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## Appeal Decision

Hearing held on 12 February 2014

Site visit made on 12 February 2014

**by T M Smith BTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 27 March 2014**

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**Appeal Ref: APP/Z5060/A/13/2210609**

**Sacred Heart Convent, Goresbrook Road, Dagenham, Essex RM9 6XD**

- 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 Croudace Partnerships against the decision of the Council of the London Borough of Barking & Dagenham.
  - The application Ref 13/00624/FUL, dated 23 July 2013, was refused by notice dated 14 October 2013.
  - The development proposed is demolition of an existing convent building and the erection of 10 new pairs of semi-detached houses (20 new houses in total) comprising 16 No.3 bedroom houses and 4 No.2 bedroom houses plus associated landscape works including the creation of a new access road, removal and replacement of trees on site and changes to boundary treatments.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. At the Hearing an application for costs was made by Croudace Partnerships against the London Borough of Barking and Dagenham. This application will be the subject of a separate Decision.

### Procedural Matters

3. At the hearing an executed Section 106 Unilateral Undertaking was presented in respect of an education contribution (£120,000) and an affordable housing (£50,000) contribution along with monies to cover the Council's costs.
4. During the hearing it was apparent that drawing number 4444 Sheet 1 highlighting root protection areas had not been received and therefore was not considered by the Council in determining the application. In the light of this the parties agreed that if the appeal was allowed, root protection areas could be the subject of a planning condition. I see no reason to take a different stance.
5. I have taken into account the Planning Practice Guidance published on 6 March 2014 in reaching my decision.

### Main Issues

6. A core planning principle outlined in paragraph 12 of the National Planning Policy Framework (the Framework) is that planning should conserve heritage

assets in a manner appropriate to their significance. This also applies to non-designated heritage assets such as the appeal building. The Framework further states at paragraph 135 that 'in weighing planning applications that affect directly or indirectly, non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm of the loss and the significance of the heritage asset'.

7. Therefore, the main issues in this case are:

- The significance of the Convent as a non-designated heritage asset;
- Whether the Convent is capable of having a viable use in the future; and
- Whether any public benefits and other considerations would outweigh the loss of the Convent.

## Reasons

### *Significance*

8. The Sacred Heart Convent is a non-designated heritage asset. The Framework confirms<sup>1</sup> that heritage assets include designated assets and assets identified by the local planning authority (including local listing). In addition, paragraph 126 of the Framework places emphasis on sustaining and enhancing the significance of heritage assets and recognises that they are an irreplaceable resource.
9. Policy CP2 of the *Barking and Dagenham Core Strategy (CS) 2010* states that the Council will take particular care to protect and wherever possible enhance the historic environment of the Borough, to understand and respect local context, and to reinforce local distinctiveness. The supporting text explains that the Borough's local history and the physical reminders of it are major assets which should be cherished and enhanced rather than compromised or lost. The Borough has just 38 listed buildings and structures, which is few in comparison to other areas, together with some 133 buildings of local architectural or historic interest.
10. The building does not fall within a Conservation Area and English Heritage concluded in November 2013 that it did not merit inclusion on the statutory list of buildings of special architectural and historical interest. It did, however, note that the building is '*clearly of local interest*'. Subsequently, and in the light of local support for the retention of the building revealed during the consultation on the original planning application, the Council set about putting the building on the Local List of Buildings of Special Architectural or Historic Interest in the Borough.
11. The Council confirmed that they did not apply any local listing criteria in determining whether the building should be placed on the local list. In the absence of that the appellant has drawn my attention to English Heritage's *Good Practice Guide for Local Heritage Listing* (the Guide) (2011) which formed the basis for their own heritage assessment undertaken by Beacon Planning and which was submitted to the Council in objection to proposed local listing of the building. In addition, the Council confirmed that the English Heritage criteria, of which they were aware, had not been utilised in their determination

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<sup>1</sup> Glossary, page 52

