

17 October 2021



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On-line submission

Dear Sir/Madam

33 Lyonsdown Road, Barnet, London, EN5 1JG
Appeal ref. APP/N5090/W/21/3272187
Comments on Council's case and representations

The majority of the issues raised in the LPA's statement and third party representation are addressed in the appellant's statement of case, the letter dated 25th September 2020 that was provided during the application and formed part of the appeal documentation and the Heritage Statement that was submitted with the appeal. Comments from the heritage consultant are also provided.

The addendum to the committee report is not included in the Council's appendices, and so is provided here for the Inspector's attention. The addendum summarised late objections made to the planning application by SAVE and The Victorian Society as well as further comments by the appellant.

The appellant wishes to make the following comments.

In the site description in para. 1.2, the LPA refer to the inclusion of the building in the local list on 6th January 2020. At this time, the appellant was engaged in pre-application discussions with the Council regarding a revised proposal responding to the previous appeal decision. At no point was the inclusion on the local list raised by officers. We set out in our letter submission dated 25th September 2020 how the appellant was never consulted on the proposed inclusion of the property on the local list. The Council has not provided any evidence that they sought to consult with the appellant in breach of their own procedure. Our letter dated 25th September 2020 also provided a full response to the issue once we were informed by officers. As the officer's report to committee states, *"it is understood that the locally listed building status was granted without having full regard to the planning history of the site and its recent approval for its demolition."*

At para. 3.1, the LPA allege that the appellant's case in respect of demolition is that it is simply too late in the process. This is not the case. The appellant was never informed by the LPA that the building had been placed on the local list. It was not until some 8 weeks into the application that officers requested that the issue be addressed. The appellant then provided a detailed response in the letter dated 25th September 2020 and has since employed a heritage consultant to undertake an assessment of significance and provide a heritage statement with this appeal considering the issue. In considering the significance of the building, it is only right to have regard to planning history and other factors such as permitted development rights that exist due to the building not being in a conservation area, and these are material considerations.

The appellant has approached the proposals on the basis of a balanced judgement, as advocated by the NPPF, and this is clearly set out in its appeal submissions and within the letter dated 25th September 2020. Indeed, this is the approach that the officer's report to the planning committee took.

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The LPA has highlighted in para. 3.2 Policy DM06 and emphasised that this states there is a presumption in favour of all locally listed buildings to be retained, and this should be given full weight in the consideration of the appeal. Policy DM06 is historic and can be considered to be out of kilter with the approach that para. 203 NPPF sets out for non-designated heritage assets and the balanced judgement that is required. In this respect, Policy DM06 should not be given full weight.

The LPA state in para. 3.4 that the benefits of the proposals do not outweigh the harm resulting from the loss of this non-designated heritage asset. This is completely at odds with the assessment and conclusion of the officer's report to committee and contradicts the detailed and considered balancing exercise officers took and concluded that the benefits of this scheme would outweigh the harm caused by the loss of the building. The LPA also describe the proposal as incongruous and visually dominant. Again, this is completely at odds with the officer's report to committee which recognised the considerable efforts the appellant has taken to reduce the scale of the building following the last appeal and the lengthy pre-application engagement to discuss the amendments that were required.

The LPA give no regard to the report submitted by the qualified engineer concerning the condition of the building. This report is written by an expert and in this respect the findings should be afforded weight as part of the planning balance. It is a matter of our planning judgement that a conversion of the building, if it was to take place, would only likely be able to deliver 6 units. This is considerably less than the number that the appeal scheme can deliver, which is particularly pertinent when the Council's Housing Delivery Target measurement for 2020 is 94% with an Action Plan being required.

At para. 3.6, the LPA refer to an appeal decision at 151-153 High Street, Barnet and highlight para. 19. The Inspector states in respect of the non-designated heritage asset here that "*harm due to the loss of the building should not be assessed in isolation, but only in conjunction with the merits of the proposed replacement*". This is exactly the approach the appellant has taken, considering the significance of 33 Lyonsdown Road as a non-designated heritage asset, the townscape merits of the proposed replacement and the benefits that will arise with the scheme. The appellant has balanced the merits of the proposed scheme against the harm caused by the loss of the building. As pointed out by the Inspector, the NPPF does not offer a policy distinction on the extent of harm to non-designated heritage assets in the same way as designated heritage assets. The LPA seem to suggest that the harm arising from the loss of the building on its own warrants refusal but this is not the balanced approach that is required and is not making a balanced judgement.

