

Location Montfort House 54 Parson Street London NW4 1TP
Reference: 16/6367/LBC

Received: 30th September 2016
Accepted: 24th October 2016
Ward: Hendon
Expiry 23rd January 2017
Applicant: Kisharon

Proposal: Partial demolition to front, side and rear at ground, first and roof levels including rear outbuildings. Construction of a two storey front, side and rear extension with basement below and single storey side extension to provide a Special Education Needs and Disability School. Associated internal and external alterations including landscaping, disabled access and car parking (LISTED BUILDING CONSENT)

Recommendation 1: Refuse for the following reasons:

1 The proposals would result in harm to a Grade II listed building and its setting, as a result of the loss of its historic fabric and plan form and public benefits sufficient to outweigh this have not been demonstrated. This would be contrary to policy DM06 of the Adopted Barnet Development Management Policies 2012, policy 7.8 of the Mayor's London Plan and paragraph 134 of the National Planning Policy Framework.

Recommendation 2:

If Members of the committee are minded to approve the application then the item shall be delegated to officers in order to draw up a schedule of conditions

Informative(s):

1 In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. To assist applicants in submitting development proposals, the Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered.

The applicant sought formal pre-application advice which was provided. Unfortunately the submitted scheme is not considered to accord with the Development Plan. If the applicant wishes to submit a further application, the Council is willing to assist in identifying possible solutions through the preapplication advice service.

2 The plans accompanying this application are: 2463_GAD_100000_C,
2463_GAD_100001_C, 2463_GAD_100003_F. 2463_GAD_100004_C,
2463_GAD_100010_C, 2463_GAD_110000_F, 2463_GAD_110001_F,
2463_GAD_110002_F, 2463_GAD_110100_B, 2463_GAD_110101_B,

2463_GAD_110102_B, 2463_GAD_120000_G, 2463_GAD_120001_G ,
2463_GAD_120002_G, 2463_GAD_120003_F , 2463_GAD_120004_F,
2463_GAD_120005_F, 2463_GAD_120006_E, 2463_GAD_120100_C,
2463_GAD_120101_D, 2463_GAD_120102_D, 2463_GAD_140000_E,
2463_GAD_140001_E, 2463_GAD_140002_E , 2463_GAD_140003_E,
2463_GAD_140100_B, 2463_GAD_140101_B, 2463_GAD_140102_B,
2463_GAD_140103_B, 2463_GAD_150000_G, 2463_GAD_150001_G,
2463_GAD_150002_G, 2463_GAD_150003_G, 2463_GAD_150004_G,
2463_GAD_150005_G, 2463_GAD_160000_D, 2463_GAD_160001_D, Planning
Statement.

Officer's Assessment

1. Site Description

The site is Montfort House (Number 54) which is a site of 0.23 hectares in size. The property is a grade II listed building. It is not in a conservation area and there are no other significant planning designations. There are protected trees at the site subject to preservation orders.

The site is located adjacent to Corrigan Close which serves houses to the rear of the site and Markham Court adjacent to the north-east.

The surrounding area is predominantly residential with a mixture of houses and blocks of flats.

2. Site History

W04548E - Change of use from residential institution(C2) to educational (D1). - Approved - 19.10.1999

W04548J/99 - Internal alterations and extension of pitched roof at ground floor rear. - Approved - 22.05.2000

W04548K/00 - Erection of 2 blocks of outbuildings in the rear garden for use as group workshops in connection with the Kisharon School. [Listed Building Consent]. - Approved - 09.04.2001

W04548L/00 - Erection of 2 blocks of outbuildings in the rear garden for use as group workshops in connection with the Kisharon School. - Approved - 09.04.2001

W04548S/04 - Retention of two outbuildings in rear garden for use as teaching/classroom space. - Approved - 13.10.2004

W04548T/04 - Retention of two outbuildings in rear garden for use as teaching/classroom space. - Approved - 13.10.2004

3. Proposal

The proposals involve the extension of the existing building to provide a special educational needs school. The building and its garden area are located on the south side of Parson Street. It has a street frontage of 35 metres and a depth of around 55 metres. Montfort House was granted planning permission in 1999 under reference W04548E to be used as a school and that planning permission is personal to Kisharon and limited to 50 pupils.

