

Demolition of a Property Designated under Part IV, Section 29 of the Ontario Heritage Act - 33 Avenue Road

Date: October 9, 2020

To: Toronto Preservation Board

Toronto and East York Community Council

From: Senior Manager, Heritage Planning, Urban Design, City Planning

Wards: Ward 11 - University - Rosedale

SUMMARY

This report recommends that City Council refuse the proposed demolition of all heritage structures on the property at 33 Avenue Road (the property includes municipal addresses 33-41 & 45-49 Avenue Road & 142-148 Yorkville Avenue), which is designated under Part IV of the Ontario Heritage Act by By-law No. 0052-2015, enacted by City Council on July 8, 9, 10 and 11, 2014.

Under the Section 34 of the Act, if City Council fails to make a decision on the application within 90 days of issuing a Notice of Receipt the application is deemed to be permitted. The Notice of receipt was issued on October 6, 2020 and therefore the City has until January 4, 2021 to notify the applicant of its decision regarding the proposed demolition of the designated cultural heritage resources at 33 Avenue Road.

RECOMMENDATIONS

The Senior Manager, Heritage Planning, Urban Design, City Planning recommends that:

1. City Council refuse the issuance of a demolition permit for the protected heritage property at 33 Avenue Road in accordance with Section 34 of the Ontario Heritage Act.
2. If the owner appeals City Council's decision to refuse the issuance of a demolition permit under Section 34 of the Ontario Heritage Act for the property at 33 Avenue Road, City Council authorize the City Solicitor and the necessary City staff to attend the Local Planning Appeal Tribunal (LPAT) hearing in opposition to the appeal.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

On January 27, 2012 a Zoning By-law Amendment application (File No. 12 113502 STE 27 OZ) was submitted for the site including 33-45 Avenue Road and 140-148 Yorkville Avenue. The application was appealed to the LPAT on October 20, 2015 due to Council's failure to make a decision.

On July 8, 9, 10 and 11, 2014, City Council designated the property at 33 Avenue Road under Part IV of the Ontario Heritage Act by By-law No. 0052-2015.

<http://www.toronto.ca/legdocs/bylaws/2015/law0052.pdf>

On June 12, 2018, the Local Planning Appeal Tribunal (LPAT) approved a Zoning Bylaw Amendment application (File No. 12 113502 STE 27 OZ) to permit a 29-storey (120.8 metres, including 3.8 metre mechanical penthouse) mixed-use building. The LPAT approved proposal, with its conservation strategy, included the rehabilitation of the existing Victorian house-form buildings at 33-41 Avenue Road and creation of a new publicly accessible courtyard fronting Yorkville Avenue, while removing the remainder of the existing buildings and replacing them with the new 29-storey building. The LPAT has withheld its Final Order pending satisfaction of pre-conditions, including the finalization of the implementing zoning by-law.

On February 26, 2019, City Council approved the Alterations to the Designated Heritage Property and Authority to Enter into a Heritage Easement Agreement on the subject site, consistent with the LPAT Decision described above.

<https://www.toronto.ca/legdocs/mmis/2019/pb/bgrd/backgroundfile-123707.pdf>

On March 16, 2020 the applicant submitted a new Zoning By-law Amendment application (File No. 20 126634 STE 11 OZ) for a proposal on an expanded site that includes 136 Yorkville Avenue, the demolition of all heritage buildings, and altered the height, setbacks, and massing of the previous LPAT approved development. The property at 136 Yorkville Avenue is not on the City's Heritage Register.

A complete application for demolition has been received and a Notice of Receipt was served on the applicant on October 6, 2020.

BACKGROUND

Proposal

The applicant is proposing to demolish all the buildings on the subject lands, including the designated buildings at 33 Avenue Road, known as the 'York Square' complex. This demolition application is in conjunction with a Zoning By-law Amendment Application that was received on March 16, 2020, for the construction of a new 29-storey (125.1 metres, including 7.6 metre mechanical penthouse) mixed-use building with a 7-storey base building containing 4,454 square metres of commercial space and 100 residential units (88 two bedroom units and 12 three-bedroom units).

