



Appeal Decision

Site visit made on 5 March 2024

by J Moore BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 MAY 2024

Appeal Ref: APP/G5180/W/23/3326691

244 Southlands Road, Bromley BR1 2EQ

- 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 Macar Bespoke (WHL) Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/23/00298/FULL1.
 - The development proposed is demolition of the existing building; redevelopment to provide a four-storey building comprising 8 no. 2 bedroom flats and an attached three-storey 4-bedroom house; provision of 9 car parking spaces, cycle and refuse stores and new landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's reason for refusal refers to its consideration of the existing building at 244 Southlands Road (No 244) as a non-designated heritage asset (NDHA). It is not identified on any local list.
3. Whilst Planning Practice Guidance (PPG): Historic Environment¹ states that it is important that the decisions to identify NDHAs are based on sound evidence, it also sets out that local planning authorities may also identify non-designated heritage assets as part of the decision-making process on planning applications.
4. In this case, the Council has identified the existing building as a NDHA and the appellant has provided a Heritage Appeal Statement which considers the significance of the existing building, and this accepts that the building has some degree of significance. I have therefore determined the appeal on the basis that No 244 is a NDHA.

Main Issues

5. The main issues are the effect of the proposal upon:
 - the character and appearance of the area, including the heritage significance of the existing building; and
 - the living conditions of neighbouring occupiers at No 246 Southlands Road, with particular regard to outlook and levels of daylight and sunlight.

¹ Paragraph: 040 Reference ID: 18a-040-20190723 Revision date: 23 07 2019.

Reasons

6. The appeal site is in a residential area and is occupied by a part two/part three storey detached property (No 244) which was originally built in the style of an Italianate villa and later extended, and now serves as residential flats.

Character and appearance

7. The evidence before me indicates that the significance of No 244 derives in part from its local historic and architectural interest. Nos 238-248 (even numbers) were originally constructed some time before 1890, following the arrival of the railway in 1858, which enabled the migration of the London middle classes to the outer suburbs.
8. Nos 246 and 248 were constructed first in a late Georgian style, while Nos 238-244 were built later in an Italianate villa style. Together, Nos 238-248 once formed a cohesive line of villas, and included ancillary structures to their side boundaries, which are generally indicative of coach house forms.
9. Over time, further development has taken place in the surrounding areas. No 240 was demolished during the 1950s to make way for a neighbouring development at Parkside Avenue, resulting in a loss to the cohesive line, and smaller plot sizes for Nos 242 and 244. Some ancillary structures appear to have been modified or demolished and some villas have been extended or modified.
10. The original plan forms and plot boundaries of the villas are therefore no longer intact, and their setting has been diminished. Nevertheless, the building line of the principal elevations of the original villas has been respected. Intervening built forms are set back from the original building line of the villas and are of a lower height. The villas retain period features to their external elevations and deep frontages.
11. Consequently, the remaining villas retain a strong and imposing presence within the street scene. The appellant accepts that the appeal site contributes to the group value of the villas at Nos 242, 246 and 248.
12. The original principal elevation of No 244 appears largely unaltered with retained period features including (but not limited to) bay windows, sash windows, and timber brackets above the windows and below oversailing eaves. The porch is elevated and of an Italianate portico style, and some chimneys also remain.
13. No 244 includes extensions to both flank elevations. The westerly extension is set back from the principal elevation with a sympathetic and subordinate roof line facing the street. The single storey part of the easterly extension has a sympathetic roof line, but the two-storey element has an unsympathetic flat roof, such that the appearance of No 244 is unbalanced.
14. However, the continued use of Flemish bond brickwork to the flanking extensions provides harmony with that of the original building. Furthermore, both extensions are well set back from the central principal elevation and include traditional sash window forms.
15. There are two casement windows at ground floor level within the flanking extensions facing the street, one of which is small with poor matching

- brickwork. However, they are well set back from the original principal elevation and therefore do not significantly detract from the integrity of it.
16. The easterly extension includes large bay windows and openings to the rear, in keeping with the central part of the rear elevation. A sash window in the rear elevation fails to align vertically and horizontally with other windows, such that it appears to have been inserted or reset. Pipework does not significantly detract from the appearance of the building.
 17. While the remaining internal architectural features may be of note, they do not have the statutory protection afforded by a national listing. In any event, while the subdivision of the interior to form flats has not been entirely sympathetic to the original form, it is clear from my limited viewing of the internal fabric that parts of its original internal form and features remain in situ.
 18. While a lack of maintenance may have resulted in a state of disrepair, there is no substantive evidence before me to demonstrate that deliberate neglect or damage has occurred.
 19. From the evidence before me and my own observations, the scale of disrepair to the external elements of the building does not appear to be substantial. In any event, there is no building survey or structural survey before me to robustly demonstrate the existing condition of the property, nor the cost of any necessary repairs.
 20. Overall, the scale of modifications made to No 244 does not detract significantly from the original form and character of the building and much of the exterior features remain. Consequently, it retains an impressive built form which features prominently in the street scene and contributes to the group value of the remaining villas to the west and the east.
 21. The remaining villas at Nos 238-248 (excluding No 240) have also undergone various modifications. As with No 244, I did not find that such modifications detracted from the presence of the original principal elevations, external period features remain, and they form a prominent feature within the street scene.
 22. While the appellant suggests that the villas appear as an isolated pocket of built form, this is reflective of their distinctively contrasting appearance within the wider street scene, founded on their original scale, form and architectural detailing.
 23. I accept that such property forms are not uncommon across London. There is no evidence before me to suggest that the villas are rare or exceptional examples, nor is any architect identified. Nevertheless, individually and as part of a group, No 244 forms a local landmark of historic and architectural interest.
 24. The appellant advises that Nos 238a and 238b (originally No 238) are on the local list. The appellant suggests that this indicates that the appeal site and the group of villas have previously been considered for inclusion on the local list, but there is no substantive evidence before me to demonstrate this.
 25. For these reasons, and having regard to all other evidence before me, I find that No 244 has local heritage significance and makes a positive contribution to the character and appearance of the area, individually and as part of a wider group. However, due to the modifications over time, some of which are

