



Appeal Decision

Site visit made on 29 November 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21/03/2022

Appeal Ref: APP/N5090/W/21/3272187

33 Lyonsdown Road, Barnet, London EN5 1JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Abbeytown Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/2925/FUL, dated 26 June 2020, was refused by notice dated 19 February 2021.
 - The development proposed is demolition of existing building and redevelopment of the site to provide a new 5 storey building comprising of 20 no. self-contained flats including basement level car parking, amenity space, landscaping, boundary treatment, bicycle and refuse storage and alterations to access arrangements from Richmond Road.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Abbeytown Limited against the Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Preliminary Matters

3. A new London Plan 2021 (the London Plan) and National Planning Policy Framework (the Framework) have been published since the Council's decision. The Council has addressed these documents in its Statement of Case and the appellant has had the opportunity to respond on those matters.
4. The 2021 Housing Delivery Test (HDT) results were published on 14 January 2022. Compared to the 2020 measurement which stated that an Action Plan was required as a consequence for the Council's area, the 2021 HDT specifies that the consequence is 'None'. The main parties were given the opportunity to comment on this matter. I have proceeded to determine this appeal with regard to the 2021 HDT.
5. During the course of the appeal, it became apparent that groups who had commented on the planning application may not have been notified of the appeal, in particular the Victorian Society and Save Britain's Heritage. At my request, the Council notified these bodies giving them the opportunity to comment on the appeal, and the appellant was subsequently able to comment on any responses received.

Background and Main Issues

6. The Council's second and third reasons for refusal relate to the absence of a legal agreement in respect of affordable housing and a carbon offset contribution. The appellant has subsequently submitted an executed Unilateral Undertaking (UU) under Section 106 of the Act which includes provisions regarding an affordable housing and viability review as well as a carbon offset payment. I consider that this meets the heads of terms sought by the Council which it states are not in dispute. On the basis of the evidence before me, the UU therefore satisfactorily addresses the Council's second and third reasons for refusal and I do not need to consider these issues further.
7. The main issues are therefore:
 - The effect of the proposal on the character and appearance of the area, with due regard to heritage assets; and
 - Other considerations relevant to the planning balance.

Reasons

Character and Appearance

8. The appeal site is in a corner location next to the junction between Lyonsdown Road and Richmond Road. The area is of a mixed residential suburban character, and the appeal site is located in an area of transition between blocks of flats on Lyonsdown Road and dwellinghouses on Richmond Road. Due to the sloping topography of the area as well as its corner location, the site is in a prominent location, particularly in views from the east along Richmond Road.
9. Permission for a 3-5 storey block of flats on the site was dismissed on appeal¹ in 2018. In that Decision, the Inspector concluded that the bulky block form and depth of the development would be conspicuous on this corner plot. Also, they concluded that the building's overall scale and appearance would not reinforce local distinctiveness nor would it respond to the domestic scale and characteristics of neighbouring development on Richmond Road.
10. In respect of the current proposal, the appellant refers to amendments made to the proposal leading up to the Council's decision, including a reduction in the height of the proposed building and its scale and massing near to the junction. The appellant has submitted a Townscape and Visual Impact Note (TVIN) which considers the effect of the building from a number of viewpoints. This includes viewpoints from Richmond Road, where a degree of screening is provided by existing trees, including evergreen trees which would provide screening during the winter months.
11. However, even with screening from trees, the bulk and massing of the proposal would be readily apparent when approaching the junction travelling west along Richmond Road. Notwithstanding the variation in treatment and the step-back of elements of this elevation, the resultant building would be an obtrusive and overbearing feature within the streetscape. Rather than complementing the apartment block on the west side of Lyonsdown Road as contended by the TVIN, the proposal would be seen as an overdominant block within the context of dwellings on Richmond Road and those immediately to the north along

¹ Appeal Ref: APP/N5090/W/17/3186909

Lyonsdown Road. This visual harm would be exacerbated due to the prominence of the site resulting from its corner location and the sloping topography of the area.

12. In views along Lyonsdown Road, the building would align with the height of the apartment block immediately to the south. The scale and design of the proposal would also complement the apartment blocks to the south. However, this would not mitigate for the harm arising from the conflict with the scale of dwellings to the east and north.
13. The appeal site contains a large free-standing building which would be demolished as part of the proposal. The building is of an attractive design with a relatively unusual history of various uses, and its architectural interest has led to its inclusion on the Council's Local Heritage List (LHL) in January 2020. The building therefore represents a non-designated heritage asset within the terms of the Framework.
14. As set out in the Council's officer report, this building is one of the few remaining Victorian properties on Lyonsdown Road and is an indication of the development history of the area. That said, I agree with the appellant's Heritage and Townscape Appeal Statement that the functional character and history of the building is not readily apparent. Furthermore, the existing building has an awkward relationship with the adjacent block of flats, where the flank wall of the latter is a stark and overdominant feature which detracts from the setting of the building and the potential importance of the corner tower. Despite that, the fine architectural quality of No 33 is apparent, and this traditional building represents a pleasing transition between the scale of blocks on Lyonsdown Road and the dwellings to the east along Richmond Road. On balance, and based on its architectural quality, I consider that the main building is of moderate heritage significance.
15. The site also contains a glazed enclosure/porch and decorative arched entrance feature linking the main building to Lyonsdown Road, and which is a distinctive feature in an otherwise understated streetscape. This unique feature is specifically referred to in the LHL listing and, despite its small scale, is a landmark feature in the area. Whilst this may be a later addition to the main building, the architectural interest of this entrance feature makes an important contribution to the significance of this site as a non-designated heritage asset, as well as to the character and appearance of the streetscape. The loss of this landmark feature would correspondingly lead to great harm in respect of the significance of this heritage asset as well as to the character and appearance of the area.
16. The appellant has provided evidence which concludes that this non-designated heritage asset is of low heritage significance, and which also refers to the comparative degrees of significance arising from various grades of listed buildings. However, this does not lead me to a different conclusion on the significance of the appeal site based upon what I have seen and read.
17. Drawing the above together, due to its scale, design and location, the proposal would lead to significant harm to the character and appearance of the area. The proposal would also fail to preserve the significance of a non-designated heritage asset, the loss of which would lead to moderate to great harm to the character and appearance of the area. For the reasons given, the proposal would not make a positive contribution to local character and distinctiveness, a