A complete Application to Demolish a Heritage Building or Structure that is designated under Part IV of the Ontario Heritage Act was received by Heritage Planning via email on September 14, 2020. A Notice of Receipt was served on October 6, 2020. City Council therefore has until January 4, 2021 to give the notice to the owner of its decision with respect to the demolition of the designated "York Square" complex.

Heritage Property

The property at 33 Avenue Road is located at the northeast corner of Avenue Road and Yorkville Avenue, north of Bloor Street West (Attachment 1). Between 1968 and 1969, the property was redeveloped with a set of red brick modernist structures known as York Square, which adaptively re-used and framed seven older semi-detached and row houses from c. 1900, which were located at the corner of the property. The redevelopment scheme integrated the existing historic buildings through a combination of materials and detailing at the ground floor, along with an urban design strategy that created an enclosed pedestrian square at the rear.

York Square is one of the first examples in Toronto of an innovative new architectural response to urban renewal from the late twentieth century that involved the adaptive reuse of heritage buildings. Instead of demolishing the original Victorian buildings they were integrated with a new commercial complex that was arranged around a central courtyard. This project was widely recognized for its innovative design and in 1970 it received an award from the Ontario Association of Architects as "an outstanding example of infusing new life into an old neighbourhood." The York Square complex is also historically associated with the careers of the influential and nationally and internationally acclaimed architects A J Diamond (b. 1932) and Barton Myers (b. 1934). The redevelopment of this property contributed significantly to the revitalization of the Yorkville neighbourhood and is a local landmark.

The designation by-law describes the property as a close-knit assembly of buildings that together make up a unified complex. The full Statement of Significance is found in Attachment 2.

POLICY FRAMEWORK

Ontario Heritage Act

Section 34 (1) of the Ontario Heritage Act (OHA) states that no owner of a property designated under Section 29 shall demolish or remove a building or structure on the property or permit the demolition or removal of a building or structure on the property unless the owner applies to the council of the municipality in which the property is situated and receives consent in writing to the demolition or removal. After receiving a complete application for demolition, City Council is required to issue a Notice of Receipt to the applicant. Within 90 days of issuing the notice of receipt, City Council must issue a decision, or else Council will be deemed to have consented to the application.

Section 34.1 (1) indicates that if Council refuses the permit applied for, or gives the permit with terms and conditions attached, the owner of the property may appeal the decision to the Local Planning Advisory Tribunal (LPAT).

The Planning Act

The Planning Act guides development in the Province of Ontario. It states that municipalities must have regard for matters of provincial interest. Section 2(d) specifically refers to “the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest.” and 2(r) a built form that is well designed and provides for a sense of place.

Provincial Plans

Provincial Plans are intended to be read in their entirety and relevant policies are to be applied to each situation. The policies of the Plans represent minimum standards. Council may go beyond these minimum standards to address matters of local importance, unless doing so would conflict with any policies of the Plans.

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS and shall conform with Provincial Plans. All comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS and conform with Provincial Plans

The Provincial Policy Statement (2020)

The Provincial Policy Statement (2020) (the "PPS") provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- the efficient use and management of land and infrastructure
- ensuring the sufficient provision of housing to meet changing needs including affordable housing
- ensuring opportunities for job creation
- ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs

- protecting people, property and community resources by directing development away from natural or human-made hazards
- conservation of cultural heritage and archaeology

The provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.

The PPS is issued under Section 3 of the [Planning Act](#) and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS. Comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS.

The PPS recognizes and acknowledges the Official Plan as an important document for implementing the policies within the PPS. Policy 4.6 of the PPS states that, "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans."

Policy 2.6.1 of the PPS directs that "Significant built heritage resources and significant cultural heritage landscapes shall be conserved." Properties included on the City's Heritage Register are considered to be significant in this context. "Conserved" is defined in the PPS as "the identification, protection, use and/or management of built heritage resources in a manner that ensures their cultural heritage value or interest is retained under the Ontario Heritage Act."