unsympathetic, the significance of the group and No 244 has been diminished, such that it is now limited.

26. The proposal would result in the demolition of No 244, which is a NDHA of limited significance. Its loss would further undermine the remaining group value of the villas.
27. The Framework recognises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. It also requires that account is taken of (among other things) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
28. The appellant has submitted a Viability Report (VR) to the appeal, prepared by a RICS registered valuer which concludes that re-development is necessary from a financial viability perspective. However, the author makes clear that the report is not a "Red Book" compliant report and no formal valuations are provided.
29. The VR considers a refurbishment scheme (7 flats in the present format) and a 're-conversion'/refurbishment scheme (6 flats in the existing building). There is no appraisal of the appeal scheme, which is assumed to be viable.
30. There is no further evidence before me to rebut the Council's concerns with the VR. For example, the value of the existing flats is based on four flats identified for sale, with very limited details provided, including very little information on their condition or compliance with any standards. On the appellant's evidence, the existing flats are in poor condition, and therefore reliance on such limited comparable properties to inform an opinion on value and/or an appraisal is not robust. While the VR suggests that some of the existing flats would be un-mortgageable if offered for sale, it is not clear how this matter has been taken into account in determining value.
31. In the absence of any building survey or structural survey to demonstrate the existing condition of the property and the detailed cost of any works, I cannot be certain that any necessary works, costs and/or values used within the appraisal are realistic or that its conclusions are robust. I therefore attach very limited weight to the VR.
32. The proposed development would comprise a main building of four storeys, with an adjoining three storey dwelling. The main building would be of commensurate height to the neighbouring taller forms of development at Nos 246 and 248. However, the proposed adjoining dwelling would be narrower and deeper than the adjoining three storey form at No 246, with a higher ridge and eaves height. It would be considerably taller than the neighbouring forms at Nos 244a and 244b.
33. Due to its overall scale, height, width and depth, the proposed built form would be larger than the existing building, and wider and deeper than neighbouring built forms. Consequently, the scale and massing of the proposal would be greater than the existing building and neighbouring built forms.
34. While the proposed building would have four storeys to the main principal elevation, and an elevated porch in a classical style, its proportions would not match those of the neighbouring villa forms at Nos 246 and 248. For example,

- the proposed elevated porch would be higher, and the proposed lower/upper ground floors would not align with those at Nos 246 & 248.
35. The proposal takes influence from the bay windows of the existing building. However, this has been incorporated as a taller double storey form, such that it would not align with the proportions of the villa at No 242.
36. It seems to me that the proposal attempts to merge the features of the nearby villas, whilst failing to respect the distinctly different proportions of the taller and narrower Georgian forms and those of the shorter and wider Victorian forms. Indeed, the appellant's own evidence accepts that in strict terms the proposal has different proportions to its neighbours.
37. Drawing all of the above factors together, the overall scale and massing of the proposal would therefore appear discordant to the character and appearance of the area and the rhythm of the street scene, despite maintaining a gap between built forms. Furthermore, it fails to make a sensitive transition to the much shorter built form at Nos 244a and 244b.
38. Paragraph 209 of the Framework sets out that in weighing applications that directly or indirectly affect NDHAs, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. This matter, together with any potential benefits of the proposal will be addressed in my overall planning balance and conclusion.
39. I therefore conclude that the proposal would unacceptably harm the character and appearance of the area and would result in the total loss of the NDHA at No 244. It conflicts with Policies 4, 37 and 40 of the Bromley Local Plan 2019 (BLP) and Policies D3, D4 and HC1 of the London Plan 2021 (LP).
40. Taken together, these policies seek to ensure high quality development that respects local character and distinctiveness; that heritage assets and their settings are conserved in a manner appropriate to their significance; and that proposals to replace NDHAs are assessed against the Framework, taking account of the scale of harm or loss and the significance of the heritage asset.