matter which the Framework advises should be taken into account in determining applications for proposals affecting heritage assets.

18. The proposal would therefore be contrary to Policies CS NPPF, CS1 and CS5 of the Core Strategy 2012; Policies DM01 and DM06 of the Development Management Policies 2012 (the DMP); and policies H2, HC1, D4 and D6 of the London Plan. These policies require, amongst other things, that development is of a high quality of design and that all heritage assets will be protected in line with their significance, including a presumption in favour of retaining Locally Listed Buildings. The proposal would also be contrary to the Framework in respect of achieving well-designed places.
19. Policy DM06 of the DMP states that there is a presumption in favour of retaining all locally listed buildings. However, in respect of non-designated heritage assets, the Framework states that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. I will return to this matter later in my decision.
20. On this main issue, I find no conflict with policies H8, H10 and D5 of the London Plan as these relate to matters including housing density, loss of affordable housing, housing size mix, as well as accessible and inclusive design, rather than matters of character and appearance.

Other Considerations

21. The proposal would deliver 20 new dwellings in a mix of sizes. Even allowing for the Council's housing land supply and delivery, as well as evidence regarding the potential conversion of the existing building to 6 dwellings, the proposal would lead to a moderate contribution to the supply and mix of housing in this area. Commensurately, this should carry moderate weight in favour of the proposal.
22. The Framework emphasises that great weight should be given to the benefits of using suitable sites within existing settlements for homes. However, on the basis of the harm I have identified, I do not consider that this is a suitable site for the form of development proposed.
23. The site is not within a conservation area, and the building could be demolished without planning permission. Permission has also previously been given for the demolition of the building as part of redevelopment proposals, although these permissions have expired and the inclusion of the building on the LHL post-dates those decisions. I have had regard to the Visual Inspection Survey submitted by the appellant which concludes that the property is in a very poor condition, and recommends that the existing building be demolished. However, I am mindful of the limitations of such a visual survey, and I do not consider that this is sufficiently robust evidence to demonstrate that the building is unviable for conversion or that its demolition is inevitable. On the basis of the evidence before me, there is a no more than theoretical possibility that the building will be demolished should this appeal be dismissed, and this matter therefore carries no more than limited weight in favour of the appeal.
24. Residents of the proposal would support services and facilities in the area, and as noted in the previous appeal decision residents would have convenient access to local services and facilities. However, given the number of dwellings proposed and within the context of the scale of services in the wider area, the

public benefit would be very limited at most. For the same reasons, the contribution to Council Tax and the Community Infrastructure Levy would also be to a limited degree, and I am mindful that the latter would primarily address impacts arising from the development itself.

25. The proposal would generate economic benefits through employment during the construction phase. However, due to the scale of the proposal, the benefits arising from these matters would be to a limited degree and over a limited period of time.
26. Potential biodiversity and surface water runoff improvements would also be limited due to the scale of the development.
27. It would be possible to achieve carbon reductions through renewable technologies and modern construction methods as part of the development. However, it has not been demonstrated that benefits of a similar scale and nature cannot be achieved through the conversion of the building or a development of a suitable design.
28. Reference has been made to the quality of the interior of the building. However, this is not referred to in the description of the site in the LHL in respect of the significance of the building, and does not add to the harm I have identified in respect of the building as a heritage asset.

Other Matters

29. The appellant refers to discussions during the application process which led to the proposal being recommended for approval by Council officers. However, such discussions are undertaken without prejudice to the decision that the Council may make on a planning application.
30. I note the frustrations expressed by the appellant as to the level of communication from the Council in respect of the inclusion of the application site in the LHL. However, this is not a matter for this appeal which I have determined on its planning merits.

Planning Balance and Conclusion

31. The proposal would lead to moderate benefits in respect of the supply and mix of housing in the area. The proposal would also have more limited benefits in respect of biodiversity, surface water drainage, investment, employment and support for services. The potential to demolish the building without requiring planning permission also carries only limited weight in favour of the appeal.
32. However, even these positive factors considered cumulatively would be outweighed by the significant harm to the character and appearance of the area and the moderate to great harm to the significance of this non-designated heritage asset.
33. On balance, I conclude that the adverse impacts of the development would materially outweigh the positive considerations, including in respect of the scale of harm or loss to the significance of this heritage asset.
34. The proposal would harm the character and appearance of the area and a heritage asset, and would conflict with the development plan and the Framework taken as a whole. There are no material considerations of such weight that indicate the decision should be made other than in accordance with

the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR