



Appeal Decision

Site visit made on 18 February 2020

by JP Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 17 March 2020

Appeal Ref: APP/T5720/W/19/3233433

20 Malcolm Road, Wimbledon, London SW19 4AS

- 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 Nick Hoar against the decision of the Council of the London Borough of Merton.
 - The application Ref: 19/P0096, dated 13 December 2018, was refused by notice dated 15 February 2019.
 - The development proposed is demolition of dwelling house and erection of a residential dwelling house with associated landscaping, front boundary wall and alterations to access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. There was correspondence between the appellant and The Planning Inspectorate regarding the appeal procedure. The Planning Inspectorate explained, with reference to the published criteria in Annexe K of the Procedural Guide – Planning Appeals England, why the written representations procedure was considered appropriate rather than the inquiry requested by the appellant. Although the appellant continues to hold the view that an inquiry would be more suitable, based on the submitted evidence, relevant issues and criteria, I see no reason for the procedure to be changed.
3. I have taken the description of development in the banner heading above from the Council's decision notice and the appeal form, as it more fully and accurately describes the proposal than that contained in the application form.
4. Amended plans¹ have been submitted with the appeal for consideration as an alternative to the proposed scheme. In the revised plans the garage would be set further back from the front elevation of the new dwelling. Given the relatively minor nature of the changes, no party would be prejudiced by my accepting the revised plans. The appellant still considers the original proposal to be acceptable. Therefore, I will determine the appeal on the basis of the original plans but also consider the revised scheme as an alternative.

¹ Drawing Nos: P 010 Rev. B; P 011 Rev. A; P 012 Rev. A

Main Issue

5. The main issue is the effect of the proposed development, including the loss of the existing building, on the character and appearance of the street scene and whether it would preserve or enhance the Wimbledon Hill Road Conservation Area (CA).

Reasons

6. The appeal site comprises a wide-fronted, two-storey, detached house with a generous rear garden located on a residential street within the CA. The CA was designated in 1984 and has a mixed character comprising commercial and residential uses. Retail and commercial uses are mainly concentrated on Wimbledon Hill Road with residential properties set back along secondary streets.
7. The Wimbledon Hill Road Character Assessment (WHRCA)² advises that development within the CA '*generally began in earnest in the 1880s*'. Malcolm Road is identified as a separate sub-area within the WHRCA. It is illustrative of the late 19th and early 20th century residential development within the CA, which contributes to the architectural and historic significance of the conservation area. No 20, built in 1896, forms part of that late 19th century development. The house is identified in the WHRCA as one of several along Malcolm Road, in addition to those locally listed, which are considered to make a positive contribution to the character and appearance of the CA.
8. The Planning Practice Guidance (PPG) advises that there are a number of processes through which non-designated heritage assets may be identified, including via conservation area appraisals and reviews.³ Therefore, given the above, I consider the existing house at No 20 to be a non-designated heritage asset. The appellant also appears to accept that is appropriate.⁴
9. Paragraph 197 of the National Planning Policy Framework (the Framework)⁵ indicates that the effect of a proposal on the significance of a non-designated heritage asset should be taken into account in determining an application and that a balanced judgement will be required, having regard to the scale of any harm or loss and the significance of the heritage asset.
10. As the appeal site is within the CA, I am also mindful of the statutory protection afforded by s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), which requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Accordingly, there is a strong statutory presumption against granting planning permission which does not preserve or enhance a conservation area. Paragraph 192 of the Framework indicates that, in determining proposals affecting heritage assets, account should be taken of: the desirability of sustaining and enhancing their significance; the positive contribution that they can make to sustainable communities and the desirability that new development should make a positive contribution to local character and distinctiveness.