In 2001 planning permission and listed building consent were granted for the erection of outbuildings in the rear garden for use as educational workshops.

The site is now used as a children's nursery and as day care/education for people with learning disabilities as well as the administration function of the charity.

The nursery accommodates on a daily basis some 70 to 80 children. The day care activities, staff to the nursery and charity accommodate around 50 people on a day to day basis.

The proposed school would have a maximum of 72 pupils and would employ 50 members of staff although not all these staff will be at the site at the same time.

The physical works to the building involve demolition of part of the existing building, and extension to the rear which includes a basement area.

The proposals involve the demolition of the south-west of the building and the buildings to the rear of the site behind the main building. A more modern extension would be constructed to the south-west of the building.

The proposals involve the construction of an L shaped extension that would run alongside the boundary with Tydfil House. This would be part two storeys and part three storeys, with the first floor not extending back perpendicular to the boundary with Tydfil House to leave a roof play area. The extension would incorporate school accommodation over lower ground, ground and first floors. The extension would project approximately 25m along the boundary with Tydfil House.

The proposed ground floor roof play area would incorporate staircase from the rear 'garden' area. The main external play area would be kept away from the boundary with no.2 Corrigan Close by a planting area which would be used for teaching purposes only.

4. Public Consultation

Consultation letters were sent to 224 neighbouring properties.

A Site Notice was put up on 27/10/16

A Press notice advertising works affecting the setting of a listed building was sent out on 27/10/16

217 responses have been received, comprising 16 letters of objection, 200 letters of support and 1 letters of comment.

The objections received are summarised in the report associated with the planning application (16/6366/FUL).

5. Planning Considerations

5.1 Policy Context

National Planning Policy Framework and National Planning Practice Guidance

The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another.

The National Planning Policy Framework (NPPF) was published on 27 March 2012. This is a key part of the Governments reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The NPPF states that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits.

The Mayor's London Plan 2016

The London Development Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2050. It forms part of the development plan for Greater London and is recognised in the NPPF as part of the development plan.

The London Plan provides a unified framework for strategies that are designed to ensure that all Londoners benefit from sustainable improvements to their quality of life.

The following London Plan policies are especially relevant:

7.4 – Local Character

7.6 – Architecture

7.8 – Heritage Assets

Barnet's Local Plan (2012)

Barnet's Local Plan is made up of a suite of documents including the Core Strategy and Development Management Policies Development Plan Documents. Both were adopted in September 2012.

- Relevant Core Strategy Policies: CS NPPF, CS1, CS5, CS9, CS10, CS11, CS15
- Relevant Development Management Policies: DM01, DM02, DM04, DM06, DM13, DM17

The Council's approach to development as set out in Policy DM01 is to minimise the impact on the local environment and to ensure that occupiers of new developments as well as neighbouring occupiers enjoy a high standard of amenity. Policy DM01 states that all development should represent high quality design and should be designed to allow for adequate daylight, sunlight, privacy and outlook for adjoining occupiers.

Policy DM06 sets out that proposals involving or affecting Barnet's heritage assets set out

in Table 7.2 should demonstrate the following:

- the significance of the heritage asset
- the impact of the proposal on the significance of the heritage asset
- the impact of the proposal on the setting of the heritage asset
- how the significance and/or setting of a heritage asset can be better revealed
- the opportunities to mitigate or adapt to climate change
- how the benefits outweigh any harm caused to the heritage asset.

5.2 Main issues for consideration

The main issues for consideration in this case are:

- Design character and appearance & Setting of Listed Building
- Whether the benefits of the scheme can outweigh any harm caused

5.3 Assessment of proposals

This application for planning permission follows pre-application discussions with the local planning authority.

