



Appeal Decision

Site visit made on 13 May 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 June 2024

Appeal Ref: APP/B1930/W/23/3330789

91 Victoria Street, St Albans, Hertfordshire AL1 3TJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by TA Victoria Street Ltd against the decision of St Albans City and District Council.
 - The application Ref is 5/23/0687.
 - The application sought planning permission for demolition of existing two storey commercial building to create a three storey mixed commercial and residential development, comprising 14 self-contained flats with associated access and landscaping without complying with a condition attached to planning permission Ref 5/21/2731, dated 4/11/2022.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: (00)500 P1, (20)00 P9, (20)01 P9, (20)02 P9, (20)03 P9, (20)30 P3, (20)40 P3, (20)41 P3, (20)101 P1, LP/91VSSAH/020 B.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted before the application was determined. The Council's decision and statement of case refer to the plans as originally submitted, on the grounds that the Council has discretion whether to accept amended plans and, in this case, they did not fully address changes which had been sought. However, the proposed amendments do not substantively change the proposed development and would be unlikely to affect any interested party. Through the application and appeal process, the Council has had the opportunity to comment on them. I have taken the amended plans into account and am satisfied that this would not prejudice any relevant party.

Main Issue

3. The application proposes several internal and external changes to the design of the approved development. The reason for refusal relates to changes in height and elevational treatment and the Council has not raised any objection to the internal changes or the revised layout of external areas. Against that background, the main issue is the effect that variation of Condition 2 would have on the external appearance of the building, with particular regard to

whether the amended design would preserve or enhance the character or appearance of the St Albans Conservation Area.

Reasons

4. The appeal site is at a crossroads on a main road through the Conservation Area (CA). It stands within a mixed commercial and residential frontage on the approach into the city centre. The site previously contained a substantial retail unit with two frontages, which is illustrated in the St Albans Conservation Area Character Statement and described as a landmark building. It incorporated a distinctive diagonal entrance feature on the corner, with a stepped roofline.
5. The significance of the CA includes a high proportion of surviving Victorian buildings, revealing expansion of the built-up area following development of the railway. The older buildings often incorporate well-articulated elevations including decorative brickwork in a variety of forms, and many of the later additions are similarly well detailed. Victoria Street is a long, straight road, opening up views of landmark buildings which add interest to the street scene. There is a high proportion of locally listed buildings, including almost all of those in the frontage around the appeal site.
6. The Council's evidence highlights that considerable attention was given to the design of the approved building, to ensure that it contributes to the character and appearance of the CA. The approved design includes several features consistent with those objectives. They include a stepped roofline and taller diagonal corner feature, echoing the form of the previous building. Several substantial triangular recesses, or 'squints', would provide an interesting level of articulation, including decorative brickwork responding to the quality of detailing on many of the older buildings. These would also divide the relatively large building into vertically proportioned elements, reflecting the rhythm of many of the locally listed buildings. The bronze-coloured window frames and hardware would be a distinctive feature, toning with the warm red brickwork.
7. Although an increase in the height of the building was originally proposed, the amended plans would revert to a height similar to the approved scheme. The amended roofline would have a stepped form, albeit of slightly different proportions, and there would be a taller elevation addressing the corner. As amended, the development would serve as a landmark within the CA and would not be excessively bulky or prominent.
8. The amended design would also include a series of squints. However, both sets of drawings show that these would be of a smaller scale than the approved details. While the difference in dimensions may seem relatively minor, it significantly undermines the value of this feature. The reduced squints would not adequately break up the long main façade or provide a meaningful level of decoration, which would undermine the original design intent. The application drawings and amended plans also specified grey anthracite window frames and hardware, which would lack the distinctiveness introduced by the originally approved materials.
9. In the National Planning Policy Framework (the Framework), paragraph 140 states that local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme. The same paragraph states that relevant planning conditions should refer to clear

and accurate plans and drawings, which provide visual clarity about the design of the development and are clear about the approved use of materials.

10. The Appellant has suggested that additional conditions could be imposed to restore the squints and window frame materials to the previously approved details. However, that is not consistently or unambiguously confirmed on the plans which are before me. Since the application is for variation of the condition securing implementation of the approved plans, reliance on email correspondence and the limited additional details provided with the appeal would introduce an unacceptable level of ambiguity. That would be particularly inappropriate given that the site is within a Conservation Area.
11. While I recognise that the approved scheme is not the only potential design solution, the plans before me would lack an appropriate quality of external detailing, for the reasons described above. I therefore conclude that the design would not preserve or enhance the character or appearance of the CA and would be harmful to its significance as a whole. The harm to the significance of the CA would be less than substantial. Nevertheless, in accordance with the statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have attached considerable importance and weight to the desirability of avoiding such harm.
12. The development would contribute to the supply of housing and provide a modern commercial unit. However, while the Appellant links the proposed alterations to the quality of the living accommodation, the evidence does not clearly demonstrate that the development cannot be implemented in its approved form. Construction is well underway and there is no clear indication that the delivery of additional housing or commercial floorspace is at risk. I therefore conclude that the harm to the significance of the CA would not be outweighed by any additional public benefits.
13. In view of the harm to the designated heritage asset, there is a clear reason for refusing the proposed development, notwithstanding the shortfall in housing land supply.
14. Based on the evidence before me, and in the absence of a full set of clear and accurate drawings, the proposed variation of Condition 2 would have a harmful effect on the external appearance of the building, and the amended design would not preserve or enhance the character or appearance of the St Albans Conservation Area. This would conflict with Policies 69, 70 and 85 of the St Albans District Local Plan Review 1994 which, amongst other things, require that development meets a high standard of design, preserving or enhancing the character or appearance of Conservation Areas. It would also conflict with relevant paragraphs in the Framework, as summarised above.

Conclusion

15. For the reasons given above the appeal should be dismissed.

Jane Smith

INSPECTOR