Living conditions – neighbouring occupiers

41. No 246 includes three flats with windows to the rear elevation. From my own observations and the approved plans² for No 246, the first floor flat has two sash windows nearest to the appeal site. The lower ground floor flat and ground floor flats have angled bays, and the lower ground floor flat includes patio doors within the bay.
42. The approved plans indicate that these openings each serve living rooms, with a further smaller window in the flank elevation towards the appeal site, serving a separate kitchen.
43. However, the appellant's evidence includes floor plans of what appear to be the lower ground and ground floor flats, which indicate an open plan living/kitchen area. There is no substantive evidence before me to demonstrate any changes to the approved layout for the first floor flat.

² Planning Application Ref: 14/01391/FULL1

44. In any event, views from the openings within the rear elevation play an important part in the outlook for existing occupiers of the three flats, regardless of whether or not they are open plan.
45. Due to the siting, height and depth of the proposal, the side facet windows nearest to the proposal in the lower ground and ground floor flats would have the most direct view of the proposal. However, the proposed building would be within a 45-degree line from the main rear facing openings of the flats, and therefore the proposal would not be prominently visible.
46. Views from the smaller windows within the flank elevation of No 246 would be largely unchanged from the existing situation for the lower ground and ground floor flats. As the proposal would be taller than the existing building at No 244, the proposed flank would appear prominently in view from the window serving the first floor flat.
47. However, such views would not be unusual in flank relationships. Even if the first floor flat is open plan, other views would be available from primary windows within the rear elevation.
48. While the present outlook experienced by the occupiers of the three flats at No 246 would be diminished by the proposal, this would not be so significant as to be unacceptable.
49. Furthermore, due to the width and depth of the rear amenity space available to No 246, together with the relationship to the proposed built form, there would be no unacceptable visual impact or unacceptable sense of enclosure for existing occupiers of No 246 when viewed from their rear amenity space.
50. The appellant's external daylight and sunlight study and further evidence indicate that the proposal would result in some loss to levels of daylight and/or sunlight to the neighbouring occupiers at No 246. The evidence concludes that the impacts would not be so significant as to be unacceptable. This position is based on the three flats being open plan.
51. The Council does not dispute the calculations or conclusions made. Even if the first floor flat is open plan, the reduction in levels of daylight and sunlight would not be so significant as to be considered unacceptable.
52. I therefore conclude that the proposed development would not unacceptably harm the living conditions of neighbouring occupiers at No 246, with particular regard to outlook and levels of daylight and sunlight. It accords with Policy 37 of the BLP, which among other things seeks to ensure a high standard of design which respects the amenities of neighbouring occupiers.

Other Matters

53. I have taken account of two appeal decisions submitted by the appellant. As each site has its own unique context, such decisions will not be fully comparable to the appeal before me. Nevertheless, they demonstrate the approach to considering NDHAs with reference to the provisions of the Framework and development plan policies and I consider my decision to be consistent in this regard.

54. The appeal decision at The Retreat³ takes account of the effect of modifications to the NDHA under consideration, as I have done. While that Inspector found very limited local heritage interest for that NDHA, no reference is made of any group value, which is a factor in the case before me.
55. The appeal decision at The Magnet Public House⁴ demonstrates that the interior of a NDHA falls outside of the protection of the planning system, and I have referenced this matter in the first main issue.
56. The fact that the proposal would deliver accommodation to meet required standards such as those pertaining to internal space and building regulations is a neutral factor in my assessment, offering no weight for or against the proposal.
57. A range of other matters have been raised by interested parties. However, as I am dismissing the appeal on a main issue, and consideration of these matters will not alter my decision, it is not necessary for me to address them directly.

Planning Balance and Conclusion

58. The Council is unable to demonstrate a five-year supply of deliverable housing sites and advises that the supply is 3.38 years. The appellant does not dispute this position.
59. There are no areas or assets of particular importance that provide a clear reason to refuse the proposed development.
60. In these circumstances, the Framework sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
61. The policies with which the proposal conflicts are consistent with the objectives of the Framework to achieve well designed and beautiful places and to conserve and enhance the historic environment. As such, I apportion significant weight to these identified policy conflicts.
62. The proposal would provide two net additional units of accommodation. It would therefore contribute to the supply of housing and support the government's objective to significantly boost the supply of homes. As a small site on previously developed land, it could be built out relatively quickly and it would support the government's objectives for the efficient use of land. However, these benefits would be limited by the scale of the development proposed. I therefore attach limited weight to these matters.
63. Further economic benefits would arise during the construction process, but these would be temporary. The proposal would deliver additional household expenditure into the economy, but this would be of a limited scale. Such benefits would attract limited weight.
64. I have found that the proposal would unacceptably harm the character and appearance of the area and result in the loss of a NDHA (No 244) of limited significance. As part of the balanced judgement required by paragraph 209 of the Framework, the harm to the NDHA would be total and irreversible. The

³ APP/G5180/W/15/3134207

⁴ APP/C2741/W/22/3305435

limited benefits of the proposal would not outweigh the total loss of a NDHA of limited significance.

65. Drawing all of the above together, it is clear that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole.
66. The proposal conflicts with the development plan when read as a whole, and there are no other material considerations, including the Framework, which would indicate a decision other than in accordance with it. Therefore, for the reasons given above, the appeal is dismissed.

J Moore

INSPECTOR