
Appeal Decisions

Site visit made on 9 February 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2021

Appeal A: APP/A1910/W/20/3260286

29 High Street, Hemel Hempstead HP1 3AA

- 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 J Marchant against the decision of Dacorum Borough Council.
 - The application Ref 20/01413/FUL, dated 5 June 2020, was refused by notice dated 10 August 2020.
 - The development proposed is rear spiral stair addition and alterations to existing windows.
-

Appeal B: APP/A1910/Y/20/3260285

29 High Street, Hemel Hempstead HP1 3AA

- 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 J Marchant against the decision of Dacorum Borough Council.
 - The application Ref 20/01414/LBC, dated 5 June 2020, was refused by notice dated 10 August 2020.
 - The works proposed are rear spiral stair addition and alterations to existing windows.
-

Decision

1. Appeals A and B are dismissed.

Procedural Matters

2. The two appeals concern the same scheme under different, complementary legislation. I have therefore dealt with both appeals together in my reasoning.
3. The appellant's Heritage Impact Assessment (HIA) refers to the effect of the proposal on Nos 27 and 44/44a High Street, which are both listed buildings. In determining the appeals, I have therefore had regard to the implications that the setting of these listed buildings would have for the appeals, in accordance with the statutory duty contained in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are whether the proposal would preserve a Grade II listed building, 29 High Street, and any of the features of special architectural or historic interest that it possesses; the effect of the proposed development on the setting of the listed building, 27 High Street; and the extent to which it would preserve or enhance the character or appearance of the Hemel Hempstead Old Town Conservation Area.

Reasons

Background and the proposal

5. Planning permission and listed building consent have previously been given for the upper floors of the building to be converted to residential use¹. At the time of my site visit, works appeared to be underway at second floor, including in the room to be served by the proposed staircase. However, the layout did not appear to reflect that shown on the submitted plans, as the kitchen was adjacent to the window and part of that floor was still in use as a treatment room in connection with the beauty salon. The first floor was also still in use for treatment rooms.
6. The proposed staircase would be in a Victorian-style spiral form with decorative pierced treads and landings, which would be enclosed by balustrading. Access to the staircase would be from doorways formed in the rear façade. This would involve the removal of a six-pane casement window at first floor and a six over six pane vertically sliding sash window at second floor, as well as the brickwork beneath each window. The door at second floor would also include top and side lights to one side.
7. The HIA suggests that the staircase would serve the first and second floor flats, with access to the former being as a fire escape. However, the existing and proposed floor plans do not indicate that the staircase would have a direct link to the first floor flat, as it would appear to enter the business premises.

Significance and setting

8. The appeal property is a Grade II listed two and three-storey building situated to the east of High Street and within the Hemel Hempstead Old Town Conservation Area (CA). The listing description suggests that the building has group value with Nos 25 and 27, to the south, both of which are also listed. The appeal property probably dates from the 18th Century but was extended significantly to the rear in the early 19th Century, with two- and three-storey gables, each incorporating vertically proportioned fenestration. The building was formerly The Swan Inn, but it is now in use as a shop at the ground floor frontage and a beauty salon to the remainder of the ground and first floors and part of the second floor, as described above.
9. The building is of whitewashed brick walls with a tiled and welsh slate roof over and, rather than a shopfront, it features a two-storey canted bay to the front. The former covered cart entrance to the rear is evidence of the building's former use as an Inn, and is a feature repeated along the high street.
10. The other listed buildings within the group are very different in form, scale and detailing, with No 25 incorporating elaborate Corinthian pilasters and No 27 a stucco rendered front façade with rusticated quoins. They each incorporate shopfronts and have also been extended and altered at the rear.
11. Given the above, the significance of the appeal property is derived from its architectural and historic interest as a well-preserved example of an 18th Century former Inn with later extensions. In particular, many of the detailed architectural elements of the building are retained and in a good state of repair, including the rear, which is relatively unaltered.

¹ Planning references: 4/01910/19/FUL and 4/01911/19/LBC.

