

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

A. Introduction

1.1 These comments supplement those we have made previously (22 June, 24 July 2020) in the circumstances that the council has recently uploaded a considerable number of documents relating to this application. They should be read together with our earlier ones.

1.2 We were told by the planning officer that the Conservation Officer's comments would be publicly available before the expiry of the consultation period (22 November). However, they are not. This is particularly disappointing in the light of the errors and omissions in the application documents which reflect a serious underestimate of the architectural and historical significance of the building for the demolition of which permission is being sought.

1.3 However, no.31's architectural and historic interest and importance has been assessed by Historic England and it is therefore unnecessary to rely upon the council's Conservation Officer's opinion. According to an application document,

“English Heritage (*sic*) have recently assessed the building for Listing. We have been provided with a copy of their formal decision, dated 22nd October 2020, confirming the application was rejected as the building does not meet the listing criteria in a national context.” (report by Whymark Moulton, October 2020, 5.14).

This omits what is, in the context of the present planning application, the all-important first sentence of the conclusion to Historic England's assessment:

“31 Daleham Gardens, even in its altered state is considered to make a positive contribution to the Fitzjohns/Netherhall Conservation Area.”.

1.4 The omission of this sentence from Whymark Moulton's version of Historic England's conclusion must be questionable. As a public authority's agent Whymark Moulton has the duty to act fairly. This means presenting a balanced view of the relevant facts and evidence rather than selecting what is made available. Whether no.31 continues to make a positive contribution to the conservation area, as concluded by Historic England, is vitally relevant to any consideration of its future and to whether permission should be granted to demolish it. The application documents repeatedly return to the argument that, in its fire damaged state, its contribution is now only negative – this is stressed over and over again. The argument is however now seen to be purely subjective and one-sided and an opinion contradicted by Historic England, who are the national experts. This should have been made clear by Whymark Moulton. It is fatal to the case for demolition which Whymark Moulton advocate.

1.5 The architect of 31 Daleham Gardens was Horace Field who was responsible for a group of about a dozen buildings all located in this part of the Fitzjohns-Netherhall conservation area. It has importance as part of this group and its loss would cause harm to it.

1.6 Field's client for no.31 was Annie Field, an early exponent of women's education and a suffragist. She was a founding trustee and governor of the North London Collegiate Schools (which included Camden School for Girls) and remained a trustee and governor for 24 years. Her biography of Frances Mary Buss (d.1894) was published in 1896 and in all probability was written in no.31.

B. Premature

2.1 The application is "premature". The Camden Local Plan (2017) states in relation to buildings in conservation areas (as no.31 is), unambiguously,

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

The application was made in May 2020 but 6 months later remains still not, as it should be, part of a detailed re-development plan. The application documents do not offer an explanation why detailed proposals for the site's re-development have not been prepared and submitted in the 3 years since the fire.

2.2 The requirement that applications for permission to demolish a building in a conservation area goes hand-in-hand with a detailed redevelopment plan is of obvious importance. It is the only assurance the community can have that a redevelopment will comply with the legal requirement that it should 'preserve and enhance' a conservation area. If it were otherwise buildings could be demolished without the council, its officers, its planning committee nor Camden's residents being certain what would come in its place. The 'acceptability threshold' may be more easily surpassed after demolition, when a site is unused and might long remain so, creating pressure for acceptance of what might not have been prior to demolition. In this case, the 'project plan' approved by the council's cabinet on 16/9/2020 envisages a timetable - which has already slipped - in which a detailed planning application may not be made before next April (report, Appendix 2). In fact, it must be completely uncertain when a full planning application for no.31's redevelopment would be made in accordance with the 'project plan': it envisages this being made not by the council by some other, as yet unidentified, future owner of no.31. This must cause further delay while an owner is found and a re-development plan prepared. As at the date of the council's approving the project plan, the council did not have vacant possession of no.31 and was not yet ready or able to transfer it to a different owner.

