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Our Ref: 2022/5552/P and 2023/0920/L
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Dear Kate Moody,

**Appeal site: Stables Building in the land to the rear of Hampstead Police Station,
26 Rosslyn Hill, NW3
Appeal by: Mr Todd Berman**

Proposal i) planning permission 2022/5552/P refused on 25/4/23 for : Variation of condition 2 (approved plans) and removal of condition 7 (green roof) of planning permission 2022/0329/P granted on 01/03/2022 for 'Change of use and refurbishment of the Stables building and internal alterations to provide residential accommodation, alteration of the flat roof to provide skylights and adequate insulation, installation of solar PV panels, the opening of windows previously blocked on the side elevation and the installation of a rear dormer window at roof level', namely to include removal of original slates and replacement with grey slates, installation of solar slates on rear pitch, removal of green roof, relocation of roof lantern, addition of solar panels and relocation of Air Source Heat Pump (part retrospective).

Proposal ii) Listed building consent 2023/0920/L refused on 25/4/23 for: Removal of original slates and replacement with grey slates, installation of solar slates on rear pitch, removal of green roof, relocation of roof lantern, addition of solar panels, relocation of Air Source Heat Pump, and minor internal alterations (part retrospective)

I refer to the above appeals against the Council's refusal to grant planning permission and listed building consent dated 25/04/2023. The Council's case is set out in the Officer's delegated report. The report details the application site and surroundings, the

site history and an assessment of the proposal. A copy of the report was sent with the questionnaire.

In addition to the information sent with the questionnaire, I would be pleased if the Inspector could take into account the following information and comments before deciding the appeal.

Summary of site

- 1.1. The application site is the stables building behind the vacant Former Hampstead Police Station at 26 Rosslyn Hill. The stables were converted to a house following planning permission dated 2/9/22. The site is located on the north side of Rosslyn Hill at the junction with Downshire Hill. The former police station, including the stables, is 'sui generis', being a use that does not fall within any defined use class. The stables building is situated at the rear of the site (the northern part) and is accessed via Downshire Hill.
- 1.2. The stables building comprises a ground floor and first floor. There is a hardstanding area that was used for car parking between the main building and the stables. The site slopes down to the rear, towards the stables building. The site has been vacant since 2013.
- 1.3. The buildings on site are Grade II listed and sit within the Hampstead Conservation Area. The main building and the stables building were constructed in red brick with stone dressings as designed by J Dixon Butler (1910-13). The buildings on the site are on the 'Buildings at Risk' register, given the length of time they have been derelict.
- 1.4. The site falls within the area covered by the Hampstead Neighbourhood Plan and the proposals are assessed against the policies within this plan as well as those of the Local Plan. The Hampstead Neighbourhood Plan designates this part of the conservation area as Character Area 3 – 19th Century expansion. The site has a PTAL rating of 4, which is a 'good' accessibility level and the site sits within a controlled parking zone.
- 1.5. The site was purchased by the Educational Funding Agency (EFA) in 2013, but it has since been sold following unsuccessful attempts to obtain planning permission for the change of use of the main building to a school. The area is predominantly residential. The site is bounded by the rear gardens of flats on Downshire Hill to the north-west and north, by the rear gardens of properties on Hampstead Hill Gardens to the north-east.

The refused planning application and listed building consent subject of appeal

1.6. The detailed reasons for refusal of the planning application and listed building consent are as follows:

Planning refusal

The replacement of original roof slates by new slates and solar slates, by virtue of the loss of original fabric and the inappropriate location, design and appearance of new slates and solar slates, would result in harm to the character and appearance of the host listed building and conservation area, contrary to policies D1 (Design) and D2 (Heritage) of the London Borough of Camden Local Plan 2017 and policies DH1 and DH2 of the Hampstead Neighbourhood Plan 2018.

Listed Building refusal

The replacement of original roof slates by new slates and solar slates, by virtue of the loss of original fabric and the inappropriate location, design and appearance of new slates and solar slates, would result in harm to the special interest and appearance of the listed building, contrary to policy D2 (Heritage) of the London Borough of Camden Local Plan 2017

The reasons for refusal are amplified in the delegated report and are not repeated here. The appellant's grounds of appeal are addressed below.

