

Date: **25/03/2025**  
Your refs: **APP/X5210/W/25/335493 & APP/X5210/Y/25/3359497**  
Our refs: **2024/4338/P & 2024/4871/L**  
Contact: Edward Hodgson  
Direct line: 020 7974 8186  
Email: [Edward.Hodgson@camden.gov.uk](mailto:Edward.Hodgson@camden.gov.uk)

**Planning Solutions Team**  
**Regeneration and planning**  
Culture & environment directorate

London Borough of Camden

Town Hall

Argyle Street

London

WC1H 8EQ

The Planning Inspectorate  
3/B Eagle Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

Dear Ruth Howell,

**Appeal by Mr Todd Berman**

**Site: Stables Building in the land to the rear of Hampstead Police Station, 26 Rosslyn Hill, LONDON, NW3 1PD**

**Appeal against refusal of planning permission dated 14th January 2025 for:**

**Proposal:** Change of use and refurbishment of the Stables building including demolition of the existing annex and construction of new two storey building with front windows, bin store and PV panels to provide residential accommodation (C3)

**Appeal against refusal of listed building consent dated 14th January 2025 for:**

**Proposal:** Change of use and refurbishment of the Stables building including demolition of the existing annex and construction of new two storey building with front windows, bin store and PV panels to provide residential accommodation (C3)

Planning Permission was refused on the following grounds:

1. Impact on the character and appearance of the host listed building and conservation area.
2. Absence of a legal agreement securing an affordable housing contribution
3. Absence of a legal agreement securing car free development

Listed Building Consent was refused on the following grounds:

1. Impact on the special architectural and historic interest of the listed building

## **1.0 Summary**

### **Site and designations**

- 1.1 The application site is the stables building of the vacant Former Hampstead Police Station at 26 Rossllyn Hill. The site is located on the north side of Rossllyn 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 (see plan below). 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. The buildings on site are Grade II listed and sit within the Hampstead Conservation Area. The listing specifies the stables building and is listed as a curtilage structure. 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.

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.

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 to a school.

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 area is predominantly residential



*Map showing the stables site in red, to the rear of the main police station*

- 1.2 The Council's case is set out in detail in the attached Officer's Delegated Report, and it will be relied on as the principal Statement of Case. 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 also take into account the following information and comments before deciding the appeal.

Relevant planning history for the site includes decision:

**2024/0222/P and 2024/1090/L** - Change of use and refurbishment of the Stables building extending existing residential accommodation (C3) and providing addition bedroom. Demolition of the existing annex and construction of new single storey building with front windows, bin store and PV panels **Granted subject to s106 agreement**

For the sake of clarity, the Council understands that no application for costs has been made, rather, that the appellant is challenging the requirements to provide an affordable housing payment-in-lieu.

## **2.0 Status of Policies and Guidance**

*2.1 The London Borough of Camden Local Plan 2017 (the Local Plan) was formally adopted on the 3 July 2017 as the basis for planning decisions and future development in the borough. The relevant Local Plan policies as they relate to the reason for refusal are:*

*A1 Managing the impact of development*  
*CC1 Climate change mitigation*  
*CC2 Adapting to climate change*  
*CC3 Water and flooding*  
*CC5 Waste*  
*D1 Design*  
*D2 Heritage*  
*H1 Maximising housing supply*  
*H2 Maximising the supply of self-contained housing from mixed-use schemes*  
*H4 Maximising the supply of affordable housing*  
*H6 Housing choice and mix*  
*H7 Large and small homes*  
*T1 Prioritising walking, cycling and public transport*  
*T2 Parking and car-free development*

It is noted that the Council has begun the process of updating the Local Plan. Having looked at the relevant emerging policies, I am of the opinion that there is no material difference that would alter the Council's decision and within this appeal

2.2 The Council also refers to supporting guidance documents. The Camden Planning Guidance (CPG) was adopted following the adoption of the Camden Local Plan in 2017. There have been no changes to the relevant policies since the application was refused.

There are no material differences between the NPPF and the council's policies in relation to this appeal.

