

Re: 31 Daleham Gardens
Planning ref. 2020/2087/P

Background

The developer - the council, which owns the site - has applied for permission totally to demolish No. 31 Daleham Gardens. No 31 is an old - 1880s - soft red brick-built house in the Arts & Crafts style characteristic of the Fitzjohns-Netherhall conservation area where it is located. Although considerably altered over the years, and although damaged by a fire on 21 November 2017, no 31 retains most of its original exterior, including its façade. The application does not form part of a full planning application for no 31's re-development nor do any plans or proposals exist for its future except that following demolition a hoarding will be erected around the site. According to the application this will only be temporary. However, enquiries of the council confirm that, while it does not intend to re-develop the site itself, neither has it yet sold no 31 nor, apparently, is there an intending purchaser.

A. Objections

The application is contrary to the Council's own policies and also to national policies to which the accompanying Planning and Heritage Statement does not refer. It should, if not withdrawn, be refused permission principally for the fundamental reason that it is not part of a re-development scheme and is premature but also for conservation and sustainability reasons. The application does not put the planning authority in the position where it is able to assess the proposal and of its probable impact properly, as follows:-

A1. Loss of the whole building - prematurity

National and local planning policy supports refusal. A Planning and Heritage Statement which accompanies the application sets out some of the relevant national and local planning policies but omits paragraph 198 of the NPPF Guidance:

“Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.”

(A building in a conservation area is a “heritage asset” – see the Camden Local Plan (2017), policy D2.)

According to the Statement,

“The proposed re-development of the site will be prepared once the building has been demolished, and therefore the site will not be undeveloped long-term.” (para 2.2);

and

“Post-demolition, a boundary and hoarding will remain in place for a temporary period whilst a re-development scheme for the site is prepared. It is envisaged that it will only be a short-term period in which the site remains undeveloped.... the proposed demolition of the existing damaged building is merely a short-term/temporary situation for the site whilst a re-development plan for the site is put together (para.s 7.4, 7.5)

The Statement does not explain why the application for permission to demolish is not made as part of a single, comprehensive application for the site’s re-development. It seems obvious that if, as paragraphs 2.2. and 7.4-7.5 say, a re-development scheme for the site can be prepared in a short time, its preparation must be one of the ‘reasonable steps to ensure that the new development can proceed after the loss has occurred’ required by NPPF para.198 and therefore should precede and form part of the application. The Statement does not offer an explanation for postponing this or why, although it is said that this will cause only a ‘temporary and short-term’ delay, it has not been possible to delay the present application the short time needed for its preparation. Instead, the decision has been taken not to wait this period, which the Statement says will be short to demolish first and prepare a re-development scheme afterwards.

Postponement will necessarily result in an interval between demolition and re-development: how long this will last will not be known until (1) following the cleared site’s sale, a re-development scheme has been prepared; (2) a planning application is (a) made and (b) approved; and (3) re-development is completed. The proposed redevelopment scheme might prove controversial, and, in a worst case scenario (which can hardly be excluded in the midst of the unprecedented, unforeseeable Covid19 pandemic) the delay might become protracted, perhaps even continuing years.

A2. Conservation and sustainability

Even if the application were not contrary to NPPF para 198 it ought to be refused in any case as contrary to national and local policies for the conservation of heritage assets (including non-designated assets) and sustainability of development (climate change). The Planning Statement refers to the government’s overarching national strategic planning objectives and quotes from section 2 of the NPPF, ‘Achieving Sustainable Development’, para.s 10 and 11 but omits reference to the environmental

objective set out in NPPF para.8:

“an environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”

Policy CC1 of the Camden Local Plan (2017) - also left unmentioned by the Planning and Heritage Statement – expands the environmental objective and gives this undertaking:

“[The Council] will....

e. require all proposals that involve substantial demolition to demonstrate that it is not possible to retain and improve the existing building; and

f. expect all developments to optimise resources efficiency.”