² 07/2006

³ Paragraph: 040 Reference ID: 18a-040-20190723

⁴ Paragraph 5.6 of the Planning and Heritage Statement, prepared by Montagu Evans LLP – December 2018

⁵ February 2019

11. Since the WHRCA was adopted in 2006, some properties along Malcolm Road have been redeveloped, introducing more modern houses. The appellant refers to the demolition and replacement of the house at No 17,⁶ but I understand that replaced a 1950s property which the WHRCA considered to be of poor quality. The 'redevelopment' of No 21⁷ is also referred to but I have limited details of that scheme or the reasons that may have led to it being approved at the time. Furthermore, correspondence from the Council's Conservation Officer indicates that the relevant 2010 permission was granted to redevelop the rear of No 21 while retaining the façade but that the development was badly managed leading to the collapse of the façade with a replica being built. In any event, Malcolm Road is still characterised by predominantly late 19th century and early 20th century architecture, albeit with some variations in style. The age, character and design of those houses contributes positively to the character and appearance of the CA, as recognised in the WHRCA.
12. I consider that, notwithstanding the run-down condition of the existing building and the loss of some later additions to it, the façade of the house exhibits a number of attractive design features. They include: its varied gables, which reduce the visual bulk of the roof; ornate classical detailing to narrow openings within the larger of the three gables, which is above a two-storey canted bay topped by a rounded copper panel roof; and tall red-brick chimneys. These features are identified within the WHRCA, which also refers to the attractive timber detailing of its sash and casement type windows and considers No 20 to be of high architectural quality.
13. Although many of the windows were boarded up at the time of my site visit, and the building is clearly in need of repair and refurbishment, those attractive features remain apparent and contribute to its interesting façade. While the design of the house is individual, the palette of materials used and some features including facing red brick, rendered upper levels, tall brick chimneys, enriched window bays and joinery details appear generally consistent with other houses along the road and within the CA.
14. The appellant's Design and Access Statement (DAS)⁸ submits that the later two-storey garage wing, said to have been added in 1927, unbalances the dwelling because, amongst other things, it is lower in height than the main body of the house. However, it is not unusual for side extensions to be designed so that they appear subordinate to the existing structure and constructed with sympathetic materials, which is the case here. It is also suggested that the house appears unbalanced within the site due to the wide gap to the right between it and the next house, but this results from the relatively recent loss of a former single storey-conservatory, which I understand was added not long after the house was originally built.
15. Accordingly, while I note that the appellant's Planning and Heritage Statement (PHS)⁹ and DAS paint a generally negative portrait of the existing dwelling, I take a different view and, like the WHRCA, consider that the building has pleasing features in its general composition, while also being a tangible example of the late 19th century development of the area. Therefore, it has some architectural and historic merit in its own right. Moreover, although it

⁶ 13/P2082

⁷ 10/P2263

⁸ Prepared by Smallwood Architects – November 2018

⁹ Prepared by Montagu Evans – December 2018

requires repair and maintenance, the house contributes positively to the immediate street scene and to the character and appearance of this part of the CA and the CA considered as a whole. As is apparent from the WHRCA, it is not a pre-requisite for a building to be locally listed for it to be considered to make a positive contribution to a conservation area.

16. The appellant's PHS refers to a range of advice from Historic England (HE), including a checklist of questions contained in HE Advice Note 1: Conservation Area Appraisal, Designation and Management¹⁰, which is intended to aid the assessment of whether or not a building makes a positive contribution to the character and appearance of a conservation area. The checklist is designed to assist in the production of conservation area character appraisals. The PHS uses the checklist to support the appellant's case that the existing house possesses a low level of heritage interest by answering most of the questions in the negative.
17. However, HE Advice Note 1 makes clear that a positive response to one or more of the relevant checklist questions may indicate that a particular element within a conservation area makes a positive contribution, provided that its historic form and value have not been eroded. Although the house requires repair, its essential historic form and value remain. In contrast to the PHS, I find in answer to the checklist questions that, for the reasons already given, the existing house does *'individually....illustrate the development of the settlement in which it stands'* and it also, while accepting its individual design, *'reflects a substantial number of other elements in the conservation area in age, style, materials, form or other characteristics.'* That supports the view that the house makes a positive contribution to the character and appearance of the CA, a conclusion that is also consistent with the findings of the WHRCA, which the Council advises was broadly consulted on prior to its adoption.
18. While the appellant suggests that the appeal property is not prominent in the street scene, there are clear views of it from the road, albeit from closer range public vantage points. Indeed, given its width and particular form, set on a larger plot than is typical of other properties along the road, it is noticeable. Although Malcolm Road is a vehicular cul-de-sac, there is pedestrian access via a public footpath (Sunnyside Passage) to Sunnyside to the north west. Therefore, the existing and proposed building would be visible to the wider public walking that route and not only from surrounding properties along Malcolm Road and to those accessing them.
19. In assessing the overall effect of the proposal on the CA, it is also necessary to consider the effect of the replacement building. The appellant's architect advises the existing architectural language of the house appealed to the appellant from the outset, and that therefore, the design of the new house is deliberately related to the language of the existing house, while seeking to address some of the alleged shortcomings of the original.
20. Notwithstanding the design intention, it is clear from the submitted plans¹¹ that the main body of the new house would be significantly wider than the existing house and most others along the road. Although the plot is generous and there was once a conservatory to the side since demolished, the house and garage would fill much of the width of the site. In addition, the building would

