

SUPPLEMENTARY CONSULTATION RESPONSE

This consultation response supplements our response. In it we address two issues,

- (1) a Statement of Justification prepared by Whymark Moulton, consulting engineers, together an Appendix. These documents address (or, at least, attempt to do so) a major gap in the original application but were not included with the original application documents. Neither document is referred to by Lambert Smith Hampton's Planning and Heritage Statement which accompanies the application nor is it included in the list of application documents in its covering letter. An important part of our original consultation response raised concerns about the application's omission to justify demolition and we now wish to consider what if any weight should be given to these additional application documents.
- (2) the special significance, in the context of this particular case, of the council's omission, contrary to its own Heritage and Sustainability policies, to have submitted re-development proposals to be considered when determining the application for permission to demolish 31 Daleham Gardens. Since the application was made in May new evidence has come to light. Although passed over in almost complete silence by the Planning and Heritage Statement which accompanies application, subsequent research has identified its architect, history and context. Local Plan policy requires the council to take account of this additional evidence when determining the application.

(1) Whymark Moulton's 'Justification of Demolition' and 'Appendix' - Sustainability

The additional application documents attempt to plug the original application's omission to address Camden's Local Plan (2017) Policy CC1 Climate change mitigation:-

"The Council will require all development to minimise the effects of climate change and encourage all developments to meet the highest feasible environmental standards that are financially viable during construction and occupation.

We will:

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

Policy CC1 is amplified:-

"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....."

The council must therefore consider whether it can be satisfied as to these requirements by these documents.

Although at first sight professional 'expert evidence' the weight and value which Members should give these documents is questionable and, at highest, uncertain.

It is usual for professional reports of this sort to state (a) the terms of reference and (b) the date of inspection (and, often, the weather and visibility conditions at the time of

inspection). Usually, too, the terms of reference provide a foundation for a professional, independent investigation and report. That is not the case here. Instead, Whymark Moulton's terms of reference appear from the report's title, sub-title and first paragraph:

"Statement of Justification"

"Proposed demolition following destruction by fire of 31 Daleham Gardens"

"1.1 This statement has been prepared to give justification for the need to demolish the existing building following its destruction by fire."

These 'terms of reference' are sufficient evidence that Whymark Moulton's instructions were not to conduct an independent, professional investigation whether 31 Daleham Gardens is capable of retention and improvement in accordance with local plan policy. Instead, WM were under instructions to justify its demolition following 31 Daleham Gardens alleged "destruction".

But 31 Daleham Gardens has not been "destroyed". Parts of it have been seriously damaged, even destroyed, but the whole most certainly has not been. Most of the roof was destroyed and the two top floors seriously damaged but nor the application documents do not include any evidence of damage to the lower floors or the building's rear part. Nor, significantly, do the application documents include a report of an investigation into whether the building could be re-roofed and repaired. As to the state of the external walls and the rear part, see attached photos.

It is also significant that Whymark Moulton's report does not include a statement of the date(s) of inspection(s) of the building by the report's authors. Put shortly, Whymark Moulton appear not to have made any visits of inspection to 31 Daleham Gardens, at all. If so, the implications of this for its evaluation of the building's present state and condition go without saying.

This is the reason for the inclusion of the report's Appendix. The Appendix is not authored by Whymark Moulton but by another engineer, Michael Smith, who states that he has visited the building on six occasions (although he does not give the dates of any). Assuming this is correct, it seems surprising that (a) the Appendix does not include or refer to Mr Smith's inspection reports; and (b) that Mr Smith was not himself asked to provide a full report of his work in connection with 31 Daleham Gardens, rather than Whymark Moulton.

The result is self-evidently unsatisfactory. The main engineering report submitted with this application has been prepared, apparently, by an engineer(s) who has/have not visited and inspected the building. If that is so, its conclusion that demolition is justified amounts to nothing more than hearsay and should be given very little weight – if any at all.

Hearsay evidence is never 'expert evidence' and is not capable of being so. 'Expert evidence' is only 'expert' because it represents the personal opinion of the expert who offers the evidence, based upon personal knowledge of the relevant circumstances. A 'personal' opinion cannot be one that is the mere repetition of someone else's opinion – that remains true irrespective who that other person may be nor how expert he is said to be. A judge in a court of law who is asked to admit 'expert evidence' must consider for himself whether evidence is 'expert', that is to say, the qualifications of

the person tendered as being ‘expert’ and whether he is able to give the evidence sought to be tendered. The judge retains full discretion whether to admit the evidence, at all, and, if he does, what weight to give it.

As to Mr Smith’s expertise, what appears to be self-evidently true is that Lambert Smith Hampton (the planning agents) did not, when preparing this application, consider it sufficient to ask him to prepare the report but instead commissioned Whymark Moulton to do so. Michael Smith does not have a website of his own nor has an internet search provided any material whatever about his work, so that it has not been possible to evaluate his qualifications to express an expert opinion whether or not 31 Daleham Gardens, or any part of it, is, as he says, incapable of repair or of what weight it should be given to his opinion. His Appendix, which takes the form of a letter addressed to Whymark Moulton, is on paper headed Leslie Drew, consulting engineers and surveyors but this firm, too, does not have a website nor has an internet search provided any material whatever about its work. We have therefore been unable to discover anything further at all about its qualification to provide expert evidence on the issues which are relevant .

What Lambert Smith Hampton should have done in the first place, and what the council should now do, is commission a leading firm of professional structural engineers (for example, Arup), to conduct a proper, professional investigation into the condition of 31 Daleham Gardens and whether it, or a significant part or parts of it (for example, the external walls or, at least, the façade), are capable of repair in accordance with local plan policy:-

“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.....

We would suggest, with all possible respect, that the council cannot be satisfied of these requirements or, in fact, that the requirements have been given serious consideration by the Whymark Moulton statement and appendix.

(2) Heritage

According to **Camden Local Plan (2017) Policy D2**

“The Council will preserve and, where appropriate, enhance Camden’s rich and diverse heritage assets and their settings, **including conservation areas ...**

f. resist the total or substantial demolition of an unlisted building that makes a positive contribution to the character or appearance of a conservation area;

Before planning permission for demolition is granted, the Council must be satisfied that there are acceptable detailed plans for the redevelopment.

The Local Plan goes on to amplify the policy:-

7.46 In order to preserve or enhance important elements of local character, we need to recognise and understand the factors that create that character.

7.51 Before planning permission for demolition is granted, the Council must be satisfied that there are acceptable detailed plans for the redevelopment.

We have previously drawn attention to the lack of any plans, let alone detailed plans, for the re-development of the proposed demolition site – and let alone detailed, acceptable plans.

As to no.31's significance and contribution to the Fitzjohns-Netherhall conservation area, and contrary to Lambert Smith Hampton's assertion, it remains both important and significant. Although altered in the course of the 130 years since its construction, the greatest part of no.31's external fabric and appearance remains intact:

see (1) the attached drawing of its original appearance from the Annual Architectural Review (1889); and (2) attached photographs of the east, south and west elevations.

The Planning & Heritage Statement does not mention no 31's architect, Horace Field, nor the significance of his contribution to local architecture. As well as of no.31 Field was also the architect of many other nearby houses:

- all the buildings on the south side of Wedderburn Road (of which Daleham Gardens is the continuation on the west side of Akenside Road), except no.15:-
Wedderburn House (1884–5).
"Wedderburn Cottage", 3, Wedderburn Road (1886).
5, Wedderburn Road (1886).
7 & 9, Wedderburn Road (1887)
7,11 & 13, Wedderburn Road (1888)

In addition, he was also the architect of several other houses in nearby streets:-

- 1 Akenside Road (1888)
- 19, 20 & 21 Lyndhurst Road, Camden (1897–8)
- "The Hoo"; 17, Lyndhurst Gardens (1889–90) (listed, Grade II)

[note: no.31 has or had a number of physical features in common with the 'The Hoo', including 'shell' portico, fenestration and Cotswold stone mullions, the use of tile cladding, ornamental brickwork and chimney stacks]

And of

- Lloyds Bank, 40 & 40A Rosslyn Hill & adjoining terraced houses (1895–6).

See the Wikipedia article, 'Horace Field' and, also, *Victorian and Edwardian Hampstead*, Alastair Service (Historical Publications, 1989)

All the houses mentioned above lie within a short distance of each other. It may fairly be said therefore that the architecture of the immediate local area is to a significant

extent Horace Field's work. Consequently, no.31's demolition would affect the integrity of a significant part of the conservation area or, at least, this part of it, leaving a gaping hole - comparable to the removal of a tooth. It therefore behoves Camden to investigate whether it is capable of repair, properly, fairly and objectively before permitting its demolition. This is especially the case because the application is contrary to the council's own adopted planning policy, not to permit demolition without there being any plans for the site's redevelopment whatever, let alone an approved or, at least, an acceptable redevelopment plan.