Historic England have given authority to the Local Planning Authority to determine the application as it sees fit. The application follows pre-application discussions with the Local Planning Authority.

Officers have tried to work with the applicant in order to address concerns relating to the development.

Design, character and appearance & Setting of Listed Building

Montfort House, 54 Parson Street is a Grade II listed building. The proposals involve substantial extensions and alterations to the existing building, including building over the majority of the site coverage, as well as significant first floor extensions.

The applicant has provided a Historic Building Report by Donald Insall Associates. This report acknowledges that overall the proposals would amount to some harm being caused to the setting of the listed building, and that this harm is considered to be 'less than substantial'.

The National Planning Policy Framework states that:

'132 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.'

As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.'*

Policy Section 12 of the NPPF sets out the Government's policy on the historic environment. Paragraph 132 states, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. Further, significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Paragraph 134 states, where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The proposals include the demolition of various elements of the western part of the listed building, mainly at ground floor level but also at first floor. This would be replaced with a large, two storey L-shaped extension, which would extend to the depth of the garden.

Various internal alterations are also proposed. A new basement is proposed below the extension.

The main heritage issue is to consider whether the proposal would preserve the listed building, its setting, or any features of special or architectural interest it possesses. The applicant has provided an assessment of significance, which examines the exterior and interior of the building and its setting. There is an acceptance by the applicant that some of the proposals cause harm to what is significant about the listed building, however, the conclusion reached by Donald Insall and Associates -heritage consultants acting for the applicant, is that this harm is 'less than substantial'. The main thrust of the applicant's justification for the proposals is that there are compelling public benefits which will result from the proposed development, due to the additional SEN places (Children with Special Educational Needs) which will be created and these benefits should be weighed against the identified harm caused to the buildings significance.

In their comments of May 2016, Historic England concluded that the scheme would result in less than substantial but still considerable harm to the grade II listed building and its setting. They also considered that the heritage benefits of the scheme are relatively minor and make only a small contribution to mitigating the harm.

It is proposed to erect a large 2-storey extension, with an extensive basement in the rear garden. It would be linked to the western part of the listed building, in place of the rear part of the service wing. It would have an L-shape and its footprint and volume would be considerably larger than those of the listed building. The extension would also extend almost the full depth of the rear garden.

The scale, bulk and massing of this addition is considered to be excessive in relation to the listed building and its garden area. The extension would be highly dominant in its setting, rather than being subordinate. Very little of the rear garden would remain and thus an important part of the building's setting would be compromised. The building would run close to the western site boundary for almost the entire length of the rear garden. As can be seen on the submitted CGI's, the flat-roofed extension would over power the rear and western side of the listed building due to its scale and mass. The flat roof design, constructed of grey brick with curtain walling and zinc

paneling would also contrast markedly with the red brick and clay-tiled, pitched roofs of the listed building. The lack of an adequate break between the new and old structures to provide a comfortable visual transition only compounds the impact and results in an extension that overwhelms in terms of scale, design and materiality. It would have a harmful effect on both the listed building and its setting.

Historic England has produced a guidance note entitled 'Making Changes to Heritage Assets' (Advice Note 2). It advises that it would 'not normally be good practice for new work to dominate the original asset or its setting in either scale, material or as a result of its siting'. In this instance, the proposed extension would completely dominate the asset and its setting when seen from the south. Views of the listed building within the rear garden would be severely limited if the extension was to be constructed. Furthermore, the guidance note indicates that the junction between new work and the existing fabric needs particular attention, both for its impact on the significance of the existing asset and the impact on the contribution of its setting. Contrary to this guidance, the proposed new building would have an uncomfortable relationship with the host building due to its design, mass and bulk, which contrasts dramatically with the smaller scale of the host building.