The Local Plan explains this further:-

8.16 The construction process and new materials employed in developing buildings are major consumers of resources and can produce large quantities of waste and carbon emissions. The possibility of sensitively altering or retrofitting buildings should always be strongly considered before demolition is proposed. Many historic buildings display qualities that are environmentally sustainable and have directly contributed to their survival, for example the use of durable, natural, locally sourced materials, ‘soft’ construction methods.....

8.17 All proposals for substantial demolition and reconstruction should be fully justified in terms of the optimisation of resources and energy use, in comparison with the existing building.....

To succeed this application therefore required to be justified very carefully. The accompanying Planning and Heritage Statement seeks to do so by reference to, first, health and safety; and, secondly, the negative contribution which it says no 31 makes to the conservation area in its fire-damaged state. Taking these in turn:

A2.1. Health & Safety

According to the Planning and Heritage Statement,

“The application site was badly damaged by a fire in 2017 (see Appendix 1: Site Photos) and the remaining structure is deemed to be unsafe and to pose a health and safety risk.” (para.7.2)

“Due to the fire damage the building incurred in 2017, health and safety

dictates that its demolition is the preferred/ideal outcome.”(para.8.3)

The application documents do not however include any professional, expert evidence to support this: a structural engineer’s report or at least some technical assessment of the building. The only ‘evidence’ provided by the Statement are photographs. It is not possible to say what weight these should be given in the absence of an expert assessment of the building and the photographs – non-expert assessment, whether in these comments or the Planning and Heritage Statement, should not be given any weight at all. Having said that, the photographs show extensive damage to the building’s roof and also to parts of its interior (though there do not seem to be photographs of the ground or first floors). Significantly, however, the photographs show very little significant damage to its exterior walls. Indeed,, the photograph on page 16 seems to show that the fire left the façade and flank walls substantially unaffected.

The Statement gives no indication that the question whether the building, or parts of it, might be capable of repair and re-use has been seriously investigated in accordance with national and local policies; nor, if the building cannot be repaired as a whole, whether its exterior walls or principal façade might, as is quite common, be propped and the building re-developed behind it. In fact, a fair reading of the application documents gives the overwhelming impression that the Statement’s assertion that health and safety *dictates* demolition is merely an assumption, not a conclusion which has been reached after careful investigation and appraisal. The application therefore does not meet the tests in NPPF para.8 and Local Plan Policy CC1.

A2.2. Contribution to the conservation area

Although considerably altered in the course of conversion into flats no. 31 retains much of its original character. As the Planning and Heritage Statement says,

“The application site was previously assessed as making a positive contribution to the special character and appearance of the Conservation Area” (para.8.3)

It however argues that

“5.3. The Council will seek the retention of those buildings which are considered to make a positive contribution to the character and appearance of the Conservation Area and will only grant consent for demolition where it can be shown that the building detracts from the character of the area. As indicated in Appendix 1 [*the photographs*], the burnt remnants of the building clearly indicate the site no longer makes a positive contribution to the

Conservation Area within which it is located.” (para.5.3)

and that

“since the building has been severely damaged by fire it is argued that it now makes a negative contribution to the special character and appearance of the Conservation Area.” (para.8.3)

such that immediate, total demolition is justified and will result in a positive contribution to the conservation area:

“The existing fire-damaged building on site detracts from the character and appearance of the Fitzjohns/Netherhall Conservation Area, and its demolition will provide a positive contribution to the area whilst a re-development plan is prepared..... The demolition of the existing building is considered to enhance the Conservation Areathe proposal provides a vastly improved outcome when compared to the existing situation... (para.s 8.1, 8.3, 8.4)”

We suggest that the merits of the original Arts and Crafts house deserve a more nuanced evaluation than this simplistic, binary choice, i.e. “if not positive, necessarily negative”. As already noted, no 31’s exterior walls do not appear to have been obviously and significantly damaged by the fire in the photographs. The issues are more complex, requiring a more sophisticated analysis and solution. The approach urged by the NPPF differs markedly from the Planning and Heritage Statement’s:

“200. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.”