Planning history

Main Building

1.7. 2019/2375/P and 2019/2491/L - Change of use of the site from a police station (sui generis) to a one-form entry school (Use Class D1) for 210 pupils and business/enterprise space (Class B1) including alterations and extensions to the rear and associated works. **Refused 15 May 2019 (Appeals dismissed)** The application was refused on level of increased traffic, impact on amenity and proximity to a main road with poor air quality. The inspector dismissed the appeal on the issue of noise and impact on neighbouring amenity

1.8. 2016/1590/P and 2016/2042/L Change of use from police station (sui generis) to school (Use Class D1) including the partial demolition and extension to the rear of the Grade II Listed Building and associated works. **Refused 9 April 2016.** The application was refused on grounds of design, traffic congestions, impact on amenity, and air quality.

Stables Building at rear

- 1.9. 2022/0329/P and 2022/0624/L Change of use and refurbishment of the Stables building and internal alterations to provide residential accommodation, alteration of the flat roof to provide skylights and adequate insulation, installation of solar PV panels, the opening of windows previously blocked on the side elevation and the installation of a rear dormer window at roof level. **Granted 21st September 2022**

2. Status of policies and guidance

- 2.1. In determining the abovementioned application, the London Borough of Camden had regard to the relevant legislation, government guidance, statutory development plans and the particular circumstances of the case.
- 2.2. The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on 3rd July 2017. The following policies in the Local Plan are considered to be relevant to the determination of the appeal:
- A1 Managing the impact of development
 - D1 Design
 - D2 Heritage
 - CC1 Climate Change Mitigation
 - CC2 Adapting to climate change
- 2.3 The Council also refers to supporting guidance in Camden Planning Guidance (CPG) documents. The CPG documents most relevant to the proposal are as follows: The Camden Planning Guidance documents were subject to public consultation and were approved by the Council as indicated.
- CPG Home Improvements (January 2021)
 - CPG Design (January 2021)
 - CPG Energy efficiency and Adaption (January 2021)
- 2.4 The Hampstead Neighbourhood Plan was established in 2018 and contains spatial policies in relation to area, defining its character and supporting certain development. The policies that have been considered are listed below:
- DH1 Design
 - Policy DH2 Conservation Areas and Listed Buildings
 - Policy NE4 Supporting Biodiversity

- 2.5 The National Planning Policy Framework was published in April 2012 and revised in September 2023. It states that proposed development should be refused if it conflicts with the local plan unless other material considerations indicate otherwise. The full text of the relevant adopted policies was sent with the questionnaire documents.
- 2.6 The Council's adopted policies are recent and up to date and should be accorded full weight in accordance with paragraphs 31 – 33 and 213 of the NPPF.
- 2.7 There are no material differences between the NPPF and the Council's adopted policies in relation to this appeal.
- 2.8 Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the Listed Buildings Act") provide a statutory presumption in favour of the preservation of the character and appearance of Conservation Areas, and the preservation of Listed Buildings and their settings. Considerable importance and weight should be attached to their preservation. A proposal which would cause harm should only be permitted where there are strong countervailing planning considerations which are sufficiently powerful to outweigh the presumption
- 2.9 The duties imposed by the Listed Buildings Act are in addition to the duty imposed by section 38(6) of the Planning and Compulsory Purchase Act 2004, to determine the application in accordance with the development plan unless material considerations indicate otherwise.
- 2.10 The NPPF requires its own exercise to be undertaken as set out in chapter 16 - Conserving and enhancing the historic environment. Paragraph 190 requires local planning authorities to identify and assess the particular significance of any heritage assets that may be affected by a proposal. Paragraphs 199-202 require consideration as to the impact of a proposed development on the significance of a designated heritage asset, including an assessment and identification of any harm/the degree of harm. Paragraph 202 states:

'Where a development proposal 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, where appropriate, securing its optimum viable use.'

3. Comments on appellant's grounds of appeal

- 3.1** The appellant has put forward a statement of case which discusses the reason for refusal for both applications. The following addresses each paragraph.

Firstly the council points out how listed building works are assessed.

- 3.2 The council contends when assessing alterations to listed buildings, the objective is to protect the special interest of the listed building. The NPPF, from which Camden's conservation policies spring, outlines this duty, saying, "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 (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less-than-substantial harm to its significance.
- 3.3 The special interest of a building can include, but is not limited to, its visible parts. Buildings are listed in their entirety. It should therefore be noted that every component of a listed building can be considered to contribute to its special interest, whether or not it is publicly visible, or even visible to the occupants of the building. In this way, for example, timber framing within a wall or peg joints within a roof, are protected, even though they might be seldom, or never, seen.

