



Appeal Decision

Hearing Held on 29 June 2021 and 30 June 2021

Site visit made on 6 July 2021

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2021

Appeal Ref: APP/B4215/W/20/3260989
35 Demesne Road, Manchester M16 8HJ

- 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 Dr Ali Roomi (Bollin Homes Ltd) against the decision of Manchester City Council.
 - The application Ref: 124769/FO/2019, dated 8 September 2019, was refused by notice dated 11 December 2019.
 - The development proposed is demolition of the property.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the property at 35 Demesne Road, Manchester M16 8HJ in accordance with the terms of the application, Ref 124769/FO/2019, dated 8 September 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) No demolition shall commence until a demolition method statement has been submitted to and approved in writing by the local planning authority. The demolition method statement shall include details of: the method of demolition; hours of working; provision for contractors including the provision and use of wheel washing facilities for the duration of any works on site; and a timetable for the carrying out of the demolition, including the removal of demolition materials from the site following completion of the works. The demolition works shall be carried out in accordance with the details and timetable thereby approved.
 - 3) No demolition shall commence until details of the interim treatment of the site of the demolished building, including site hoarding plans, details of a temporary site treatment and a timetable for the implementation of such measures, have been submitted to and approved in writing by the local planning authority. The interim treatment of the site shall thereafter be carried out in accordance with the details and timetable thereby approved.

Application for costs

2. In advance of the hearing an application for costs was made in writing by Dr Ali Roomi (Bollin Homes Ltd) against Manchester City Council. That application for costs was added to verbally at the hearing. That application is the subject of a separate Decision.

3. At the hearing an application for costs was made in writing by Manchester City Council against Dr Ali Roomi (Bollin Homes Ltd). That application is the subject of a separate Decision.

Preliminary Matters

4. The description in the banner heading above is taken from the Council's decision notice. It was agreed by both main parties at the hearing that it succinctly and accurately describe the proposed development. I concur and have also adopted that description in my decision.
5. The site is in a conservation area. I am mindful of my statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and I have considered the appeal accordingly.
6. The Council has served a notice under section 215 of the Town and Country Planning Act 1990 (a s215 notice) requiring the demolition of the adjoining building, 33 Demesne Road (No 33), which is also owned by the appellant. I have had regard to the requirements of that s215 notice and the appellant's stated intention that, if I were to allow this appeal and grant permission to demolish the appeal building, No 33 would be demolished at the same time. However, for the avoidance of doubt, this appeal relates only to the proposed demolition of 35 Demesne Road and I have considered it accordingly.
7. During my visit I observed those parts of the building and the site which were visible from public vantage points but, for health and safety reasons, I did not enter the building or the site. However, in reaching my decision I have also taken into account photographs of the site which were provided during the appeal and discussed during the hearing.
8. The appellant submitted a structural survey in support of their application to the Council¹ (the appellant's 2019 survey) and a further structural survey as part of the appeal² (the appellant's 2020 survey). The findings of the surveys are broadly similar, and I have had regard to both. However, as the 2020 survey provides a more detailed and up-to-date assessment of the building's condition, I have placed greater weight and reliance on that latter survey.
9. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. I have given the main parties the opportunity to comment on this.

Main Issue

10. The main issue is the effect of the proposal on the character and appearance of the Whalley Range Conservation Area (WRCA).

Reasons

The appeal site and the WRCA

11. The WRCA encompasses areas of Victorian housing that were built as part of the establishment and growth of Whalley Range as one of Manchester's first

¹ Structural Inspection at 33 and 35 Demesne Road, Whalley Range, Manchester, M16 8HG, reference: 19-B-12459-DM01, carried out by Carley Daines and Partners Limited, dated 5th August 2019.

² Structural Inspection Report at 35 Demesne Road, Manchester, M16 8HJ, reference: 220036, carried out by Mason Navarro Pledge, dated August 2020.

suburbs. The earliest houses were built on land acquired by a prominent banker, Samuel Brooks, in the 1830s. They were laid out in accordance with numerous principles set out by Mr Brooks as part of his aspiration to create 'a desirable estate for gentlemen and their families'.