The alterations considered to cause some harm include, demolition of parts of the original service wing such as the former kitchen/skullery (G8) and the room above on the first floor (P9), also the loss of the original yard, which has been roofed over but contains some 1902 detailing. The conservatory and veranda would also be removed, and each holds some significance. Although alterations have been made to these rooms, including an asphalt roof covering to the conservatory, these works are reversible. There are a number of changes proposed to the interior which will involve a loss of significance to the building, to a varying degree. There are also proposals which are beneficial to the building's significance and these include the removal of modern partitions and additions which have compromised the original plan layout and interior appearance. A proposed double door opening would result in the removal of an original chimney breast (room G5) and in the former billiard room (room G7) a number of alterations are proposed, including a new opening on the western wall. On the first floor, a food technology space is proposed in a former reception room (room P7) and will require a new extractor and ceiling raft to accommodate extraction and other services. A new opening is also proposed adjoining the chimney breast in this room. Collectively, there would be a degree of harm to the designated heritage asset as a result of the alterations to various features, including the loss of fabric, which contribute to the building's significance.

In summary, the heritage asset will be harmed as a result of the proposed development. This is in terms of the impact of the proposed extension on the listed building and its setting, and on the loss of historic fabric and plan form.

Consultation responses have been received from Historic England, the Victorian Society. All are of the view that the proposals would cause harm in terms of the impact on the listed building and its setting. These comments are mentioned above within the consultation responses.

The proposals are considered to cause harm to the listed building and its setting. Whilst this is less than substantial harm as defined by the National Planning Policy

Framework, the impact would still be major in nature and counts against the application.

Impact on character and appearance of the general locality and streetscene.

Notwithstanding the comments above, officers have concern that the works to the listed building, and in particular the large rear projection especially at first floor; as a result of its depth, form and siting; would detract from the appearance of the host building, appearing out of proportion and being detrimental to the character and appearance of the wider area. Though this part of the site is not publicly visible to any substantive extent, it would be clearly visible from Markham Court, Tydfil House and Corrigan Close.

Planning Balance

Whether the benefits of providing new SEN School accommodation outweigh the harm caused to the listed building, its setting and to neighbouring amenity

Section 66 of the Planning Conservation Areas and Listed Buildings Act 1990 states that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

Examination of the public benefits

The provision of new SEN school accommodation is considered to be a noteworthy benefit and needs to be weighed against the harm caused by the proposals.

There is no guidance for Local Planning Authorities in how to consider such public benefits or how to weigh them against harm identified. However, there are some examples of cases that have been to the Courts such as Barnwell Manor and Forge Field. From these cases, it is clear that in order to satisfy the requirements of the NPPF the applicant would need to carry out a robust assessment of alternative sites.

In more detail, the Barnwell Manor Court of Appeal decision set out that:

- Following an inquiry, an inspector allowed Barnwell's appeal and granted permission for four wind turbines in the settings of more than 40 designated heritage assets, the most important of which were an outstanding collection of Grade 1 buildings and gardens.
- This was subsequently challenged at the court of appeal.
- In allowing the challenge and quashing the decision to allow the appeal, the judge set out that *'It does not follow that if the harm to such heritage assets is found to be less than substantial, the balancing exercise.... should ignore the overarching statutory duty imposed by section 66(1), which properly understood requires considerable weight to be given by decision-makers to the desirability of preserving the setting of all listed buildings, including Grade II listed buildings;*

- The judge set out that the ability of the public to appreciate a heritage asset is *'one, but by no means the only, factor to be considered when assessing the contribution that setting makes to the significance of a heritage asset. The contribution that setting makes does not depend on there being an ability to access or experience the setting'*

The National Planning Practice Guidance states that:

Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the National Planning Policy Framework (paragraph 7). Public benefits should flow from the proposed development.

They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

Public benefits may include heritage benefits, such as:

- sustaining or enhancing the significance of a heritage asset and the contribution of its setting
- reducing or removing risks to a heritage asset
- securing the optimum viable use of a heritage asset in support of its long term conservation

There is an identified need for SEN school accommodation in the area and the scheme has the support of the Children's Service. However, the proposals would cause harm to a listed building and cause harm to neighbouring amenity.