12. The ordnance survey plans of the town, contained within the Council's Character Appraisal², illustrate that there has been significant change to the pattern of built development east of High Street. The majority of original burgage plots have been foreshortened and new development added between the streets east of High Street. The historic setting of No 27 has therefore evolved to be more evident from the rear. Moreover, the rear curtilage of Nos 27 and 29 is an open hardstanding area serving both properties and the rear gables of each property are aligned with one another. The existing form and fabric of Nos 27 and 29 therefore represent an integral part of the setting of each building, which contributes to their understanding and significance.
13. The CA covers an area principally focused on High Street but encompassing land and buildings around its junction with Queensway and Marlowes and incorporates timber-framed domestic and commercial buildings from the 15th to 20th centuries, as well as the rear extent of the curtilages of properties to the east. The incremental extension of these properties, primarily in a sequence of gables, is very apparent in views from higher ground to the east. Although mature planting to the rear of No 27 reduces the visibility of it and No 29, the latter is still visible to a certain extent and I am mindful that vegetation is subject to seasonal change and is, in any event, ephemeral.
14. Despite the reduction of burgage plots and later alterations and extensions, sometimes consisting of modern external materials, the scale, form, traditional appearance, and pattern of development to the rear of properties forms an integral part of the character and appearance of the CA. The scale of the Inns, their absence of shopfronts, and the presence of covered cartways to the side and rear are also prominent features within the southern part of the CA.
15. The significance of the CA is therefore derived from the very attractive and highly sensitive townscape formed from the architectural and historic quality of the structures therein, the majority of which are either listed or locally listed buildings. In particular, the existence of routes to the rear of buildings and the development in-depth, behind frontages, make important contributions to the historic townscape of High Street and the wider CA, and provide evidence of its organic growth. The appeal property represents such an example, particularly as its architectural and historic fabric remains clear, so makes a positive contribution to the character and appearance of the CA.

Effect of the proposal on the setting and significance of the listed buildings, and the character and appearance of the conservation area

16. The appeal property is listed for its intrinsic architectural and historic interest, the visibility of the proposal is not therefore a determining factor in considering whether it would preserve the special architectural or historic interest of the building. Nevertheless, it would be visible at the rear.
17. Although the staircase would be a lightweight structure, it would not appear as a visually discreet addition to the rear three-storey gable of the building. Rather, it would be substantial in size and have a functional appearance that would be prominent and disrupt the simple form and appearance of the gable. Its impact would therefore be significantly adverse and unacceptable in this respect. However, the staircase would not, of itself, have a harmful impact on the historic fabric of the building.

² Hemel Hempstead Old Town Conservation Area Character Appraisal & Management Proposals (2012).

18. The appellant suggests that the windows in the three-storey gable are of 20th Century construction. Even if this were the case, I found them to be of traditional joinery construction, incorporating detailed and embellished framing and glazing bars. The significance of a heritage asset is the sum total of its heritage values and the windows make an important contribution to the significance of the listed building.
19. The proposal would remove these windows and replace them with traditional joinery, but they would be significantly inferior, as they would not incorporate the detail and embellishment found in the framing of the existing windows. Historic masonry would also be lost below the windows due to enlargement to accommodate doorways.
20. The loss of historic fabric would therefore be significant, which would be harmful to the understanding and legibility of the listed building, and thereby its significance.
21. The proposal would be evident in views from the rear, so it would be experienced from within the setting of No 27. The proposed door openings replace existing windows, so these alterations to No 29 would not harm the setting of No 27. However, given its scale and extent, the staircase would be a prominent and unattractive structure that would be within very close proximity of No 27. That element of the proposal would therefore fail to preserve the setting of No 27 and would detract from it.
22. I observed the ground floor addition to the rear gable of No 27, the roof of which has a timber balustrade and appears to have been used as a terrace. While the origins of these alterations and extensions is not clear, they appear to have been in situ for some time. In any event, they do not obscure the gable, the majority of which remains visible above. I also understand that the Council has given consent for a further extension to the gable in place of the terrace. This will incorporate a lean-to positioned just below the second-floor window. Despite more of the gable end being obscured, part of it will still be evident with the extension, which will appear as a further evolution of the building eastward.
23. Unlike listed buildings, the significance of a conservation area is more widely experienced. Under such circumstances, proposals must be judged according to their effect on a conservation area as a whole and must therefore have a moderate degree of prominence. The proposal would be visually prominent from publicly accessible areas, including between Able House and the flats to the north. While the access serving the rear of properties in High Street and Able House does not share the same characteristics of streets such as High Street, it nevertheless serves properties on either side and is also publicly accessible.
24. While there are some metal and other external staircases within the CA, they are not a prevalent feature. Where they are present, they are not to the scale of that proposed, so would not be comparable with it. In any event, I am mindful that I must consider the individual merits of the proposal in light of the policies and evidence before me. Accordingly, the staircase and enlarged openings would be harmful to the character and appearance of the CA and thus fail to preserve its significance.