The LPA state in para. 4.4 that the significance of this non-designated heritage asset is well documented. The officer's report to the planning committee states that it is low due to it lying outside a conservation area, the grant of planning permissions previously for its demolition and not objecting in the previous appeal to its demolition, not previously been locally listed and the possibilities it can be demolished outside of planning control. The appellant has provided an assessment of significance as part of the heritage statement prepared by an expert with over 25 years' experience in conservation and design, which concludes that the heritage significance is low, and it is considered this should be afforded significant weight.

The LPA state in para. 4.7 that the building cannot be lost to further flatted development that does not accord with national and local planning policy objectives for achieving high quality housing commensurate with the prevailing characteristics of an area. There is no dispute that the proposals will provide high quality housing for future occupiers, and there is no dispute that Lyonsdown Road comprises "*predominantly large blocks of purpose built flats*" – as set out in para. 1.2 of the LPA's appeal statement. The proposals are therefore entirely in line with the prevailing characteristics of the area.

The LPA argue in para. 4.8 that the proposals would be a stark contrast, presumably to the prevailing characteristics of the area, describing them as a 5 storey building that is of excessive height, scale and massing. This again is at odds with the officer's report to committee which sets out all the changes that had been made to the scheme and concluded in the planning balance section that the proposals are a significant improvement and a much improved design. In addition, the report acknowledged the significant reduction in the scale of massing of the building (as can be seen in para. 4.9 of the LPA's statement), which would now

appear as a 4 storey building that is in keeping with other surrounding buildings and would not be seen as visually intrusive or incongruent in the surrounding context. The appellant's townscape assessment demonstrates this point.

At para. 4.12, the LPA states that the previous Inspector opined that the appeal site lies in an area which has a suburban character and appearance including modest two storey housing. The previous Inspector describes character at para. 5 of the decision. It is a mixed residential character, and whilst a number of Victorian properties are retained, many of the plots have been redeveloped for apartment blocks which are interspersed with post-war detached and semi-detached dwellings. The preponderance of flats along Lyonsdown Road is recognised in Barnet's Characterisation Study 2010 and buildings are generally of a consistent height, scale and alignment. The appeal scheme is a floor lower than the previous scheme and incorporates cut backs and steps as it turns the corner into Richmond Road. It is considered to be wholly consistent with the height, scale and alignment of the preponderance of flatted blocks along Lyonsdown Road. The changes to the corner of the building means it successfully transitions to the lower scale along Richmond Road and is now much less prominent than the previous scheme.

The LPA conclude in para. 4.13 that the loss of this non-designated heritage asset to an incongruous and visually dominant form of development is contrary to the NPPF and various policies. However, in reaching this conclusion there has been no balanced judgement, no consideration of the benefits that the proposed development can bring. All of these have been set out in the appellant's case as part of the balanced judgement that is put forward. The officer's report to the planning committee also considered the planning balance and found that the benefits of the scheme in providing 20 units of much needed residential accommodation and bringing the vacant site back into use as being significant and outweighed the harm arising from the loss of the building.

In closing, the appellant wishes to highlight that following the last appeal they have sought to engage proactively with the LPA both before the submission of this scheme and during the determination of the planning application. They have followed the advice of paras. 39 to 41 of the NPPF by seeking early engagement which is meant to have significant potential to improve the efficiency and effectiveness of the planning application system for all parties. The NPPF advises that the more issues that can be resolved at pre-application stage, the greater the benefits. The appellant held several pre-application meetings with the LPA and continued dialogue with the LPA before the submission and during the course of the application making changes where requested in order to arrive at this scheme which was considered acceptable by officers. It is disingenuous that officers now write a statement that ignores all the pre-application discussions and agreement that took place to find an acceptable design for the building and seems a serious breach of protocol in terms of the local listing process, not consulting with the owner about this nor informing the owner of the situation during the pre-application process or even until the application was quite advanced.

Yours faithfully



Simon Wallis
Director