



Appeal Decisions

Site visit made on 16 April 2024

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 7 June 2024

Appeal A Ref: APP/X5210/W/23/3323352

26 Rosslyn Hill, Camden, London, NW3 1PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr. Todd Berman against the decision of the Council of the London Borough of Camden.
- The application Ref is 2022/5552/P.
- The application sought planning permission 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, without complying with conditions attached to planning permission Ref 2022/0329/P, dated 21 September 2022.
- The conditions in dispute are Nos 2 and 7 which state that:
 - [2] The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Plans DM.01 Rev 01, DM.02 Rev 01, DM03 Rev 01, DM.04 Rev 01, PD.01, PD.02, PD.03, PD.04, PD.05, PD.07 Rev 01. Design and Access Statement Rev 01 (UVA Design Ltd) 26/01/2022.
 - [7] Prior to occupation, full details in respect of the living roof in the area indicated on the approved roof plan shall be submitted to and approved by the local planning authority. The details shall include
 - i. a detailed scheme of maintenance
 - ii. sections at a scale of 1:20 with manufacturers details demonstrating the construction and materials used
 - iii. full details of planting species and densityThe living roofs shall be fully provided in accordance with the approved details prior to first occupation and thereafter retained and maintained in accordance with the approved scheme.
- The reasons given for the conditions are:
 - [2] For the avoidance of doubt and in the interest of proper planning.
 - [7] In order to ensure the development undertakes reasonable measures to take account of biodiversity and the water environment in accordance with policies G1, CC1, CC2, CC3, D1, D2 and A3 of the London Borough of Camden Local Plan 2017.

Appeal B Ref: APP/X5210/Y/23/3323349

26 Rosslyn Hill, Camden, London, NW3 1PD

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
- The appeal is made by Mr. Todd Berman against the decision of the Council of the London Borough of Camden.
- The application Ref is 2023/0920/L.
- The works proposed are 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).

Decision – Appeal A

1. The appeal is allowed and planning permission is granted 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 at 26 Rosslyn Hill, Camden, London, NW3 1PD in accordance with the terms of the application, Ref 2022/5552/P, and plan nos. 113-21 DM.01 Rev 02, 113-21 DM.02 Rev 02, 113-21 DM.03 Rev 02, 113-21 DM.04 Rev 02, 113-21 MP01, 113-21 PD.01 Rev 01, 113-21 PD.02 Rev 01, 113-21 PD.03 Rev 01, 113-21 PD.04 Rev 01, 113-21 PD.05 Rev 01, and 113-21 PD.06 Rev 01 without compliance with condition numbers 2 and 7 previously imposed on planning permission Ref 2022/0329/P dated 21 September 2022 and subject to the conditions in the attached schedule.

Decision – Appeal B

2. The appeal is allowed and listed building consent is granted 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) at 26 Rosslyn Hill, Camden, London, NW3 1PD in accordance with the terms of the application Ref 2023/0920/L and the plans submitted with it subject to the conditions in the attached schedule.

Preliminary Matters

3. The appeals relate to the same proposal under different legislation. I have dealt with both appeals together in my reasoning.
4. An updated version of the National Planning Policy Framework (Framework) was published on 19 December 2023. Its content is largely unchanged in relation to the main issues of this appeal, so I have not sought the views of the main parties on this matter.
5. The work has been carried out, and I am therefore considering the appeals retrospectively.
6. The original planning permission was subject to a Section 106 Agreement to secure a contribution for off site affordable housing and to ensure that the development would be car free. A subsequent deed of variation was agreed relating to a variation to the initial decision¹. This included a clause to cover any future variations, and is therefore relevant to Appeal A. I can therefore be satisfied that the measures that the Council originally considered necessary to be secured by a legal agreement would be secured by the deed of variation if Appeal A is allowed, and this is not a matter that I need to consider further.
7. I have used the description of the works for Appeal B that the Council used in its decision, as it is more concise and accurate than the description used by the appellant in the appeal correspondence. Furthermore, although the application

¹ Council ref: 2022/4112/P

forms submitted only refer to the variation of a scheme, it appears to have been the appellant's intention to seek a new listed building consent for a revised conversion scheme. Indeed, the Council processed the application in this way. I am therefore satisfied that it is appropriate for me to also process the appeal in this way.

Main Issues

8. The main issues for both appeals are the effect of the proposal upon the significance of the grade II listed building known as Former Police Station and Courthouse, including stable and harness room, railings and lamps², and whether it would preserve or enhance the character and appearance of the Hampstead Conservation Area.

Reasons

9. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) require the decision maker to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Additionally, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
10. The appeal building is a modest former stables. It stands behind a substantial range of road-facing buildings that were built as a police station and courthouse and date from 1913. The listing rightly describes them as a bold and assured composition of considerable civic presence that is built to a high standard and in good quality materials. Somewhat in contrast, the appeal building sits in the far corner of the rear courtyard and has a largely functional appearance, though also features good quality materials that include gauged brick lintels and Westmorland slates laid in diminishing courses.
11. The appeal building contributes to the overall significance of the building group and is illustrative of the way the buildings originally functioned. However, it is not visible from the street, and in the context of the scale and quality of the frontage buildings its significance is modest. Its rear elevation aligns with the plot boundary and faces towards the gardens of neighbouring dwellings. From these perspectives the building is not readily experienced in the context of the main police buildings, thus the significance of the rear of the building and contribution that it makes to the overall significance of the building group is limited.
12. The appeal building is in the Hampstead Conservation Area (HCA). It is located in an area that forms part of the 19th century expansion of the former village and marks a transition between the dense development to the west and the more spacious layouts to the east and south with many detached and paired dwellings set in generous plots. These characteristics as well as its wealth of prominent historic buildings are key contributors to the significance of the HCA.
13. The police buildings fronting the site are prominent public buildings that contribute to the HCA's significance. The stable building is modest in comparison, and largely unseen from a public place. The contribution it makes to the character and appearance of the HCA is limited.

