

Our ref – 13/JA01341

Your ref -

Date 9 March 2023

Haringey Council Planning Service
Level 6, River Park House
225 High Road
Wood Green
N22 8HQ
By email only: PlanningSupport@haringey.gov.uk

Dear Sir/Madam

HGY/2022/4552 & 0236 - Demolition of existing Church Hall and 1950's brick addition to rear of main Church building and redevelopment of site to provide new part 1, part 4 storey building (plus basement), comprising a new church hall and associated facilities at ground and basement level and self contained residential units at ground to fourth floor level with associated refuse, recycling storage, cycle parking facilities including landscaping improvements - Braemar Avenue Baptist Church Braemar Avenue Wood Green London N22 7BY

We are instructed by Simon Jarvis of 23 Braemar Avenue, who objects to this proposal for the reasons set out below.

The site in policy terms is heavily protected by virtue of listed status and conservation area setting, the proposal's impact on heritage setting must therefore be assessed on the standard test well established in law, a high bar to cross in terms of 'public benefit', in addition to amenity considerations, all governed by policies in both in the development plan (as defined) and the Framework.

The impacts by scale mass and design are alleged¹ to be 'neutral', or will be less than substantial harm (depending which statement you read) to heritage impact. It is alleged to be of high-quality design and character, but none of this is tenable.

The structures to be demolished are not only curtilage listed, but subordinate by scale design and purpose, respectful of the Church and its primacy. The claim that replacing single storey subordinate structures with a 4-storey (plus basement) block of flats would be neutral, and acceptable in planning terms, are not credible, failing the key statutory tests.

¹ Built heritage consultancy statement

The blocky mass and height will disrespect surrounding built form and setting. The distinctive character of the heritage setting will be seriously harmed by this proposal which will be incongruous in style, out of scale, poor design, rising above the adjacent houses by a full extra floors' height, with balconies directly overlooking adjacent private gardens. The proposed height and mass will overpower the homes adjacent, the heritage asset church and its setting.

The notion of "breathing space"² being created is unjustified, noting the extend of the footprint, even basement light wells right up to the street frontage. The street view of the Church looking north will be dominated by the new block. As to being "hemmed in by trees and [other structures]" this is more than surprising, the low-rise structures being replaced by a large high modern block. It will be "out of place", despite assertion otherwise. It is not sensitive or respectful; it will constitute significant harm to distinctive character of the area and heritage setting, and neighbour's amenities, harming their outlook, resulting in overlooking, an oppressive mass.

It is notable the author of the heritage statement refers to 'balconies' and 'higher than the roof of the historic terraces', concluding it will not be "dominating" of the church (or neighbouring homes) nor "out of character"³ – our client says this is not credible. As for 'building line' and 'style', also said to be 'neutral', even if correct (which it is not) it does not rescue a scheme that fails the public benefit test the "overall topic conclusion"⁴ claims is neutral. As other online comment sagely remarks, this may be considered irrational. Beneath that claim⁵, less than substantial harm is admitted several times⁶.

Not only does the author not engage with public benefit test, but our client considers the harm to be substantial with good reason. 15 open market flats are not sufficient, if any public benefit in the balance. All this statement does is cross refer a reader to statements by others and 'potential' benefits. It is striking the heritage expert declines to say what the public benefits are, or how they outweigh the harm. All the planning statement says at paragraph 7.56 (after referring to the heritage statement) is a replacement church hall (at best neutral) and 15 flats 'outweigh' the heritage harm. This our client feels is risible, so far below the policy test it undermines the extraordinary length of the statements made by the applicants' experts. Long on assertion, short on evidence.

Demolition of a listed structure rather than repair is argued appropriate on financial grounds. This is audacious. NPPF 196 is clear that the deteriorated state of the heritage assets should not be taken into accounting any decision. NPPF makes clear *any harm to, or loss of the significance of a designated heritage asset, from its alteration or destruction, or from development within its setting, should require clear and convincing justification. Substantial harm to or loss of listed buildings should be exceptional, and local planning*

² Page 37

³ Page 38

⁴ Page 39

⁵ Under "Overall assessment"

⁶ See pages 41 & 42 & 43

authorities should refuse consent unless it can be demonstrated that substantial harm or total loss is necessary to achieve substantial public benefits that outweigh the harm or loss, or the exceptions in paragraph 201 a-d apply. None of those exceptions are engaged, the applicant does not even contend they do apply.

The applicant has failed to grapple with the core principle set out in the Framework, there is no *clear or convincing justification* for demolition of curtilage listed buildings that can be simply repaired; never mind replace them with poor design, too high, out of scale and character.

The Council is all too aware of its statutory obligation to conserve and enhance heritage asset setting, which it has routinely applied successfully. The design focuses solely on the amenities of the occupants by maximization of saleable floor space (profit), rather than setting per London Plan 2021⁷. A design that will be obtrusive, overbearing, seriously harmful to heritage setting, cannot be objectively assessed as neutral, but a dominating oppressive block disrespectful of its setting.

The council is urged to conclude the harm is significantly greater than asserted, public benefits of limited/no weight as in conflict with affordable housing policy, is insufficient in the planning balance.

Repairing existing low-rise structures would not have the adverse impacts set out above, yet would provide economic, social and environmental benefits it is not relevant the economic benefit would be less than the applicant desires. It is impossible to reach any other conclusion than the driver for the block of flats is financial, it does not even propose affordable housing. As to enabling development, the analysis is unconvincing, there is no evidence the church cannot fund repairs, nor provide affordable homes. It is unarguably contrary to local and national policy.

The overwhelming point one can see in the plan policies is that at the forefront of the NPPF134, namely that *development that is not well designed should be refused*.

The Council's concern, and the Mayor's, is respect for interests of acknowledged importance. It is clear why this proposal must be refused.

The proposal if approved, would set a precedent the Council would be unable to resist in future. Judicial authority⁸ has long since recognised that in some circumstances, precedent is created by planning decisions. The common mantra, that each case is considered on its own merits, is only applicable where circumstances are materially different. Approving this proposal would open the way for more of the same, eroding the heritage and distinctive character of the area, a significant departure from up-to-date

⁷ policy HC1C

⁸ Poundstretcher [1988] PLR 69

development plan policy. There is the associated judicial authority of consistency in planning decisions⁹.

Given the greatest weight given to conservation and enhancement of this area's setting, the scheme may be considered to amount to 'substantial harm'. Even if it is considered less than substantial harm, any public benefit will not outweigh the harm. It therefore fails the high hurdle set by NPPF 201/202. It is also poor architecture with significant adverse impacts to the church and neighbouring amenities.

It amounts to unsustainable development as defined by the Framework, as well as being contrary to adopted development plan policies.

National Design Guide sets out 10 characteristics expected for design to be sustainable. This proposal does not comply with – context, identity, built form, and homes and buildings.

Conclusions

The proposed block of flats directly and fundamentally conflict with development plan requirements, and our client is also concerned about overlooking, no affordable homes and no parking. Holistically our client's life will not be made 'better' per NPPF126, but worse by the harm to heritage setting and character. It fails the public benefit test.

As the proposal is not in accordance with the development plan and there are no material considerations of sufficient weight justifying departure, planning permission must be refused per s38(6) PCPA 2004. This is underpinned by the development being unsustainable as defined by the Framework.

Yours faithfully

Kingsley Smith

Kingsley Smith Solicitors LLP

⁹ DLA v Baroness Cumberlege [2017] EWHC 2057 NB this sets out the long-established caselaw