



Appeal Decision

Site visit made on 24 February 2022

by Mr JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2022

Appeal Ref: APP/B1930/W/21/3276216

1 Watford Road, St Albans, Hertfordshire AL1 2AA

- 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 Newgate Homes against the decision of St Albans City Council.
 - The application Ref 5/20/2333, dated 12 November 2020, was refused by notice dated 29 January 2021.
 - The development proposed is the erection of 4 apartments with associated landscaping and parking.
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Decision

1. The appeal is dismissed

Main Issues

2. The main issues are whether the development would fail to preserve the settings of adjacent listed buildings and whether it would fail to preserve the character or appearance of the St Albans Conservation Area, causing harm to the significance of these assets. A further issue is whether it has been shown the scheme would not harm any archaeological remains on the site.

Policy

3. The *St Albans District Local Plan Review* was adopted in 1994 and so is now of some age. However, mindful of paragraph 219 of the *National Planning Policy Framework* (the Framework) that alone does not render its policies out-of-date or mean they are inconsistent with the Framework.
4. In so far as relevant to this case, I consider Local Plan Policies 69, 70 and 74 are generally consistent with the Framework as they broadly reflect its thrust to secure good design in development with attention to landscaping. In relation to Policies 85 (concerning conservation areas) and 86 (listed buildings), while they tend to reflect the current legislative requirements, they do not necessarily display the more flexible approach found in paragraph 202 of the Framework. I therefore consider they contain some degree of inconsistency in this regard.

Reasons

5. Section 66 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* says, in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be given to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. In section 72 it also requires

special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

Listed Buildings

6. When I visited, I found reasonable views of the rear of the Grade II listed St Stephen's House are possible from Watford Road over the appeal site despite the intervening tree cover. This is an early 18th Century building with subsequent alterations. Although the rear is not the dwelling's primary elevation, its window treatments with their detailing and the parapet arrangement add to the special architectural and historic interest of the building and its significance by reflecting its age and showing it to be a property of some status. The appeal site therefore allows views of this listed building that contribute positively to its understanding and appreciation. A garage has recently been built behind St Stephen's House, but that is to one side so does not prevent these views.
7. Moreover, although the appeal site was once part of the back garden of St Stephen's House it has long-since been separated and is now part of the garden of 1 Watford Road (No 1). However, the old wall along the Watford Road frontage links the site and St Stephen's House visually and conceals the more recent dividing wall that was built when the ownership changed. Given this, and as the site is to the side and not the rear of No 1 with a significant group of yew trees in between, from the road the land subject of the appeal appears to be more readily associated with St Stephen's House. Consequently, when seen from Watford Road, it still seems to form part of a sizeable back garden to that neighbouring property, and so adds to an experience of it being a dwelling of some status.
8. Looking from Watford Road and from No 1 the proposal would substantially conceal the rear elevation of St Stephen's House, preventing it from being appreciated. Moreover, the scheme would also visually sever the appeal site from that listed building, partly by being built along the north-east boundary, partly by substantially facing away from that house, and partly by dominating with built form what appears to be an open area of garden. This would mean that St Stephen's House would appear to have a far smaller garden that less reflected its status. Accordingly, for these reasons I consider it would fail to preserve the setting of that listed building, so causing less than substantial harm to its significance.
9. The appellant contended the scheme had design cues that implied it was an outbuilding. However, to my mind few such cues are apparent, and its scale and orientation mean it does not readily appear as an outbuilding to St Stephen's House. Although slightly lower than St Stephen's House, that is not sufficient to render it subservient or ancillary.
10. To the east of the site is a 17th Century Grade II listed barn (the Barn) that stands in the rear gardens of 4-8 Watling Street (Nos 4-8). From the submissions its origins are unclear, as I am told it was possibly a free-standing agricultural building behind the houses or it may have had a wider agricultural role. Either way, its significance and its special architectural and historic interest lie in its timber-framed structure reflecting its associations, to some degree or another, with agriculture.

11. It is not readily visible from the public domain, and from where it can be seen little understanding of its significance can be obtained. Rather, its context is best appreciated from within the gardens of Nos 4-8. In these views, despite the development around, it continues to stand in relative isolation. Nos 4-8 are a distance away in one direction while the dwellings in Falstaff Gardens are set back in another. No 1 is closer, but stands apart to some degree and, having only a limited gable, is not too dominant. Therefore, while the garden area is enclosed by tall walling and has housing around, the setting of this building still allows an understanding of the more open context in which it had its origins.
12. The Barn may well have had no historic link with the appeal site. However, the construction of one wing of the 'L'-shaped block immediately adjacent will not preserve its setting. This is because it would be so apparent and confining that it would erode, in part, the sense of isolation and openness that remains around the barn, thereby compromising its agricultural origins further.
13. Turning to the other listed buildings in the vicinity, the Grade II* Church of St Stephen, which dates back to the 11th Century, and the Grade II listed 18th Century King Harry Public House are to the north-east. However, the setting of the former is very much defined by its surrounding graveyard and the buildings that line the bounding roads, while the setting of the latter is focussed on the junction by which it stands. Although the appeal scheme may be visible in views of those buildings, I consider the separation and the relationship means their settings would not be harmed.
14. To the east the terrace of Nos 4-8 is Grade II listed. Dating from the 18th Century but displaying later alterations, its significance is partly evidential and partly aesthetic, with its detailing and form contributing to its special architectural and historic interest. Watling Street to the front and the extensive gardens to the rear are the areas from where this terrace is most notably experienced. The appeal site does not make any appreciable contribution to its setting and so the terrace's significance would not be harmed by the scheme.
15. Accordingly, I conclude the proposal would fail to preserve the settings of St Stephen's House and the Barn, so causing less than substantial harm to the significance of each.

Conservation Area & Trees

16. The conservation area covers an extensive area of the city. With its pattern of streets and open spaces, along with its variety and range of buildings and the dominance of the cathedral, it reflects its evolution as an important administrative and ecclesiastical centre over very many centuries, and these factors add to its significance and establish its character and appearance.
17. The conservation area has been divided into a number of character areas. The appeal site is in Character Area 7b, which is on the south-western edge, just before the urban form gives way to mid- and late-20th Century housing. Although this character area contains extensive open space and includes modern buildings, it is very much focussed on the historic hamlet of St Stephen's, which comprises the church with a collection of dwellings and a public house from the 17th and 18th Centuries, clustered around the junction of Watling Street and St Stephen's Hill. The appeal site is within the conservation area, although No 1 is outside.

18. The tall old walling that runs along the Watford Road boundary means that the lawns and flower beds on the site are not readily apparent from the adjacent road, but it has a number of trees along its boundaries. In particular, the field maple in the eastern corner and the clump of yews next to No 1 are striking and dominant specimens that make a positive contribution to the amenity of the area by helping to establish a verdant, mature context. Indeed, whilst some of the others along the Watford Road boundary and the boundary to St Stephen's House may be of a poorer quality, they too add to the maturity of the area.
19. The site's open nature and its noticeable trees mean it contributes positively to the significance of the conservation area. This is partly by providing a context for the historic hamlet to the north-east, clearly separating it from the modern suburban housing outside of the conservation area that stretches off to the south. It also creates a gentle transition into the conservation area when on Watford Road allowing an anticipation of the approaching historic hamlet if travelling northwards. This role is not identified in any conservation area appraisal or similar, but within conservation areas it is not uncommon for small pockets of open land to enhance the historic context in some way, and they can have such a role without having to be formally designated.
20. This 'L' shaped block would be close to the north-east and south-east boundaries. As the upper floor windows would puncture the eaves, I consider it could be reasonably described as 1½ storeys in height. It would be of a scale and extent that would dominate this relatively small area, and by running along the north-east side of the site it would act as a barrier between the older buildings to the north and the 20th Century housing to the south. Taking these factors together, it would therefore break the gentle transitional role this site now plays.
21. The appellant also contended that there were cues in the design that drew inspiration from the conservation area and alluded to a coach house. I saw little though to lead me to the view that a building of this design would reflect the historic character of the locality. With its domestication and lack of large openings it does not evoke the sense of a coach house, and its arrangement means it does not appear to be associated to any historic building around. As such, its design would not integrate well into the character and appearance of the conservation area. Moreover, the development would also serve to erode the significance of the conservation area by causing less than substantial harm to the significance of 2 listed buildings that contribute positively to the value of that designated heritage asset.
22. Whilst the appellant found the scheme would not be out of place within the context of 20th Century suburban residential development on Watford Road, that lies outside of the conservation area and so such a finding does not, to my mind, endorse the development in relation to this matter.
23. Turning to the issue of landscaping, the field maple to be retained at the rear and the new trees to be planted along the St Stephen's House boundary would be concealed to a great extent by the building when seen from the road. As a result, their role in contributing to the character of the site when seen from Watford Road would be limited. Moreover, the scale of the block would mean the replacement planting proposed would do little to maintain the existing verdant character. The courtyard formed by the building would contain pockets

of garden, but they would not be readily apparent from the public domain because of the walling, and from where the courtyard could be seen it would be dominated by hardsurfacing and parked cars.