Assessment of the Welsh slates

- 3.4 Here, it is held that the former stables' roofing material, which was of Westmoreland slate, an unusual material, contribute to the special interest of the listed building. This contribution is enhanced by the slates' matching those of the police station to which the stables were originally an ancillary building.
- 3.5 The Welsh slates are the wrong material for the building and introduce inauthenticity, some being copies of slates. The roof slope has not just gone from having rare and historically correct slates to having generic ones; it now has synthetic, ones that have electrical equipment connected to them internally. This harms the authenticity and intactness of the building.

Paragraph 2 of the Appeal Statement

- 3.6 In relation to paragraph 2 of the letter, this email is from a Camden Council planning officer which advises that mounting solar panels may be accepted instead of solar slates. The council would not normally accept such a solution on an externally visible roof slope of a listed building but, in these circumstances, it was considered an option. However, the appellant states that he finds this option counterintuitive. The reasons why the surface-mounted option is considered superior are: The underlying historic substrate – Westmoreland slate -- would remain present. Although the historic fabric would have been lost, at least it would have been replaced like for like. And as technology progresses and either; clean, green electricity becomes increasingly cheap; or solar panels become smaller, the devices could be removed and the roof returned to its original state. That can never be the case with the current arrangement; in short, it is not reversible, a key tenet of modern conservation.

- 3.7 The email confirms that this advice is purely informal and should not prejudice any decision. Moreover the application has benefited from multiple Council officers providing advice and email correspondence throughout this process.

Paragraph 3 of the Appeal Statement

- 3.8 Paragraph 3 details that the decision undermines a host of legal and planning regulations with respect to sustainability, energy and efficiency and the environmental protection however there are no details as to what these legal or planning matters are. Due to the vagueness of the claim it is difficult to respond to this point other than point to the officer report which details the assessment.
- 3.9 Previous planning consents and the officer report for the appealed application actually supported the introduction of some solar panels, air source heat pumps and green roofs on site which significantly contribute to improve the energy efficiency of the building, providing more biodiversity and introducing more renewable energy on site. Therefore the Council sees very little merit in the claim that it has 'undermined' any planning regulations. Again, if the applicant could point out what the legal regulations are that would be helpful. It is also important to mention that the COP summits are not material planning considerations

Paragraph 4 of the Appeal statement

- 3.10 In relation to paragraph 4, the argument is made that there is public good in creating a highly efficient building from a building not currently being used which outweighs the 'less than substantial harm' caused by the removal of welsh slates and the addition of solar slates. This position is not argued by the Council but is not one that is agreed on as per the officer report.
- 3.11 This is a single family dwelling and the refused proposal involves removing a highly sensitive aspect of the building which is significant to its listed nature and replacing it with uncharacteristic tiles and solar tiles which can also be read in public and private views. The facts that the rear elevation of the stables is not widely visible and the appellant's neighbour favours the scheme are not weighty considerations. Overall it is considered that there is very little public benefit in allowing this alteration, especially considering the other energy efficiency alterations supported on site as well.

3.12 Other comments:

- 3.13 In the supplementary document called "Stables appeal 1 to be read in conjunction with statement" it states that that at no point did the officer say to stop works on the roof. This is not correct. The officer told the senior of the two architects present that the works were not appropriate. The officer and the architect then discussed whether or not the solar slates could be returned to the supplier. The appellant Mr Berman had by that point left the site, so will presumably be unaware of this.

However, any consequential loss caused by fully roofing the building is not the responsibility of the council.

Suggested conditions should the inspector be minded to allow the appeal

The work has been undertaken. It is not considered that conditions would mitigate the impact of the development as set out above.

4 Conclusion

Based on the information set out above, and having taken account of all the appellant's arguments and additional information submitted, the Council maintains that the proposal is considered to be unacceptable for the reasons given. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns.

If any further clarification of the appeal submission is required please do not hesitate to contact Ewan Campbell on the above direct dial number or email address.

Yours sincerely,

Ewan Campbell
Planning Officer
Regeneration and Planning
Supporting Communities