The proposals would not provide significant heritage benefits, so it is necessary to look at whether the proposals would provide wider economic, social or environmental benefits.

The proposals would provide social benefits insofar as they would contribute to SEN school accommodation within the borough and meet identified demand. This is clearly a notable benefit, albeit a localised one.

Search for Alternative Sites

The applicant has provided a site search document in support of the scheme as part of their wider case. This looks at 20 sites. Whilst the site search does include premises within the Borough and also within a wider radius, in the opinion of officers the document provided could not be described as robust. It does not set out over what period premises were looked at, or how explain how site selection has taken place. Furthermore, the search includes sites within Green Belt, and sites that are not available.

As such, officers are not persuaded that this document should be given significant weight in any decision making exercise.

As such, the proposed development would be of significant harm to the value and interest of the listed building which would include partial loss. The loss should be seen to be acceptable in only exceptional cases. Although the proposed development would facilitate the provision of important community facilities which

make a contribution to supporting healthy communities, it is considered that the combined harm to a listed building arising through loss and insensitive additions as well as the harm to amenity would be so significant as to not being outweighed by these benefits. The scheme is contrary to the NPPF.

6. Equality and Diversity Issues

Section 149 of the Equality Act 2010, which came into force on 5th April 2011, imposes important duties on public authorities in the exercise of their functions, including a duty to have regard to the need to:

"(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

For the purposes of this obligation the term "protected characteristic" includes:

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

Officers have in considering this application and preparing this report had regard to the requirements of this section and would comment as follows:

The applicant, Kisharon, provides services and education for children with learning disabilities within a Jewish ethos.

The proposals would provide additional SEN school accommodation to meet known demand which is a notable benefit which has been considered by officers and must be taken into account within the planning balance.

The proposed school would be of Jewish ethos and would primarily benefit those of Jewish religion. However, there would also be benefits to the wider population in that known wider demand for SEN accommodation would be contributed to and there is a clear need for this.

In considering the above factors, officers have given significant weight to the benefits to residents of these protected characteristics and this is considered within the planning balance against the harm caused by the development.

It is noted that elderly and disabled residents are likely to be impacted more by construction noise, noise escape from the school and potential highways impacts. Environmental Health and Highways officers have looked at the scheme and consider that the scheme would be acceptable in this regard.

7. Conclusion

In balancing these issues, it must be noted that the harm caused to the listed building is major in nature (albeit not substantial) and by its very nature as a statutory listed building it is of national importance. The benefits of the scheme, whilst noteworthy and welcomed, are of more localised scale. The lack of depth and detail of the site survey also weighs against the proposal, and it is considered likely that more preferable sites exist (even if they may have other constraints).

In the opinion of officers, this benefit is undermined by the lack of a more thorough search for sites in more suitable locations. As such, officers are unable to say that the public benefits of the scheme are so great. It is also suggested that harm to neighbouring amenity cannot be balanced to the same extent as wider issues relating to the listed building and public benefits.

As a result, it is not considered that the provision of additional special need school accommodation could be considered to outweigh the harm caused to the Grade II Listed building.

If Members of the committee are minded to grant Listed Building Consent, it is suggested that the reasons for doing so, and in particular, the nature of public benefits are clearly identified. It would be suggested that if the committee determines to approve the application the item would need to be delegated to officers to resolve school Travel Plan arrangements through legal agreement as well as agreeing a schedule of planning conditions.

The provision of new SEN school accommodation is welcomed as it would meet existing demand within the borough. However, it is considered that the harm caused to the setting and character of the listed building is great enough that it would outweigh this notable benefit. Furthermore, this is amplified by the additional harm to neighbouring amenity. It is not considered that the provision of additional special need school accommodation could be considered to outweigh the harm caused to the Grade II Listed building. As such officers recommend **REFUSAL**.