¹⁰ The 2016 edition referred to has been superseded by the Second Edition, published 8 February 2019

¹¹ Including Drawing Nos: P 012 and P 010 Rev A

be noticeably higher than the existing structure. While the three gables reference the design of the current house and the slope of the road is noted, the increased height across its main two-storey span, more prominent roof and overall width would, cumulatively, result in a building that appears excessively large and bulky compared with the existing house and others along the road. Therefore, it would appear incongruous and have a detrimental effect on the character and appearance of the immediate street scene which forms part of the wider CA and contributes to its significance.

21. While I have also considered the revised alternative plans, which set the side garage slightly further back from the front elevation of the house, this would not significantly alter the impression of excessive bulk and massing, which results principally from the height and width of the main house over two storeys. Therefore, the alternative scheme would not sufficiently mitigate the harm.
22. The appellant refers to alleged heritage and design benefits associated with the proposal including high quality design and materials, improved boundary treatments and front garden space, and the replacement of a mature tree which is said to be in a diseased condition. However, even if such benefits were accepted, they are not necessarily dependent on the current scheme and could in many respects be achieved by repair and refurbishment of the existing house or an alternative scheme that did not cause harm.
23. I note that the Wimbledon Society and a number of local residents have objected to the demolition of the existing house and the proposed replacement building for similar reasons to those discussed above.
24. The appellant has referred to case law, including *Dorothy Bohm & Ors v Secretary of State for Communities and Local Government & Ors (2017) EWHC 3217*, and some appeal decisions.¹² However, they are cited mainly in relation to policy considerations and the appropriate methodology for assessing proposals relating to non-designated heritage assets and effects on conservation areas. I have taken relevant case law and those other appeal decisions into account in reaching my decision. Additionally, it is a truism that all proposals must be judged on their individual merits, which is the approach I have taken in assessing the appeal proposal.
25. Overall, I conclude that the proposed development, including the loss of the existing building, would have an adverse effect on the character and appearance of the street scene and fail to preserve or enhance the CA. Consequently, the proposed development would fail to comply with policy CS 14 of the Council's LDF Core Planning Strategy¹³ and policies DM D2 and DM D4 of the Council's Sites and Policies Plan and Policies Maps (SPP),¹⁴ insofar as they seek to ensure, amongst other things, that development is of high quality design, respects and reinforces local character and conserves Merton's heritage assets.
26. The Council has referred specifically to criteria 'd)' of policy DM D4 within the SPP, which states that: *'The loss of a building that makes a positive contribution to a conservation area or heritage site, should also be treated as*

¹² Including APP/K5600/W/16/3156380

¹³ Adopted July 2011

¹⁴ 09 July 2014

substantial harm to a heritage asset.' However, while I have found that the existing building makes a positive contribution to the CA, endorsing the view expressed in the WHRCA, the PPG advises that: *'Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases.'*¹⁵ Therefore, it remains necessary to make an assessment in the individual circumstances, which is confirmed in an appeal decision cited by the appellant, where that specific aspect of SPP policy DM D4 was dealt with in a similar fashion.¹⁶

