that there is a risk of this use ceasing. Moreover, the need to ensure that land and buildings should not be under-utilised is not to be conflated with optimal viable use of a heritage asset. This is because the Planning Practice Guidance recognises that the optimum viable use may not necessarily be the most economically viable one and that there may be more than one viable use².
20. The Framework requires that great weight is given to the conservation of designated heritage assets, irrespective of whether the harm that would be caused amounts to substantial harm, total loss, or less than substantial harm to its significance. None of the points raised by the appellant would overcome the considerable importance and weight that must be given to the conservation of heritage assets. As such, there is no clear and convincing justification for the harm that would result.

² Paragraph: 015 Reference ID: 18a-015-20190723

21. Given the above and in the absence of any significant public benefits, I find that the proposed works would not preserve the special architectural and historic interest of Walbottle Hall. This would conflict with the relevant requirements of the Act, the Framework, Policies DM15 and DM16 of the DAP, and CSUCP Policy CS15, which expect proposals to conserve or enhance the significance, appearance, character, and setting of heritage assets.

The effect of removing the protected tree on the character and appearance of the area

22. The planning application proposals would require the removal of a sycamore tree, which is covered by a Tree Preservation Order, in order to allow access to the proposed garage. The tree is approximately 15 metres in height and growing in an area that is currently a raised planting bed adjacent to the boundary wall to the grounds of Walbottle Hall. Due to its height, the canopy of this tree is visible above the roofs of intervening buildings in views from Queens Road and from Queens Court. In longer range views it is seen adjacent to the wider tree cover present around Walbottle Hall. In closer views, due to its degree of separation from other trees on the site, it is perceived as a separate entity. From the entrance to Walbottle Hall, the tree forms a terminal feature in the view down the driveway that passes in front of Walbottle Hall Cottage and continues towards the appeal site.
23. The planning application was accompanied by an Arboricultural Impact Assessment. The Arboricultural Assessment categorises the tree as Category B1, of moderate Arboricultural quality and value, and estimates that, as an early mature tree, it would continue to contribute to the area for more than 20 years. Whilst the appellant's Appeal Statement suggests that the tree is in poor health, potentially unstable, and may be affecting the stability of the nearby boundary wall, these points are not substantiated in the Arboricultural Assessment.
24. I observed when I visited the site that, through root growth, the sycamore tree is causing a small amount of heave to the adjacent paved area but that the boundary wall did not show any signs of cracking, bowing, or other structural damage in the vicinity of the tree. The tree itself was in full leaf and did not have any notable areas of dead wood in the canopy.
25. CSUCP Policy CS18 identifies trees as Green Infrastructure assets and DAP Policy DM27 expects development that would have an adverse impact on green infrastructure assets to demonstrate that the benefits of the development will outweigh any harm that would result from it.
26. DAP Policy DM28 sets out that development which would result in the loss of trees will not be permitted unless it can be demonstrated that the development cannot be reasonably located elsewhere within the site; the need for and benefits of development clearly outweighs any harm to ecological value, landscape quality and historical significance of the area; and appropriate mitigation and/or enhancement measures are provided. The supporting text to the Policy is clear that reference to trees in the policy includes single trees. The supporting text also makes it clear that it is necessary to satisfy all three criteria of this part of the Policy. Whilst the supporting text does not form part of the policy, its purpose is to set out how the policy should be applied.

27. The Design and Access Statement does not set out the alternative locations for the proposed garage that it is suggested were explored. Nonetheless, from what I saw at the site, I am satisfied that setting to one side matters relating to the listed building, and taking other factors such as land ownership and the practicalities of access and manoeuvring into account, the proposed location is likely to be the most feasible one.
28. The existing sycamore tree is an early mature, well established, tree that forms part of the existing wooded setting of Walbottle Hall and contributes to the wider wooded setting of the more recent development along Queens Road and the entrance to the village from the north via Walbottle Road. Due to its height, form, and the degree of visibility of the crown of the tree above the nearby dwellings on Queens Road, this tree makes a positive contribution to the character and appearance of the area. The felling of the tree would remove that positive contribution and cause harm to the appearance of the area, albeit the level of harm would be modest given the current significant tree cover in the area.
29. A large, well established, tree will have a substantial ecological and biodiversity value due to its age and size, allowing such things as the support of larger, or more diverse, insect populations and providing more nesting opportunities for birds. This would be lost were the tree to be removed.
30. The proposed new garage may be a desirable facility for the occupiers of Walbottle Hall Cottage. However, there is no evidence that demonstrates that the development is necessary to ensure the continued occupation, or use, of the building as a dwelling house, and any benefits from it would be purely private benefits accruing to the appellant. In this context, I do not find that this would clearly outweigh the harm to the landscape quality and ecological value of the area.
31. Whilst the Arboricultural Assessment concludes that the removal of the sycamore Tree will not have any significant arboricultural, landscape or ecological implications, this is not supported by any detailed reasoning or assessment other than noting that the area is characterised by semi-natural woodland surrounding the neighbouring Hall and open fields leading to woodland to the north and south.
32. It is proposed that in mitigation for the loss of the sycamore tree, a Japanese cherry would be planted in an area of the garden near to the entrance gate from Queens Road. Different tree species will have different ecological and biodiversity values and there is no substantive evidence from either party that would indicate that the proposed replacement tree would have a long term effect either way on the ecological value of the site were it to become properly established. Although the Arboricultural Assessment contains a planting method statement for the proposed replacement tree, it contains no information in respect of the proposed size of the new tree at planting or the projected height that it will attain. This notwithstanding, in general, cherry trees are a smaller tree species than sycamore and the proposed replacement tree would not have the same stature or presence as the existing, forest scale, tree even once it had reached a similar age. In addition, the proposed replacement tree would be planted in a position where it would be seen against a backdrop of much larger trees within the site, which would reduce its perceived visual presence. Based on the submitted evidence, I find that the

proposed replacement tree would not appropriately mitigate the loss of the sycamore tree.

33. I therefore conclude that, due to the removal of the protected tree, the proposal would cause harm to the character and appearance of the area. It would not meet the requirements of DAP Policies DM20 and DM28 which seek to ensure that development is of a high standard of design that takes advantage of positive features of the site and protects trees and landscape features.

Other matters

34. I have noted the contents of the letters of support for the proposal received from local residents in connection with the original applications and with the appeals. The points raised in these have been covered in the preceding sections of this decision and do not lead me to a different conclusion on the main issues.

Conclusion

35. For the above reasons, I conclude that both appeals should be dismissed.

John Dowsett

INSPECTOR