12. From the 1850s onwards, Whalley Range expanded towards Alexandra Park, with the construction of further large detached and semi-detached houses on generous plots. Many were built in line with the same principles established by Mr Brooks for the earlier housing in the area.
13. Some of those large Victorian houses have now been demolished and their sites redeveloped. Later infill development has also taken place. Nonetheless, many of those historic buildings remain and the character, appearance and legibility of the area's historical origins as a Victorian suburb have been well preserved. Insofar as it relates to this appeal, the significance of the WRCA is drawn from the large Victorian houses which were built as part of that period of suburban growth, including their architectural detailing and their generous landscaped plots.
14. The appeal property is a large, semi-detached house on a large plot, built during the area's later phase of development in the second half of the 19th century. The building and its adjoining neighbour, No 33, suffered a fire in 2009. It has been vacant since that time. As well as evident soot and deterioration to areas of its stonework and brickwork, the building has lost many of its windows, particularly to the sides and rear. Parts of the roof and walls of its rear section have also collapsed. Vegetation is growing close to the ground floor of the building and through the upper parts of its walls and roof.
15. The building has retained some elements of its historic architectural detailing, particularly to its front section. Those include bay windows, stone window surrounds and string courses, a stone front porch with scroll detail above and a Dutch gable feature. The timber window frames and some sections of decorative leaded glazing in its front windows also remain.
16. However, the building is in a state of severe dereliction, with sections of missing walls, roof and windows to the rear sections, evident damage to parts of the architectural details which do remain, and vegetation ingress and signs of fire damage to all parts of the building. Notwithstanding those architectural details which remain, the building is in a parlous condition and its derelict and unkempt appearance visually detracts from the appearance of the street scene and the WRCA.

The proposal

17. It is proposed to demolish the appeal building. There is no proposal before me for the redevelopment of the site, nor has planning permission been granted for any such redevelopment. The outcome following the demolition would therefore be a vacant site.

Policy context

18. Policy EN 3 of Manchester's Local Development Framework: Core Strategy Development Plan Document (the Core Strategy) requires developments to preserve or enhance the historic environment. Saved Policy DC18.1 section c. of the Unitary Development Plan for the City of Manchester (the UDP) states that consent to demolish a building in a conservation area will be granted only

where it can be shown that it is wholly beyond repair, incapable of reasonably beneficial use, or where its removal would benefit the appearance or character of the area.

19. Those policies are consistent with the National Planning Policy Framework (the Framework), which requires heritage assets to be conserved in a manner appropriate to their significance, that any harm to the significance of a designated heritage asset should require clear and convincing justification and that, where a development proposal would lead to less than substantial harm to a designated heritage asset that harm should be weighed against the public benefits of the proposal.

The effect on the WRCA

20. The demolition would result in the loss of one of the historic buildings which formed part of the area's suburban growth. However, the building is not listed and the Council confirmed at the hearing that it does not consider it to be a non-designated heritage asset (NDHA), a conclusion with which I agree. Although the building retains elements of its historic architectural detailing, overall it detracts from the appearance of the WRCA due to its parlous condition and derelict appearance.
21. With regard to the possibility of repairing the building, the appellant's 2020 survey included a detailed structural inspection. Because of the building's condition and the health and safety implications of entering it or accessing its upper floors or roof, the inspection was carried out externally from ground level. The Council has not carried out its own structural survey of the building or presented any substantive evidence to contradict the findings of that or the appellant's earlier 2019 survey. Therefore, I have no reason to doubt the findings of the appellant's surveys and I am content to rely on those findings.
22. Based on the surveys and the appellant's structural expert's evidence at the hearing, I recognise that elements of the building's architectural detailing such as the stone window surrounds, porch detail and string courses could be repaired or, in part, replaced. There is greater uncertainty about the potential to retain the remaining timber window frames and leaded lights, although sympathetic replacements could be installed.
23. However, in addition to the defects to those specific features, the 2020 survey also identified evidence of ground movement around sections of the front elevation, areas where internal floors had collapsed and ceilings which were in poor condition, which it stated were evident through the windows from the external inspection. Parts of the roof and sections of brickwork to the rear parts of the building have collapsed. The 2020 survey also notes that unstable brickwork is hanging dangerously at high level on the rear elevation and concludes that further deterioration and structural collapse is likely to occur in the near future to the rear of the building due to the unstable fabric.
24. Consequently, whilst elements of the building's architectural detailing could be repaired or replaced with similar features, it is evident that the building has fundamental structural issues which would need to be addressed before the building could be brought back into use. More extensive replacement of structural elements including large sections of external walling and roofing, would thus also be required, beyond those cosmetic repairs to elements of its external architectural detailing.