27. Moreover, Framework paragraph 201 advises that: *'Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.'*
28. While I note that the Council holds that the loss of the existing building would cause 'substantial harm' to the CA, I consider that the level of overall harm to the CA, taking account of the loss of the building and the proposed replacement, would be 'less than substantial'. That is because although the existing house is a positive contributor to the character and appearance of the CA, it is not nationally or locally listed. In addition, the proposal affects one site in part of the CA, which is only prominent in closer range public and private views.
29. Nonetheless, even less than substantial harm to the significance of a designated heritage asset, such as a conservation area, attracts great weight¹⁷ and any harm requires clear and convincing justification.¹⁸
30. The PPG indicates that: *'Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.'*¹⁹ The proposal involves the demolition of the existing building, dating from 1896 and of some architectural and historic merit, while the bulk and massing of the proposed replacement would be unsympathetic to the street scene and the CA. Taking into account those factors and the other aspects referred to above,²⁰ I consider that the negative effect on the CA would be within the mid-range of the 'less than substantial harm' category.
31. Paragraph 196 of the Framework indicates that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The PPG says that: *'Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy*

¹⁵ Paragraph: 018 Reference ID: 18a-018-20190723

¹⁶ APP/T5720/W/19/3226607

¹⁷ Paragraph 193

¹⁸ Paragraph 194

¹⁹ Paragraph: 018 Reference ID: 18a-018-20190723

²⁰ In paragraph 27

Framework (paragraph 8). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. ²¹

32. In terms of public benefits, the proposed development would generate some short-term economic activity during the construction phase, with regard to employment opportunities and the purchase of building materials. The appellant also refers to the use of high-quality materials and the likely improved environmental performance of a modern replacement building, which would also contribute to the quality of the housing stock.
33. Various other benefits are also referred to by the appellant including improvements to boundary treatments, the appearance of the front garden, the replacement of an allegedly dying tree and bringing the site back into use as a family home.
34. However, as previously indicated, many of those benefits could equally be achieved by an alternative scheme, which did not cause the overall harm identified. For example, while the existing house is in need of repair and refurbishment there is no compelling evidence to indicate that it could not be sensitively restored and, if necessary, extended. Indeed, it appears that No 18, also identified in the WHRCA as making a positive contribution to the CA, has been extended to the rear while the main body and façade of the original 1897 dwelling has been retained.
35. Therefore, the relatively limited public benefits associated with the proposal are insufficient to outweigh the 'less than substantial harm' identified to the character and appearance of the CA. With regard to the existing building, although non-designated heritage assets have lesser protection than designated heritage assets, the harm occasioned by its complete demolition would not be outweighed by the suggested benefits. Consequently, the proposed development and the amended scheme would both fail to comply with the requirements of the Act, relevant parts of the Framework and the development plan.

Other Matters

36. The appellant refers to a range of other matters including previous iterations of the scheme and revisions, pre-application advice from the Council, an application for the appeal building to be added to the local list which was rejected, along with subsequent information from the Council that it was being reconsidered for inclusion. While I note that background, I have considered the proposal before me and the amended scheme on their own merits and applied my own judgement.
37. Referring to paragraph 191 of the Framework, the Council considers that the existing building has been allowed to deteriorate and that no effort has been made to maintain it, leading to some parts of it being removed. The implication is that this has been done with the deliberate intention of reducing the significance of the property. The appellant strongly refutes this, advising that the poor condition of the property is the result of years of limited maintenance prior to his acquisition of it, and that the elements removed were on the point of collapse. The boarding up of doors and windows is said to be to

²¹ Paragraph: 020 Reference ID: 18a-020-20190723

secure the property following a break-in. While the matter is in dispute, the evidence before me is inconclusive. In any case, I have not found it necessary to make a finding in that regard in order to reach my decision.

Conclusion

38. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

JP Tudor

INSPECTOR