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) provides a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part. It builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan (2020) take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise.

In accordance with Section 3 of the Planning Act all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan. Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan.

Policy 4.2.7.1 of the Growth Plan states that "Cultural Heritage Resources will be conserved in order to foster a sense of place and benefit communities, particularly in strategic growth areas."

Toronto Official Plan

This application has been reviewed against the policies of the City of Toronto Official Plan. The Plan provides the policy framework for heritage conservation in the City. The following Official Plan policies apply to the proposed demolition:

3.1.5.4: "Properties on the Heritage Register will be conserved and maintained consistent with the Standards and Guidelines for the Conservation of Historic Places in Canada, as revised from time to time and adopted by Council."

3.1.5.5: "Proposed alterations, development, and/or public works on or adjacent to, a property on the Heritage Register will ensure that the integrity of the heritage property's cultural heritage value and attributes will be retained, prior to work commencing on the property and to the satisfaction of the City."

3.1.5.6: "The adaptive re-use of properties on the Heritage Register is encouraged for new uses permitted in the applicable Official Plan land use designation, consistent with the "Standards and Guidelines for the Conservation of Historic Places in Canada."

3.1.5.26: "New construction on, or adjacent to, a property on the Heritage Register will be designed to conserve the cultural heritage values, attributes and character of that property and to mitigate visual and physical impact on it."

3.1.5.27: "Where it is supported by the cultural heritage values and attributes of a property on the Heritage Register, the conservation of whole or substantial portions of buildings, structures and landscapes on those properties is desirable and encouraged. The retention of façades alone is discouraged."

3.1.5.32: "Impacts of site alterations, developments, municipal improvements, and/or public works within or adjacent to Heritage Conservation Districts will be assessed to ensure that the integrity of the districts' heritage values, attributes, and character are conserved. This assessment will be achieved through a Heritage Impact Assessment, consistent with Schedule 3 of the Official Plan, to the satisfaction of the City."

3.1.5.33: "Heritage Conservation Districts should be managed and conserved by approving only those alterations, additions, new development, demolitions, removals and public works in accordance with respective Heritage Conservation District plans."

The City of Toronto Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>

Standards and Guidelines

The Standards and Guidelines for the Conservation of Historic Places in Canada is the official document guiding planning, stewardship and the conservation approach for all listed and designated heritage resources within the City of Toronto. All nine of standards apply to the proposed demolition of the buildings at the designated property at 33 Avenue Road.

The Standards and Guidelines can be accessed here:

<http://www.historicplaces.ca/media/18072/81468-parks-s+g-eng-web2.pdf>

COMMENTS

All applicable provincial and municipal policies require the conservation of heritage properties. The demolition of the structure on the designated property at 33 Avenue Road would result in the irrevocable loss of the designated property's cultural heritage value and interest and is not conservation.

The reason given by the applicant to justify the demolition of the significant built heritage resource is to "accommodate construction of a new building that responds to the evolving context of the area." To mitigate the loss of the significant heritage resource the application proposes to include a commemoration strategy as part of the proposed new construction.

A visual condition assessment prepared by ERA Architects Inc. was submitted with the application to demolish and found the building to be "in fair condition, with select areas in poor condition."

Official Plan policy 3.1.5.5 requires that proposed alterations or development on a property on the Heritage Register will ensure that the integrity of the heritage property's cultural heritage value and attributes will be retained. Integrity is defined in the Official Plan as a measure of the wholeness and intactness of the cultural heritage values and attributes of a property. In the case of the property at 33 Avenue Road, its design, associative and contextual values are present and its physical attributes are intact and generally in a fair condition. As such, the development proposal must ensure the retention of the property's values and attributes by protecting, not removing, them.

Official Plan policy 3.1.5.4 directs that properties on the Heritage Register will be conserved and maintained consistent with the Standards and Guidelines for the Conservation of Historic Places in Canada. These standards include:

- Standard 1: Conserve the heritage value of an historic place. Do not remove, replace or substantially alter its intact or repairable character defining elements. Do not move a part of an historic place if its current location is a character-defining element.