- of the status of the building. Instead considerable weight had been placed upon English Heritage's consultation comments which stated: 'Of interwar date, the building appears to have seen only limited structural changes and is one of the few local buildings designed with more than one function in mind. It is also a local landmark...'
12. The Guide states that 'Local heritage lists play an important role in celebrating heritage that is valued by the community' and acknowledges that the guidance is a starting point in this process, with decisions on the way in which assets are identified being a matter for local planning authorities. In the light of this, I consider that the Guide provides a sound basis for assessing the architectural, historical and visual significance of the building and whether it merits retention.
  13. The building dates back to the early 1930s, shortly after the Ford Motor Works were constructed. The evidence before me indicates that it was established to serve the workers at Ford and their families, many of them residents on the Becontree Estate, and many of whom were Roman Catholic. I accept that the building is not of a great age. Nevertheless it is clear to me that the building forms part of the social history and 'collective memory' of the area which was the focus for a significant public housing development. It was proclaimed to be the largest of its kind as well as the largest motor plant in Europe at that same time. I also heard evidence from local residents which demonstrates that the building is valued locally and that many local people have strong historic connections with it.
  14. As noted in the English Heritage Report, the building is built in a neo-Georgian style in a mixture of red and plum coloured bricks in English bond with a hipped tiled roof and brick chimneys. The building has two adjoining wings and a cupola on the roof of the central section. The main entrance doors are framed by mock Doric columns and a scrolled pediment. Original sash windows have been retained and two larger round headed windows feature on the western wing.
  15. The English Heritage Report describes the building as being constructed of good quality brickwork but that its overall composition is 'bland'. However, I am mindful that this comment was made in the context of considering the suitability of the building for statutory listing. In accordance with the Guide, a more flexible approach can be adopted for local listing to meet local needs. I note several features which contributed to English Heritage's decision not to place the building on the statutory list, but I do not consider that these significantly detract from the overall visual quality of the building or undermine its significance as a non-designated heritage asset. Therefore, in the context of its surroundings and the street scene, the building stands out. This is consistent with paragraph 5.15 of the Beacon Planning assessment which states '*it remains distinctive in the sense that the surrounding built environment largely comprises buildings of a very standard domestic design, and the Convent stands out because of it.*'
  16. Against that background the appellant argues that the building is merely noticeable amongst an ordinary and unremarkable area and is not a landmark. This is based on the opinion that it is not distinctive, has no architectural and/or historic interest, nor can it be widely seen from a range of view-points in the surrounding area. The appellant gave some examples of landmark buildings including Salisbury Cathedral as comparators. Whilst I do not dispute

their status as landmark buildings, they are not directly comparable to the appeal building given the very different built and historical environments and contexts in which they are located.

17. Based on the evidence before me, I accept that the building was not designed as a landmark but, as the Beacon Planning assessment confirms: 'at the time the Covent was built, it would have been highly visible and certainly a visual landmark in the community.' Despite now being surrounded by development, the building has retained its spacious setting within landscaped gardens and remains taller than the houses around it. The distances from where the building can be seen are reasonable in this local urban context and I observed that the small louvered copper cupola on the roof surmounted by a crucifix above can be seen from further afield and would no doubt be visible from first floor windows of houses some distance away as well.
18. For the above reasons, the architectural qualities of the building and the social history embedded in its past use comprise its main significance as a non-designated heritage asset. In this location it stands out because of its appearance, its imposing size and spacious and open setting. As such this non-heritage asset positively contributes to the wider character of the area.
19. In conclusion, regardless of how the Council assessed it, the building has local value, as evidenced by local people and backed up by an assessment against the English Heritage Guide. It is also on the Local List to which I must have some regard. Therefore, I find the building is of local significance and its loss would be contrary to the Framework which recognises heritage assets as an irreplaceable resource.

#### *Future Use*

20. The Council considers that alternative uses should be considered prior to any demolition and redevelopment and I concur with this view. I also consider that any replacement scheme should be of an appropriate quality and provide public benefit to outweigh the loss of the building.
21. Turning to alternative uses, there is common ground between the parties that the conversion of the building to a residential use would be feasible but unviable. Furthermore, an assessment of the cost of converting the building to other uses such as community or education uses has not been undertaken to establish whether such uses would also be unviable.
22. The appellant suggests that even if alternative uses were viable, the marketing undertaken by Gerald Eve between July and September 2012 generated limited interest in the building. However, no further evidence has been provided as to why none of the parties pursued their initial interest, or why those initially interested went away, or why the property failed to find a buyer or what the asking price was. Without such evidence I am unable to conclude that a potential buyer could not be found, particularly as the market improves.
23. I also heard the concerns of the Council and local residents regarding the lack of certainty as to whether or not the building was offered to any local organisations or groups. It was confirmed that the Council had approached the appellant to discuss alternative uses further but that this was declined pending the outcome of this appeal. However, it is evident that the Council has not been pro-active in finding an end user for the building, nor have they been

approached by any group or organisation, notwithstanding the level of interest the application generated from the local community.