25. The removal of historic fabric, in respect of the two windows and the masonry beneath, and the introduction of the proposed replacement joinery and the staircase, would fail to preserve the listed building or its features of special architectural or historic interest. The proposal would also introduce a discordant form of development that would have a significantly detrimental effect on the setting of No 27 and the character and appearance of the CA and, thereby, their understanding and significance as heritage assets.

Public benefits and conclusions on the main issue

26. The statutory duties in Sections 16(2), 66(1) and 72(1) of the Act are matters of considerable importance and weight. Paragraph 192 of the National Planning Policy Framework (the Framework) states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Meanwhile, paragraph 193 of the Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
27. The proposal would be harmful to the special historic interest of No 29, the setting of No 27 and the character and appearance of the CA, which would have a negative effect on the significance of these designated heritage assets. In my view the harm that I have identified would equate to less than substantial harm to the significance of the designated heritage assets. In such circumstances, paragraph 196 of the Framework identifies that this harm should be weighed against the public benefits of proposals, which includes the securing of optimal viable use of listed buildings.
28. The appellant suggests that access for the flat at second floor is required to be taken through the existing business premises. While I acknowledge that the first and second floor flats will be served from the first-floor landing, I have already referenced that neither flat appears to be completed or occupied. Furthermore, given that the proposed staircase would not serve the first-floor flat, access would continue to be shared, with no alternative access point.
29. There is also no substantive evidence before me of the nature or extent of any problems that could manifest from the current access arrangements or whether alternative solutions have first been explored by the appellant to address these. It is therefore unclear how access through the building could be preventing the viable use of the building as the existing and approved uses do not yet appear to be in operation alongside one another. Furthermore, maintaining light levels within the building with the enlarged openings would not represent an improvement over the existing arrangements to either the occupants of the building or wider public.
30. Taking the above together, the public benefits I have outlined above would not justify allowing works and development that would fail to preserve the special interest of the listed building, the setting of the adjacent listed building or the character and appearance of the CA. Therefore, in accordance with paragraphs 193 and 196 of the Framework, considered together, I conclude that the public benefits do not outweigh the great weight to be given to the less than substantial harm that I have identified.
31. In light of all of the above, I conclude that the proposal would fail to preserve the special historic interest of the appeal building; the setting of the listed

building, 27 High Street; and the character and appearance of the Hemel Hempstead Old Town Conservation Area. Hence, the proposal would fail to satisfy the requirements of the Act, paragraphs 192 and 193 of the Framework and would conflict with the design and heritage aims of Policies CS12 and CS27 of the Council's Core Strategy (2006-2031) and Policies 119 and 120 of the Dacorum Borough Local Plan (1991-2011).

Other Matters

32. The main parties agree that the proposal would not result in harm relating to neighbouring living conditions, archaeology, sustainable design, parking or highway safety. However, the absence of harm in respect of these matters neither weighs in favour or against the proposal.
33. Across from the site, to the opposite side of High Street is 44/44a, which is also designated as a listed building. I have therefore had regard to the statutory duty referred to in the Act and the physical relationship of the proposal would ensure that its setting is preserved.
34. None of the other matters raised alter or outweigh my conclusion on the main issue.

Conclusion

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

Paul Thompson

INSPECTOR