No 31 may offer exactly such an opportunity - whether it in fact does so depends on whether it is practicable to retain, for example, at least the façade and, possibly, the flank wall(s). This can only be resolved by expert investigation. As observed earlier, the present application begs the question by assuming the answer is in the negative, offering no expert evidence to support this. The national and local policies set out in section 6 of the Statement in fact lean heavily in favour of preservation, requiring decision-makers to strike a balance. They cannot do so unless properly and fully informed.

It is obvious that, if totally demolished, all elements of the existing building will be lost, once and for all, and that it will no longer be possible to retain any part(s) of the original building. Nor will it be possible to resist whatever

replacement building is proposed by a future redevelopment scheme on the basis that what it is proposed to demolish now, or a part or parts of it, would have been preferable in planning terms. The planning authority is being invited blindly to accept the Planning and Heritage Statement's assumption that none of no 31's original elements is capable or deserving of preservation. The planning authority should decline to do so. By refusing to go down that road it would provide the breathing space needed to establish whether certain of them, and in particular the façade and perhaps part(s) of the flank wall, cannot instead be preserved

At the same time, it is wholly uncertain what a redevelopment scheme, when proposed, will seek to replace it with. The application leaves those who must make this planning decision completely uninformed regarding both no 31's present condition (there being no engineer's report etc.) and the fundamental question, whether demolition of the whole building is truly necessary; and also regarding the future use of the site and the design of a replacement building. We suggest that it is simply not possible to make a proper planning judgment or decision on this basis.

B. Conditions

If nevertheless the planning authority decides to grant planning permission conditions are needed to control no 31's demolition, to make it safe and avoid unnecessary damage to the conservation area and a heritage asset:

B.1. The Belsize Tunnel Railway Walls

The Planning & Heritage Statement refers to "The impressive side boundary wall remains with its combination of red/orange and blue brick typical of the street, though its inset panels, flowing courses and large scale are also a sign of its difference." (para.5.1). Although the Statement does not identify the wall, is one of two parallel walls erected by the Midland railway Company in 1865-7 to mark the outer limits of the land beneath which the Belsize Tunnel runs, taking the Company's main line out of London and to the north from St Pancras (the second wall runs along no 31a's southern flank wall). The railway walls are prominent historic features of the conservation area and, as a part of the Midland Railway's St Pancras to Bedford extension, are important to London as a whole. The one which serves as 31 Daleham Garden's southern boundary runs immediately alongside its flank wall. If permission is granted to demolish no.31 a condition should be imposed to secure its preservation.

B.2. Pollution

The application is accompanied by a 'Demolition Method Statement'. This does not include any plan(s) for the control of dust or noise nor does either it or any other application document state whether an asbestos survey has been carried out or that one will be in advance of demolition commencing.

The author of the Method Statement is Peter Bashford, sole director and proprietor of Oak Construction and Maintenance Ltd. Oak Construction and Maintenance Ltd was only recently incorporated (September 2018). Mr Bashford is not and has not been a director of any other company, either undertaking demolition work or any other activity. It does not appear that Mr Bashford or his company belong to a considerate contractor scheme nor are either members of any of the professional bodies principally involved with demolition work:-

the National Federation of Demolition Contractors

<https://demolition-nfdc.com/find-members/>

the Institute of Demolition Engineers

<https://ide.org.uk/membership/members/?ltr=b>

the Institution of Civil Engineers

<https://www.ice.org.uk/about-ice/about-our-members/members-directory>

the Civil Engineering Contractors Association

<https://www.ceca.co.uk/southern/our-members/>

As well as its proximity to occupied privately- and council-owned properties in Daleham Gardens, Akenside Road and Fitzjohns Avenue no.31 shares a boundary on its north side with the NHS/Tavistock Mulberry Day Unit (school) at 33 Daleham Gardens. It is normal that the school children play in its outdoors playground, next to no.31. If permission is granted conditions are needed to control noise and dust pollution and, additionally, to require an asbestos survey by a qualified expert before any demolition work is undertaken and, if asbestos is present, the taking of appropriate precautions.