- Standard 5: Find a use for an historic place that requires minimal or no change to its character-defining elements

The proposal to construct a new development on the protected heritage properties does not conform with Official Plan Policy 3.1.5.4 as it is not consistent with the Standards and Guidelines for the Conservation of Historic Places in Canada to conserve the heritage value of a place and to not remove, replace or substantially alter its intact character-defining elements. In addition, the redevelopment proposal on the property does not represent a use for the historic places that requires minimal or no change to its character-defining elements.

The proposal to demolish the significant built heritage resource on the protected heritage property at 33 Avenue Road is not consistent with the Provincial Policy Statement and does not conform to the Growth Plan for the Greater Golden Horseshoe.

The PPS directs that "Significant built heritage resources and significant cultural heritage landscapes shall be conserved." "Conserved" is defined in the PPS as the identification, protection, use and/or management of built heritage resources in a manner that ensures their cultural heritage value or interest is retained. The proposal to demolish does not, in any way, protect the cultural heritage value or interest of the significant (Part IV designated) built heritage resource but rather permanently removes it.

Policy 4.2.7.1 of the Growth Plan directs that "Cultural Heritage Resources will be conserved in order to foster a sense of place and benefit communities, particularly in strategic growth areas." This policy places a particular emphasis on conserving cultural heritage resources in strategic growth areas, such as the Downtown Urban Growth Centre where the site is located. The cultural heritage resource at 33 Avenue Road is not proposed to be conserved as required in the Growth Plan. The Growth Plan recognizes explicitly that conserving cultural heritage resources need not be compromised by growth and intensification and in fact emphasizes the importance of such conservation in strategic growth areas, being where the highest level of growth and intensification is directed.

In accordance with the provisions of the Ontario Heritage Act S.34(2), Council is required to issue a decision within 90 days of the date of submission of a complete application. Staff are recommending refusal of the application to demolish under Section 34(2) of the Ontario Heritage Act.

CONCLUSION

The demolition of the significant built heritage resource on the protected heritage property at 33 Avenue Road will remove all vestiges of the site's cultural heritage value and integrity. Demolition is contrary to the policies of the PPS, the Growth Plan for the Greater Golden Horseshoe, the Planning Act, the Official Plan, and the intent of the Standards and Guidelines for the Conservation of Historic Places in Canada. Staff recommend that Council refuse the proposed demolition application for the reasons outlined in this report.