24. With regard to the yews, on the evidence before me I am not satisfied that the scale of the hardsurfacing under the crowns and the removal of branches to allow vehicles to pass would not introduce a harmful level of trauma that could compromise the trees' well-being and so reduce their lifespan.
25. Overall, I therefore find that the scale, design and extent of the new building and the way it would diminish the site's openness and the role played by its trees, mean it would not relate well to the conservation area. It would also erode the buffer effect that the site now plays in distinguishing the conservation area from the suburban housing to the south, so the gentle sense of transition from one to the other would be very much reduced. Therefore, it would cause harm, albeit less than substantial, to the significance of the conservation area.

Archaeology

26. Given the site's proximity to Watling Street and a large Roman Cemetery, as well as the credible possibility of remains from other eras too, the Council maintained that there could be archaeological remains of sufficient importance on the site to justify retention in situ. As such, this should be explored before the permission is given. In the light of a historic record of such richness, this is a position with which I concur.
27. The appellant said such works would be intrusive for the owner of the garden, but that, of itself, is not a sound reason to defer the matter and address it by condition. Reference was also made to other sites where a condition has sufficed, but those appeared to be further from the areas of historic significance or for development of a smaller, less intrusive scale.
28. Accordingly, in the absence of works being undertaken to show otherwise, I cannot be satisfied the proposal would not cause harm to heritage assets of archaeological interest, and so I cannot be satisfied the scheme would not cause less than substantial harm in this regard.

Public benefits

29. The Framework states that any harm to the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification. In paragraph 202 it adds that if less than substantial harm is caused to the significance of any asset, that harm should be weighed against the public benefits.
30. The development would be delivering further housing in a location that would be sustainable. The scheme would also deliver economic benefits both during the construction phase and from the subsequent residents. I am aware though that heritage assets are an irreplaceable resource. Given this, and even accepting there is a need for housing in the District, I am not satisfied that this clutch of public benefits is sufficient to outweigh the less than substantial harm that could occur to the conservation area, St Stephen's House, the Barn and the archaeological remains.

Conclusions on this issue

31. Therefore, I conclude the development would fail to preserve the character or appearance of the conservation area, causing less than substantial harm to its significance. It would also cause less than substantial harm to the significance of the Grade II listed buildings of St Stephen's House and the Barn by reason of its adverse effects on their settings, while it has not been shown that less than substantial harm would not be caused to the archaeological remains that might be on the site. In the absence of any public benefits to outweigh this harm, the proposal would conflict with Policies 69, 70, 74, 85 and 86 of the Local Plan (insofar as they are consistent with the Framework), and also guidance contained in the Framework itself.

Other matters

32. Although concerns were raised about traffic and highway safety, I have insufficient basis to consider the scheme would cause harm in this regard.

Other considerations

33. Section 38(6) of the *Planning and Compulsory Purchase act 2004* says development should be in accordance with the development plan unless material considerations indicate otherwise.
34. In this respect, it is accepted the Local Planning Authority cannot demonstrate a 5-year housing land supply and so the appellant has drawn attention to the so called 'tilted balance' found in Framework paragraph 11(d). This states that in such a situation where development plan policies are out-of-date because a 5-year supply of housing land cannot be achieved, planning permission should be granted unless the application of policies in the Framework provide a clear reason for refusing the development. As those policies do provide a clear reason for refusal in this instance, the 'tilted balance' does not offer a basis to allow the appeal.
35. I have noted too the requirements elsewhere in the Framework that promotes housing in sustainable locations on what is defined as previously developed land, but consider any such provisions must be read alongside the guidance it contains concerning heritage assets. Such benefits do not therefore justify allowing the development.

Conclusion

36. For the above reasons I conclude the above appeal should be dismissed

JP Sargent

INSPECTOR