



Appeal Decision

Site visit made on 22 July 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 21 August 2024

Appeal Ref: APP/J1915/D/24/3342536

8 Moat Side Anstey Buntingford SG9 0DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr C Bullen against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/2214/HH.
 - The development proposed is Removal of rear canopy roof. Proposed loft conversion with 2 rear dormer windows and proposed bi-fold doors to rear elevation.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal site falls within a Conservation area and lies adjacent to a listed building which is also a designated heritage asset. The Planning (Listed Buildings and Conservation Areas) Act 1990 at section 66 imposes a general duty to pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. A similar duty exists in relation to Conservation Areas at Section 72. Whilst I have noted the comments of the Council in that regard and the character and appearance of Moatside is such that a small degree of change to the appearance of the appeal site would likely preserve the Anstey Conservation Area (ACA), it is not apparent that the Council have fully addressed the impact of the proposal on the setting of the adjacent listed building which, from my observation, must include the garden area which surrounds it. It falls to the decision-taker to exercise these duties and consequently I consider it necessary to also address these concerns in the appeal.

Main Issue

3. The main issue is the effect of the development upon the setting of Red Stack, the neighbouring property, which is a designated heritage asset and upon the living conditions of its occupiers.

Reasons

4. No.8 Moatside (No.8) is a one-bedroomed semi-detached bungalow dating from the mid-late twentieth century which sits within a group of 3 similar bungalow

- pairs¹. These are arranged in an L-shape around a shared grass area which, with three other houses of recent construction, are accessed off Moatside a short access road which sits between a scheduled monument to the south-west² and Red Stack to its north-east, a Grade II listed 17th century timber-framed house that benefits from a large private garden which provides its setting.
5. Anstey is a small village dating from the medieval period that despite subsequent insertions of housing groups, largely retains a quiet rural character with hedged boundaries and treed verges. Almost all of the village, including Moatside and the surrounding properties fall within the Anstey Conservation Area (ACA).
 6. The proposal would incorporate the existing roof void of No.8 into the living space, involving the introduction of two dormer windows into the rear roof slope. No.8 lies (along with 6,7 and 9 Moatside) adjacent to the shared boundary with the large garden of 'Red Stack'.
 7. Although there are a number of trees along this boundary, I noted from my inspection of the adjacent garden of Red Stack that even in times of full leaf³, the proposed dormers would very likely provide a view into the garden of this listed house, potentially overlooking a well-used part of what is currently a private, well enclosed garden not overlooked by neighbouring users.
 8. Policies DES4 and VILL2⁴ of the East Herts District Plan 2018 (EHDP) both refer to the protection of neighbouring amenity as a consideration for development proposals. In that regard the impacts of introducing new development and the acceptability of overlooking will vary according to the circumstances in each case.
 9. Whilst, due to factors which include the density of development and unavoidable proximity, in the majority of urban or suburban environments outdoor amenity space cannot be private in the sense of it being secluded and not overlooked. Mutually overlooked suburban gardens or tightly planned urban settings are tolerated (or found acceptable) within the shared social reality and choices made in pursuit of urban or suburban living⁵. However these are not factors which apply in this case. Red Stack is designated heritage asset possessed of a highly secluded and private garden area within a Conservation Area and these are factors which guide my assessment of the impacts of the proposal.
 10. Although the existing brown concrete pantile roof can be seen from the adjoining garden of Red Stack, its subdued colour means it has little visual impact within the treed setting along the shared boundary. I have noted the appellant's comments as to the impacts of the proposal as to distance and positioning, however, the proposed flat-roofed dormer window(s) would introduce an element of twentieth-century built form which would draw attention to these insertions by colour, shape and potentially at night as a light source in an otherwise dark environment. Even if rarely used there would be a

¹ numbered respectively 4&5; 6&7; 8&9 Moatside.

² The site of a moated norman castle

³ As was the case at the time of site visit

⁴ At V(g)

⁵ This is particularly relevant where housing is arranged along parallel roads and narrow plot widths mean intervening planting is absent.

perceived loss of the near-absolute seclusion and privacy currently enjoyed by occupiers of Red Stack from an awareness that such a viewpoint exists. That weighs against the proposal. I have noted the appellant's suggestion as to a condition to obscure-glaze the bedroom dormer as well as the bathroom. Whilst that would prevent overlooking it would both detriment living conditions for occupiers, by removing what would be a reasonable expectation of outlook from a bedroom, and would not address my concerns on the other matters I have identified.

11. Although the Council suggest that the works proposed would not affect the setting of this listed building it is not clear how that conclusion was reached. My observations are that the relatively separate nature of the setting of Red Stack, particularly its rear garden, is an important contributor to its significance as a historic building which the proposal would breach in the way I have explained. I acknowledge that the appellant suggests the intervening distance and vegetation points to the impact of the dormer not being significant however that does not account for the intrusive impact of the proposal upon an otherwise separate and secluded setting. I consider there would be a minor degree of harm to the significance of this heritage asset by introducing an awareness of more recent development within the Conservation Area that would otherwise not be evident when experiencing this heritage asset in its primary setting. Although altered, this is plainly a building with origins of significant age, so whilst the harm identified is limited it, nevertheless, should attract considerable importance and weight in the overall planning balance to which I now turn.
12. The proposal would provide additional accommodation and make the existing one-bedroom accommodation potentially more suitable for a small family rather than one or two people. This stands as a benefit to be weighed in favour of the proposal. However, having considered the comments of others, including that of the Parish Council it is apparent that benefit could be achieved in other ways without the introduction of dormers on the rear roof slope. Consequently, although the matter is finely balanced as the harms I have identified might be of little importance in other circumstances, overall the proposal would not meet the objectives set out in Policy VILL2 at V(g) in that there would be significant detriment to amenity for occupiers of Red Stack and, in addition, that the objective of preserving or enhancing designated heritage assets set out in Policy HA1 of EHDP would not be achieved.
13. For these reasons, having considered all matters raised, the appeal cannot succeed.

Andrew Boughton

INSPECTOR