² List Entry Number: 1130397

14. The Westmorland slate has been re-laid on the front roof slope in diminishing courses that match the original design. It is an important component of the building and enables it to continue to look the part as it faces out towards the principal buildings from the back of the site.
15. The slate roof at the rear differs from this original finish in terms of its material and the even coursing of the replacement covering. The solar slates do however match the coursing of the adjacent areas of Welsh slate, and overall the appearance of a slate roof covering is maintained. The rear of the building is not prominent to view, and cannot easily be seen within the grounds of the principal building or within a view where the change in material would cause significant harm.
16. I accept that a small level of harm has arisen from the loss of original fabric and the use of a non-authentic replacement modern material in the form of the solar slates. Furthermore, it is likely that the solar slates will weather differently to the adjacent areas of Welsh slate, which would make the different material more noticeable in the future. This would however only be properly discerned from a small number of adjacent residential properties that are unrelated to the complex of police buildings, and the rear of the appeal building is partly obscured by a substantial outbuilding in the neighbouring garden. The level of harm is therefore low.
17. The Hamstead Conservation Area Statement refers to the harm caused by the loss of original features. The visual impact of the change on the wider area is however very limited, and only discernible from a small number of private views. The change of material has not harmed an aspect of the HCA that contributes to its significance given the very modest contribution the existing building makes to the character and appearance of the HCA.
18. In terms of the Framework the harm to the significance of the listed building would be less than substantial but would nevertheless be of considerable importance and weight. Paragraph 208 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
19. The change of roof material forms part of the works to convert the building to a dwelling and in doing so facilitate a suitable new use that has secured its repair and long term conservation. I give considerable weight to this as the building was formerly without a use and considered to be an historic building at risk. Weight should also be given to the provision of a new family sized dwelling and the contribution this makes to local housing supply. These matters are weighty public benefits, and more than sufficient to outweigh the very modest level of harm.
20. In reaching this position I have had special regard to the preservation of the building and its setting, in accordance with the LBCA. Additionally, I have found that the proposal would preserve the character and appearance of the HCA. It would accord with Policies D1 and D2 of the Camden Local Plan 2017 and Policies DH1 and DH2 of the Hampstead Neighbourhood Plan 2018-2033. Together these seek to ensure that development proposals are of a high quality of design that respects local character and preserves the historic environment.

Other Matters

21. Appeal A also relates to the removal of a condition on the original planning permission that required the submission of details of the living green roof. The living green roof no longer forms part of the proposal as the area would be used to mount solar panels instead. The Council has no objection to this change and I see no reason to take a contrary view. Accordingly, this condition should be removed.

Conditions

22. With regard to Appeal A, the Council sent a list of conditions that it imposed on the original planning permission. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
23. Conditions 1-3 are imposed to ensure that the required details are submitted, approved and implemented so as to make the development acceptable in planning terms. I have adapted the conditions the Council previously imposed by setting out a strict timetable for compliance because the conversion was largely complete and the building occupied at the time of my visit, and it is not therefore possible for me to restate conditions with a prior to occupation trigger. These conditions will ensure that the development can be enforced against if the requirements are not met.
24. With regard to Appeal B the Council suggested a single condition to secure details of works associated with service installations. I have imposed this condition as I consider it necessary to safeguard the special interest of the listed building.

Conclusion

25. For the reasons given the appeals should be allowed.
26. With regard to Appeal A, a new planning permission without the disputed conditions should be issued that retains the conditions from the previous permission that appear to still be relevant.

A Tucker

INSPECTOR

Schedule of Conditions – Appeal A

- 1) Unless within 2 months of the date of this decision full details of hard and soft landscaping and means of enclosure of all un-built, open areas to include details of any proposed earthworks including grading, moulding and other changes in ground levels, is submitted in writing to the local planning authority for approval, and unless the approved details are implemented within 4 months of the local planning authority's approval, the residential use of the building shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the residential use of the building shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved details specified in this condition, agreed details shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) Unless within 2 months of the date of this decision details of the air source heat pump, including manufacturers details, fixing method and location of cables, are submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 4 months of the local planning authority's approval, the residential use of the building shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the residential use of the building shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved details specified in this condition, agreed details shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Unless within 6 months of the date of this decision the photo voltaic cells have been installed in full accordance with the details hereby approved the residential use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as the approved details are implemented.

Upon implementation of the approved details specified in this condition, the photo voltaic cells shall thereafter be permanently retained and maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) No lights, meter boxes, flues, vents or pipes, and no telecommunications equipment, alarm boxes, television aerials, satellite dishes or rooftop 'mansafe' rails shall be fixed or installed on the external face of the building.
- 5) The external noise level emitted from plant, machinery or equipment at the development hereby approved shall be lower than the typical existing background noise level by at least 10dBA, by 15dBA where the source is tonal, as assessed according to BS4142:2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.
- 6) Machinery, plant or equipment at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.
- 7) The lower panes of the three windows facing on to the communal garden at the rear of Hampstead Hill Gardens, shall be obscured and fixed shut at all times.

Schedule of Conditions – Appeal B

- 1) Prior to the installation of the mechanical ventilation and heat recovery system (MVHR) details of servicing through the building in relation to the MVHR system and air source heat pump, including manufacturers details, fixing method and location of cables, shall be submitted to and approved in writing by the local planning authority. The relevant part of the works shall be carried out in accordance with the details thus approved and all approved samples shall be retained on site during the course of the works.