

HCAAC's objection to HGY/2023/3217

Highgate Conservation Area Advisory Committee ("HCAAC") objects to the above application for permission in respect of the erection of a detached part single, part two storey, 3 bedroom family home.

It is stated incorrectly that this application is in respect of 28 Shepherds Close. It is actually in respect of land adjacent to 27 Shepherds Close which has been the subject of many unsuccessful planning applications and appeals (see below).

It is extremely troubling that the very foundation of the application is the applicant assertion that the site in question is a "brownfield" site. This is patently not the case. The government's National Planning Policy Framework ("NPPF") defines brownfield land as "land which is or was occupied by a permanent structure". The land, which is the subject of this application, is and never was occupied by a permanent structure. This is evident from each of the planning and appeal decisions set out below and the applicant's own documents.

The Council will aware that the land adjacent to 27 Shepherds Close, London N6 5AG has had a substantial planning history dating back to 1979. The most recent decision was the dismissal of the appeal in December 2020 in respect of the Council's refusal of application HGY/2011/1860.

We have set out a list of that history for ease of reference:

- OLD/1979/1258 - 27 Shepherds Close N6 - Erection of a detached house. – Refused - 01/11/1979.
- OLD/1979/1259 - 27 Shepherds Close N6 - Erection of a detached house. – Refused - 01/11/1979.
- OLD/1982/1355 - 27 Shepherds Close N6 erection of new house - Withdrawn
- OLD/1983/1459 - 27 Shepherds Close N6 erection of new house - Withdrawn
- HGY/1990/1531 - Land Adjoining 27 Shepherds Close London N6 London - Erection of two storey, three bedroom dwelling house with garaging for one car. – Refused - 04/11/1991.
- HGY/1997/0122 - Site Adjacent 27 Shepherds Close London N6 London - Erection of 2 storey, 3 bedroom house. – Refused - 18/02/1997.
- HGY/2002/0158 - Site Adjacent 27 Shepherds Close London N6 London - Erection of a two storey 2 bedroom dwellinghouse. – Refused - 23/07/2002. Appeal reference APP/Y5420/A/02/1108911 - Appeal dismissed - 20/05/2003.
- HGY/2011/0596 - Land adjoining 27 Shepherds Close London N6 5AG - Erection of 3 bedroom self contained dwelling house. – Refused - 20/05/2011.
- HGY/2011/1860 - Land adjoining 27 Shepherds Close London N6 5AG London - Erection of 2 bedroom self-contained single storey dwelling house – Refused - 29/11/2011.
- HGY/2019/3260 – 27 Shepherds Close – Construction of 3 bedroom house on land to the west of Shepherds Close – Refused - 5/02/2020. Appeal reference APP/Y5420/W/20/3257208 – Appeal dismissed – 31/12/2020.
- HGY/2021/2852 - Land adjacent to 27 Shepherds Close London N6 5AG - Erection of wooden boundary fence – Withdrawn -

After consideration of the above applications and appeals along with the reasons for refusal/dismissal, the only option properly open to the Council is to reject this application.

The previous refusals of permission and dismissals of appeal have all underlined the importance of this area.

In the appeal APP/Y5420/A/02/1108911 from 2003, the planning inspector concluded that this site:

“provides a wedge of open land which is in a prominent position in the Close’, and ‘provides an attractive green vista and makes a positive contribution to the street scene and this part of the conservation area”. The planning inspector went on to say that the proposed development would result in “the loss of the open character and green vista.”

In the appeal APP/Y5420/W/20/3257208 from 2020, the planning inspector cited the first quotation from 2003 appeal in full and “could see no reason to disagree with the previous inspector”.

In each of the applications and appeals, the harm to the character and appearance of the conservation was paramount and outweighed all the other considerations.

The applicant’s suggestion that the removal of the fencing, erected by it, and the felling of the trees, by it, somehow justifies its application is illogical in the extreme. Further and crucially, the applicant simply cannot seek to overrule the planning and appeal decisions referred to above by relying on its own actions.

The applicant describes the site as:

1. “It is now derelict, boarded up and devoid of trees and other vegetation” (page 3 of its planning statement); and
2. “It is an aesthetically unattractively boarded up, vacant, brownfield site” (page 5 of its planning statement).

Again, the applicant’s purported reliance on its own actions in support of its application is wholly illogical and cannot be relied upon for the above reason.

Most importantly, the assertion that the site is brownfield is simply without foundation. The photograph at Figure 5 on page 11 of the applicant’s own planning statement puts pay to that assertion. The reason why the applicant has not sought to explain what permanent structure is or was on the site is that it cannot do so. Further, as the applicant knows, the description of the site in the planning and appeal decisions referred to above make it perfectly clear that is not brownfield.

The very foundation of the application is the applicant’s erroneous assertion that the site is brownfield (see, paragraphs 1.5, 1.8, 5.2, 5.13, 5.17 and 7.7 of the applicant’s planning statement). As this is not a brownfield site, the whole of the application falls away. It follows, therefore, that the application must be refused on this basis alone.

We note that there have been numerous objections to the application raising serious material planning considerations which we support.

The Council is bound to follow the previous decisions on the planning applications and appeals referred to above.

This application must be refused for the reasons stated herein and for those cited by the objectors.