2.3 The approved 'project plan' is not a detailed redevelopment plan. The only information it provides concerning no.31's future redevelopment is that the aim is to provide 14 homes (report to cabinet, September 2020, 3.1). It is doubtful if the site of 31 Daleham Gardens has the capacity to make this possible. The adjacent, council-owned bloc of flats, 31a Daleham Gardens, has a street frontage 50% larger than no.31's but provides only 6 flats, with garages below. (Before the fire no.31 provided 11 bedsit homes, *plus* two more which however were void because "not suitable for letting due to their size and layout" (report to cabinet, September 2020, 1.1). According to a planning history provided by Whymark Moulton, planning permission was granted for 1 maisonette (ground and lower ground floors) *plus* 2 flats on the upper floors (report, October 2020, 3.15) but it does not appear that planning permission was ever granted for the site's use for more homes than this. The freehold title of no.312 is in addition subject to a covenant that it should be used only as a single family residence (attached). Whether no.31 is capable of use as the 14 homes envisaged by the 'project plan' therefore seems doubtful. The resulting lack of certainty highlights the importance of there being an "acceptable detailed redevelopment plan".

2.4 It hardly needs to be stated that in the absence of a redevelopment plan, the council *cannot* be satisfied that there is an acceptable one. The application's prematurity is therefore fully sufficient grounds for refusing planning permission *and, indeed, the council is bound to refuse it*. It is axiomatic that the council would not in these circumstances grant any other developer permission to demolish 31 Daleham Gardens and cannot therefore reasonably and rationally grant itself permission to do so. To grant permission would be perverse. Camden residents have a legitimate expectation that the council will refuse the application.

Conservation and Climate Change Issues

3.1 At 1.4 above we quote the conclusion of Historic England's assessment that, even in its present state, no.31's contribution to the conservation area is positive. It follows that Local Plan policy D2 commits the council to resisting the application to demolish no.31. It should therefore seek an alternative solution.

3.2 Local Plan policy CC1 further requires the council, before granting permission for substantial demolition, to be satisfied that it is not possible to retain and improve the existing building.

3.3 Article 14 of the council's constitution provides that
"When taking any decision that may have an environmental impact, the Council will consider the likely environmental consequences of the relevant decision. This will include making the most of opportunities to minimise negative impacts, to enhance the natural environment, and to act to mitigate and adapt to climate change.....".

3.4. This accords with the environmental objective of the National Planning Policy Framework, paragraph 8.

3.5 As the Local Plan states,
"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, good room proportions, natural light and ventilation and ease of alteration."

3.6 It is however now said that no.31's demolition is necessary because it is unsafe. No.31 has been in its existing, fire-damaged state for 3 years. Several, rather obvious, comments may be made:-

3.6.1 no part of the building has collapsed in the 3 years since the fire. There is no sign that any part is in danger of doing so;

3.6.2 the council could have covered the building temporarily, to protect it from the weather and consequent further damage;

3.6.3 the council has had 3 years in which to prepare a detailed redevelopment plan

3.7 The present position results from the council having not taken any of the actions outlined in 3.6. This probably results from a decision taken early on, but not publicly canvassed or consulted upon, that the building would in due course be demolished and replaced. According to the report approved by the council's cabinet on 16/9/2020:

“2.2. The building has been found to be structurally unsound and any reinstatement or redevelopment would require demolition.... 2.3. Retrofitting and refurbishment cannot be achieved because of the extensive fire damage” .

But it has *not* been established that *any* reinstatement or redevelopment requires the *total* demolition of no.31; nor that it is not possible to construct an entirely new, sustainable structure within the existing external walls. The application documents do *not* include a professional report of an investigation with terms of reference to investigate whether the building is able to be reinstated, or redeveloped, retaining its exterior walls or ‘shell’ . Instead, the reports in the application documents appear biased as the result of terms of reference, or instructions, limited to justifying demolition.

3.8 Whymark Moulton’s involvement appears to date from soon after the fire (November 2017). The application documents include building drawings endorsed with Whymark Moulton’s name and dated December 2017. Whymark Moulton could have advised the need to protect the building from the elements but seem not to have done so (at least, they do not mention doing so in either of their two reports included in the application documents). Or the council may have provided terms of reference that the building would be demolished. However that may be, the additional damage caused by no.31’s 3 years exposure to rain water penetration is used to justify its urgent demolition (Whymark Moulton, report, October 2020, 2.7-2.8). It is not an attractive argument, given (1) the omission to protect the building from the elements; and (2) that the building’s condition would anyway be ‘cured’ by repair/reinstatement. In fact, repair almost certainly represents the quickest solution to bringing no.31’s site back into use.

3.9 As well as misrepresenting Historic England’s assessment of the contribution made by no.31 to the conservation area the application documents contain other inaccurate and misleading statements

3.10 It is claimed that

“the external masonry.... is structurally compromised with extensive cracks and distortion.” (Whymark Moulton, report, October 2020 2.5).

Whymark Moulton’s statement is not supported by any evidence whatever. No such structural faults are visible from a careful inspection, using binoculars, from the street or from 30 Daleham Gardens (see photograph, attached) nor in any of the photographs in the application documents. Whymark Moulton’s report includes a number of photographs but none which shows the alleged structural cracking or distortion.

3.11 The application documents include two structural reports by Lucking & Clark, consulting structural engineers (October 2020, revised November 2020). These include, respectively, 25 and 31 photographs, none of which shows any structural cracks in or distortion of the external walls. Lucking & Clark expressly state

“3.1The external walls of the main building could be retained but this would require the construction of an external facade retention system all-round the property. This could be constructed either using scaffolding, similar to the one that is erected at the front, steel towers and walling beams or a shoring system such as Mabey system 160.” (October 2020)

While this opinion is revised by the later report to read

“ 2.5.....The external walls of the building could possibly be retained”
(November 2020),

by using the same methods as previously proposed, it seems this makes little difference in planning terms. Taking Lucking & Clark’s at its lowest, and as revised, the council cannot be satisfied that the requirements of Local Plan policies D2 and CC1 and of the NPPF’s environmental objective have been satisfied” : it is possible that the walls could be retained as part of an otherwise entirely new building.

- 3.12 Stabilisation of the external walls by one of the methods indicated by Lancing & Clark is in any case likely to be necessary for the purpose of removing the asbestos found by Ayerst Environmental (report, 22/10/2020). While some of the asbestos remains attached to the bedsits ‘front doors’, some appears to be broken and mixed up in rubble and debris scattered in no.31’s interior. A proper risk assessment is very likely to identify the need to stabilize the external walls in order to facilitate its safe removal before other work is undertaken, whether demolition or repairs/reconstruction, because of the risk of accidentally disturbance by workers, putting their own health at risk of injury and also that of the occupiers of neighbouring properties (including the council’s block of flats immediately next door, no 31a, only feet away from no.31).
- 3.13 It follows that arguments based upon the cost of measures to stabilize the external walls ignore that the costs are anyway unavoidable.
- 3.14 Whymark Moulton also refer to the building’s footprint and external walls not being exactly as originally built, the suggestion appearing to be that this detracts from the building’s conservation value and from the contribution it makes to the conservation area. They refer to planning permissions granted in 1969 for the construction of 2 two-storey extensions at the rear of the building, to the south and to the north of an original west extension which are described as having been implemented. This however seems clearly mistaken. Comparison of (1) an architectural drawing published in 1889 (attached to our previous comments; further copy attached); and (2) modern, up-to-date building plans included as Appendix A of the Lucking & Clark reports shows that the north elevation’s footprint remains as original, save for the insertion of an additional bay window. The permission for the northern extension cannot therefore have been implemented. Comparison also shows that the southern two-storey extension replaced a single-storey conservatory and did not actually alter no.31’s footprint.
- 3.15 To summarise, 31 Daleham Gardens’ footprint remains substantially as it was at the time of its construction in about 1888-9; its external walls are capable of retention as part of a redevelopment scheme; and its conservation value has not been detracted from as suggested in the application documents.
- 3.16 Nor can it logically or sensibly be claimed, as the application documents do, that demolition is necessary to end the fire-damaged property’s adverse effect on the conservation area. Inevitably, repairs which re-use the existing walls will equally – we would suggest, better – achieve this.

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