CONTACT

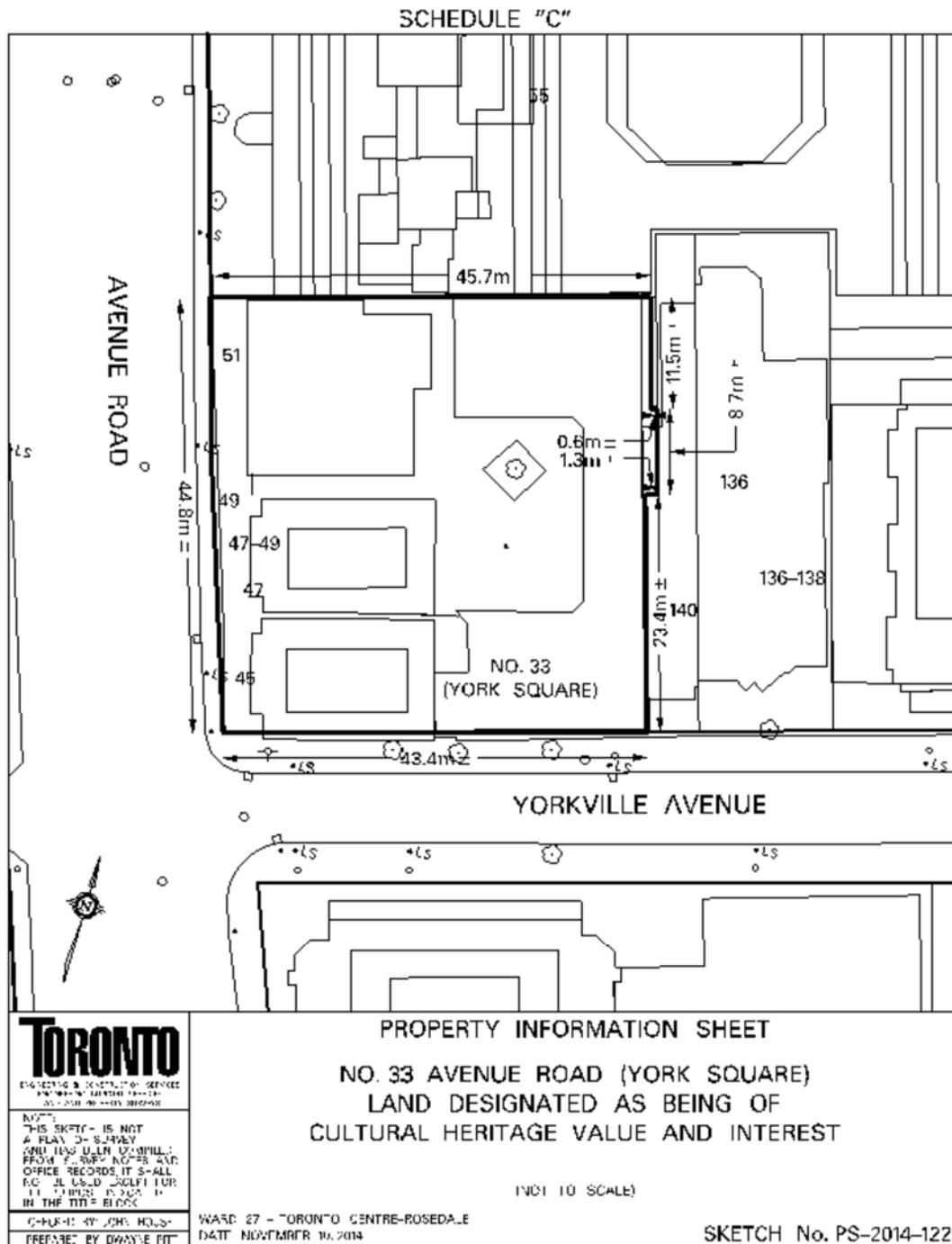
Dan DiBartolo
Senior Heritage Planner, Heritage Planning
Urban Design, City Planning
Fax: 416-392-1973
Email: dan.dibartolo@toronto.ca

SIGNATURE

Mary L. MacDonald, MA, CAHP
Senior Manager, Heritage Planning
Urban Design, City Planning

ATTACHMENTS

Attachment 1 - Location Map
Attachment 2 - Statement of Significance
Attachment 3 - Photographs



Location Map showing the development site at 33 Avenue Road at the northeast corner of Avenue Road and Yorkville Avenue. The two Victorian house form properties are immediately at the corner

REASONS FOR DESIGNATION (STATEMENT OF SIGNIFICANCE)

Description

The property at 33 Avenue Road is worthy of designation under Part IV, Section 29 of the Ontario Heritage Act for its cultural heritage value, and meets the criteria for municipal designation prescribed by the Province of Ontario under the three categories of design, associative and contextual values. York Square (1968-9) is located at 33 Avenue Road. Situated at the north east corner of Avenue Road and Yorkville Avenue, the site contains the building historically known as York Square (1968-9). The complex includes 7 semi-detached and row houses dating from c 1900 on Avenue Road and a new 1960s two-story infill building which extends from Yorkville Avenue into the site behind the historic houses to enclose an open air square with a tree.

Statement of Cultural Heritage Value

York Square (1968-9) has associative value for its significant innovative approach to urban regeneration. It is one of the first examples in Toronto of rehabilitating and integrating historic buildings into a new project which transformed the original buildings with a contemporary use and a new outdoor space which contributed significantly to the revitalisation of the historic Yorkville neighbourhood. York Square set an important precedent for heritage preservation before Ontario's heritage legislation existed, adaptive re-use, and for maintaining existing neighbourhood scale and character in opposition to the then standard practice of demolition.