25. The appellant's 2020 survey includes a schedule of works required to repair the building, which is based on the external structural inspection that was conducted as part of that survey. On that basis the Council considers that the building is not wholly beyond repair. However, even based on the external inspection carried out as part of that survey it is clear that, due to the condition of the building and uncertainties about floor structures and the likelihood of falling masonry, some of those repairs would be complex and entail a significant risk to the health and safety of people who would need to enter the building to carry them out. Consequently, although 'on paper' it may appear possible to repair the building, I have significant reservations about whether it would be possible to do so safely or practically in reality, even based on the findings of that external survey alone.
26. Furthermore, taking into account the condition of the building and the missing parts of its external walls, roof and windows, I cannot rule out the possibility that it has suffered further internal damage beyond that identified in the external inspection, including from falling material and water ingress. It is not clear to what extent internal floors remain intact, although parts have evidently already collapsed based on the external inspection. Uncertainty therefore remains about the amount of internal support those structures continue to provide to the external walls and the stability of those walls. Vegetation growing close to the building at ground level and around parts of its upper walls and roof may have caused further damage to the brickwork and further structural implications beyond those identified in the external inspection.
27. Therefore, and based on evidence given by the appellant's structural expert at the hearing, which was not contested by the Council, I consider it highly likely that further damage has taken place beyond that which was identified in the external inspection. This casts further doubt on the ability to safely or practically repair the building or bring it back into a reasonable beneficial use.
28. The requirement to demolish the adjoining building at No 33 in accordance with the Council's s215 notice raises further uncertainty regarding the ongoing stability of the appeal building. The appellant's 2020 survey identifies that collapsed sections of No 33 have reduced support to the appeal building. Therefore, even from the external inspection which has been carried out and taking into account the appellant's structural expert's evidence at the hearing, it is clear that stabilising the appeal building during that demolition would be a complex operation and entail risks to the health and safety of people who would need to enter the building to do so. Furthermore, as no internal inspection of the buildings has been carried out, their actual condition is not certain and the possibility of further implications arising from the demolition of No 33 cannot be ruled out. This raises yet further uncertainty about whether it would be safe and practical to retain and repair the appeal building in reality.
29. The Council does not consider the appeal building dangerous to the public because it is set in from the site boundaries and the site is fenced off. However, it is evident from all that I have seen and heard that the building presents a risk to health and safety beyond that associated with passing members of the public or the occupants of neighbouring properties. To fully ascertain the condition of the building and the extent of works required to repair it and make it safe during the demolition of No 33, and to carry out any such works, it would be necessary for people to enter the building. On that

- basis, I consider the building to be dangerous and I afford substantial weight to the risk to health and safety that would arise from carrying out any works to it.
30. I have been presented with information relating to the cost of carrying out the repairs recommended in the 2020 survey and of further works that would be required to fit out the building and bring it into a residential use. However, those costs do not include any anticipated income from any re-use and do not comprise a full viability report, thus limiting the weight I afford that evidence.
 31. Nevertheless, even from the structural evidence before me, it is clear that the works required to repair the building would be complex and carry a substantial risk to health and safety. Added to that is the further uncertainty regarding the condition of its interior and the implications that demolishing No 33 would have for its stability. Therefore, and given the extent and complexity of works that would be required to attempt to repair the building and the significant risks to health and safety that would be involved, I am not satisfied that the building could safely and practically be repaired or brought back into use in reality.
 32. A s215 notice served by the Council in relation to the appeal building in December 2018 required works including the repair and replacement of window frames, glazing, missing rainwater goods, and missing or broken slate to the roof. It also required works to remove vegetation growing on the building and repair any loose brickwork or slate as a result of removing the vegetation, and the clearance of debris and materials from the land.
 33. However, although some preparatory work to facilitate the works required by the notice may be expected, some of those required works could not be practically carried out without substantial structural work which, in my view, would be beyond the scope of works which could reasonably be envisaged upon reading the notice, including to replace sections of its rear walls and roof structure. The requirements to remove vegetation and carry out some of the works would have significant health and safety implications for anyone needing to enter the building or access its upper floors in order to do so. Therefore, I am not satisfied that the required works could be carried out without more substantial work to stabilise the building, the scope of which is not clear even from the submissions before me and thus could not have been envisaged in the terms of the s215 notice, thus limiting the weight I afford to that notice.
 34. The demolition would result in the loss of a historic building which is within the WRCA and has retained some distinctive elements of its architectural detailing. However, the building is not listed, nor is it an NDHA. In that context and given its parlous condition and the significant uncertainties about the practicalities of repairing it or bringing it back into use, the significant risk to human health and safety that would be involved in attempting to do so is not justified.
 35. Paragraph 196 of the Framework states that, where there is evidence of deliberate neglect of a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision. It has been suggested that there has been deliberate neglect in this case. In that regard, the Council indicated at the hearing that I should take into account the period since the appellant acquired the property in 2012, and that any damage which had occurred before that could not be attributed to neglect by the appellant.
 36. The Council was unable to provide me with any evidence or information regarding the building's appearance or condition at the time the appellant

acquired it in 2012. However, the submissions state that the building suffered a fire in 2009 and that it was removed from the valuation list that same year. Even that limited information indicates that the building had already suffered damage before the appellant acquired it.