24. To conclude on this issue, I am not satisfied that the building could not have a viable future use so that the Convent building could be enjoyed for its contribution to the quality of life of this and future generations.

#### *Public Benefits*

25. The Council considers that the design of the proposed houses overall would be of a simple and traditional appearance and would blend into the surrounding area. Protected trees would be retained and I also note that the Council considers that the development would not prejudice highway safety or the living conditions of neighbouring occupiers. Based on my observations during the site visit as well as the evidence before me, I see no reason to take a different stance. Thus, I accept that the proposed development, when not set against the loss of the convent building, would not lead to harm to the locality.
26. In addition, I appreciate that the owners are a registered charity and that the building is now surplus to requirements. I understand that the proceeds of the sale of the building would be invested in their charitable objectives.
27. Furthermore, both parties are in agreement that there is a significant lack of housing land supply in the Borough as well as a need for family housing. I understand that the under supply is not due to a lack of sites but of delivery and I note the intentions of the appellant to deliver this site at the earliest opportunity. However, given the extent of the existing under supply of housing land, the development would inevitably make a modest contribution to any shortfall. Whilst this weighs in favour of the appeal, it is not sufficient to justify the loss of this non-designated and non-renewable heritage asset. This is particularly the case given that the existing building, as a local landmark, positively contributes to the wider character of the area and its social history given its association with the Becontree Estate and the Ford Motor Works.
28. I therefore find, given the emphasis the Framework places on heritage assets and the contribution they make to the quality of life, that the public benefits and other considerations would not outweigh the loss of this non-renewable heritage asset.

#### **Other Matters**

29. The executed Section 106 Unilateral Undertaking would secure the payments of contributions sought in accordance with Policy BC1 of the DPD as well as Policy CM1 of the CS. I heard that the figures identified are not based on any established criteria or published guidance. Therefore, I do not have sufficient evidence before me to be satisfied that the sums proposed are reasonable or necessary having regard to the development proposed and the requirements of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 in terms of planning obligations.
30. Nevertheless, as I intend to dismiss the appeal on the substantive issues of the case, I have not pursued this matter further. Subsequently, the Council has confirmed that reasons for refusal 4 and 5 are now satisfied. Notwithstanding this position, as the appeal fails there is no need to consider whether the obligation would satisfy the tests set out in regulation 122 of the Community Infrastructure Regulations 2010 (as amended).

## **Conclusions**

31. For the above reasons, I find that the loss of the building would conflict with Policies BP8 and BP11 of the *Borough Wide Development Policies Development Plan Document* (DPD) 2011 as well as Policy CP2 of the CS. Together these policies require development, amongst other things, to have regard to the local character of the area and help to create a sense of local identity, distinctiveness and place. In addition, landmarks and heritage assets are to be protected and, wherever possible, historic environment should be enhanced. It would also be at odds with the Framework which seeks to conserve heritage assets. Thus, I conclude that the appeal should be dismissed.

*TM Smith*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr Tony Charles – Agents, Porchester Planning Consultancy

Mr Jason Cross – Appellant

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Charles Sweeney

Mr Dave Mansfield

### **INTERESTED PERSONS:**

Ms Lisa Wood – near neighbour

Mr Graham O'Rourke – near neighbour

Mr Tony Peck – near neighbour

## **DOCUMENTS**

1. Attendance list
2. The Council's hearing notice letter dated 22 January 2014
3. Drawing Number 4444 Sheet 1 Root Protection Areas
4. English Heritage *Good Practice Guide for Local Heritage Listing*
5. Tree Preservation Order (No 19)
6. Letter of objection to the provision of the Tree Preservation Order by the Sisters of the Sacred Hearts of Jesus and Mary dated 14 January 2014
7. Signed copy of Unilateral Planning Obligation dated 6 February 2014
8. Council's response to the Appellant's application for costs dated 10 February 2014

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