The building is historically associated with the careers of the influential and nationally and internationally acclaimed architects A J Diamond (b 1932) and Barton Myers (b 1934). It is one of the earliest projects by this Toronto-based partnership of Diamond and Myers. Graduates of the University of Pennsylvania where they were students of both Louis Kahn and Robert Venturi, the South African and American architects immigrated to Toronto and set up an architectural partnership in 1968. York Square introduced principles which would underpin other projects by the firm: urban revitalization through the rehabilitation of existing buildings, appropriate infill, low-rise/high density and the creation of humanly-scaled, well-designed urban space. The work also endorsed an outspoken Modernist sensibility in form and material which combined their principles in future projects such as Eclipse Whitewear (1970), 19 Berryman Street (1970), Innis College (1975), Sherbourne Lanes (1975). After the dissolution of the practice in 1975 Diamond and Myers have continued to practice independently. Jack Diamond has received numerous awards including being made an Officer of the Order of Canada as well as Canadian Governor General's Awards for Architecture for work done in partnership with Donald Schmitt. Barton Myers has received Gold Medals from the Royal Architectural Institute of Canada and the American Institute of Architects.

York Square is innovative in creating a new type and style and reinvented the quality of the site on which it is located. The building complex displays a high degree of

craftsmanship in its architectural resolution and collage of forms and elements from different periods. Combining Modernist architectural elements while preserving the Victorian-style features of the original early 20th century houses on the site, York Square continues to be a celebrated local landmark in Yorkville as well as an important invention of a new urban prototype in Toronto. The project received an Ontario Association of Architects Award for its design in (1970) and was recognized in both national and international publications for its innovative thinking on urban renewal and for the integration of heritage buildings into a complex that embodied the socially radical and upbeat culture of its time.

Apart from its historical importance for its influential attitudes towards preservation and urban design, York Square maintains the associations with the 19th houses and the historic village of Yorkville. Further it is a significant connecting link to the 1960s when Yorkville was in its heyday as a cultural and commercial destination for youthful social transformation.

Contextually, York Square is a significant local landmark. Its relationship to Avenue Road and Yorkville Avenue are important in maintaining the scale and character of the neighbourhood. The open square at its heart continues to provide an urban oasis with trees and planting a few steps from these busy commercial thoroughfares. The complex is a landmark of historical importance in Yorkville as through its preservation of the historic houses it became an integral part of the neighbourhood's revitalization into a cultural and commercial destination that continues to flourish today.

Heritage Attributes

The heritage attributes of the property at 33 Avenue Road are:

- The scale, form and massing of the building complex
- The two to two-and-a-half-storey structure combining early 1900s and 1960s buildings with an open courtyard and access from Avenue Road and Yorkville Avenue
- The materials including red brick, painted brick, shingles, wood and metal elements
- The gable roofs and dormer windows of the Victorian buildings and flat roofs of the 1960s buildings,
- On the principal (west and south) façades on Avenue Road and Yorkville Avenue, the combination of the Victorian bay windows, dormer windows and circular headed windows behind a red brick screen of 1960s circular windows and rectangular windows (originally entrances)
- The open air square
- The 1968-9 red brick two story modern buildings enclosing the square
- The rear facades of the historic buildings and modern buildings facing the square
- The two entrances to the square, one from Avenue Road which passes through adjacent buildings and one from Yorkville Avenue which provides access through an enclosed lobby
- The staircases and access levels providing entrances to the properties facing the square
- The placement of the structure on the north east corner of Avenue Road and Yorkville.



33 Avenue Road - West Facades of Victorian House form buildings. Note 1960s ground level interventions



33 Avenue Road - South Facade of Victorian House form building at Yorkville Avenue frontage. Note 1960s ground level interventions



At the Avenue Road frontage, north portion of the site



South Façade at Yorkville Avenue. 1960s buildings and its interface with the heritage house form.



Internal Site - Existing York Square with surrounding 1960s structures