37. The appellant acknowledged at the hearing that they had not carried out any repairs to the building itself. Whilst vegetation clearance has periodically been carried out since the appellant acquired the building, that has not taken place since 2017 due to concerns regarding the safety of the building. Therefore, and as the building is missing sections of its walls, roof and windows and is evidently not watertight, some deterioration is likely to have occurred since the appellant acquired the building. However, although the Council referred to some changes observed in recent years, including increases in vegetation and the loss of some windows, it was unable to provide detailed photographic or structural evidence or commentary as to how the building's condition had changed in the 9 years since the appellant acquired it.
38. It is evident even from the limited information before me that the building had suffered damage when the appellant acquired it in 2012. The fact that it had been removed from the valuation list by that point indicates that damage was more than superficial and was sufficient to render the building uninhabitable. Even if further deterioration has occurred in the intervening period, in the absence of any substantive evidence regarding the condition of the building when the appellant acquired it in 2012 or how its condition has changed since then, I am unable to conclude with any certainty that the building's current condition can be directly attributed to the inaction of the appellant rather than to the fire which occurred in 2009. Accordingly, I am not satisfied that the condition of the building has arisen as a result of deliberate neglect on the part of the appellant. I have therefore based my decision on the current condition of the building.

Conclusion on the main issue

39. Despite having retained some historic architectural details, the appeal building is in a state of significant disrepair and detracts from the character and appearance of the WRCA at present. Based on surveys carried out to date and given the further uncertainty regarding the building's internal condition and the potential implications of demolishing No 33, I consider that the building is dangerous, and I am not satisfied that it could be safely or practically repaired, retained or brought back into beneficial use. Although I have no proposal before me for the redevelopment of the site, I am satisfied that its clearance and an appropriate interim landscaping treatment following demolition could be secured by condition. In that context, and as the building is not listed or a NDHA, I conclude that its demolition and the removal of a harmful feature which is beyond reasonable repair would have, at worst a neutral effect and, at best a slight positive effect on the character and appearance of the WRCA.
40. The proposed demolition would therefore preserve or enhance the character and appearance of the WRCA. It would thus accord with the requirements of Policy EN 3 of the Core Strategy and Policy DM18.1 c. of the UDP, and with those of the Framework as set out above.

Other Matters

41. Reference has been made to wildlife on the site. A bat survey submitted with the application found that the building had negligible potential for roosting bats and concluded that there would be no foreseeable impacts on bats from the proposal. Therefore, and in the absence of any substantive evidence indicating the presence of other protected species on the site or any objection from the Council in that regard, I am satisfied that the demolition would not have adverse implications for biodiversity or legally protected species.
42. I have noted concerns raised that the demolition of this building could lead to other buildings in conservation areas being neglected, creating pressure for their demolition. However, I have considered this appeal on its own merits and my findings are based solely on the circumstances in this particular case. Any future application for the demolition of any building in a conservation area would necessarily be considered on its own planning merits and based on the circumstances in that case.
43. Concerns have been raised regarding the design and potential traffic implications of any redevelopment scheme. However, as I have no such scheme before me I have not needed to consider such matters in this case.

Conditions

44. A condition requiring a demolition method statement is necessary to ensure that the demolition is carried out in an appropriate manner, including with regard to highway safety and the living conditions of nearby residents. In the absence of any permitted redevelopment, a condition requiring details of hoardings and an interim landscape treatment for the site following the demolition is necessary to ensure that the site is left in an appropriate and tidy condition, to protect the appearance of the area.

Conclusion

45. For the reasons given, the proposal would accord with the development plan taken as a whole. Material considerations do not indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be allowed.

Jillian Rann

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Ali Roomi	Appellant
Paul Gibson	Director, MPS Chartered Surveyors
Jason Kennedy	Director, Townscape Chartered Town Planner & Heritage Consultant Ltd
David Mason	Director, Mason Navarro Pledge

FOR THE LOCAL PLANNING AUTHORITY:

Jennifer Connor	Principal Planning Officer, Manchester City Council
Paul Mason	Group Manager Urban Design and Conservation, Manchester City Council
Adam Neil	Development Compliance Manager, Manchester City Council

INTERESTED PERSONS:

Giles Watmough
Cameron Zandi

DOCUMENT RECEIVED DURING THE HEARING

1. Suggested additional condition relating to the interim treatment of the site following demolition.