### **3. Comments on grounds of appeal**

3.1 The appellant's statement is set out in 3 main points in response to the three reasons for refusals and these are summarised and addressed below under relevant headings:

1. Character and Appearance of the listed building and conservation area:

#### **3.2 Response to Point 1:**

When pre-app advice was originally provided for this site, it stated: "It is felt that the existing store is already inappropriate in its relation to the host stables, being essentially a front extension. Front extensions are considered unacceptable in almost all circumstances. Given that this structure is felt to be unwelcome in its position, it is not considered appropriate to enlarge it" (2022/5620/PRE).

3.3 The pre-app advice went on to state: "It should be remembered that the existing pattern of development has only come about because a utilitarian structure was crudely attached to the front of an historic building by an institution. It does not form part of a traditional pattern of development. It is not desirable to worsen the existing position by enlarging the front extension into a two-bedroom house, at a right angle to the historic building and directly in front of it".

“A structure of the same dimensions as the existing and with a flat roof connected, as now, to the house by a yet more subordinate structure might be considered acceptable”.

The applicant clearly understood this advice and duly submitted a plain, one-storey structure that stood within the footprint of the pre-existing structure, which was granted consent (2024/0222/P and 2024/1090/L). This advice could not have been clearer and it is in direct contradiction of this advice that the applicant is now attempting to enlarge the consented scheme. In his opening summary, the applicant notes that Camden prioritises the generation of housing and that his enlarged proposal would therefore provide a public benefit. However, this is not at the expense of all other considerations, of which conservation is an important one. Were the proposal providing a significant amount of housing, conservation might be weighed less heavily in the balance. However, the proposal does not even enlarge the scheme by a single housing unit, providing instead one extra bedroom. It therefore does not follow that the proposal will meaningfully contribute to the borough’s housing stock and it is suggested that this argument does not carry weight.

3.4 The appellant goes on to argue that the site is entirely private, with no public views. It is, however, overlooked by numerous neighbours, many of whom have objected. Conservation area protection extends to non-public areas such as back gardens and, increasing the height of this backland development is considered harmful to the character and appearance of the Hampstead Conservation Area. The existing proposal has solar panels that are largely concealed by a parapet. The enlarged proposal would see these solar panels fully exposed in side views. This is because the applicant has sought to minimise the additional bulk that a parapet would cause. However, the fully exposed panels seen at this height would be harmful to the garden setting of this part of the conservation area. Moreover, the development would take place in the close vicinity of a grade-II-listed building. As was clearly pointed out at pre-app, the pre-existing development was already undesirable and any enlargement would worsen the situation and in so doing cause harm to the setting and special interest of the façade of the listed stables building. The applicant goes on to state that the evidence store is not material to the listing. This may be true in general terms when considering matters such as its fabric. However, it cannot be denied that it is attached to the listed building and increases in its size have a direct impact on the setting and appreciation of the host building.

3.5 The appellant mentions a previous appeal decision which, he says, declared that the site does not have “a material impact on the Hampstead Conservation Area”. This appeal related to unauthorised works where the appellant had removed Westmoreland slates from a roof slope and replaced them with synthetic solar slates (2022/5552/P and 2023/0920/L). What the inspector wrote, at paragraph 13, was: “The contribution it makes to the character and appearance of the HCA is limited”. This is not the same as saying that the contribution is not material, or worthy of consideration, and, in any case, that inspector was assessing works to a rearward-facing roof slope (APP/X5210/W/23/3323352, APP/X5210/Y/23/3323349). This box roof extension in front of the listed building is considerably more prominent and, unlike the rear-facing roof slope, will be experienced by surrounding neighbours, many of whom have objected.

3.6 The appellant states that the extension is in keeping with neighbouring properties. It is difficult to see what this assertion is based on. The most important neighbouring property, the listed building of which it forms a part, is a 19<sup>th</sup>-century structure of traditional domestic form. The erection of a flat-roofed metal box with exposed solar panels on top of it has no obvious contextual connection with the listed building or its neighbours.

3.7 The rear elevations of the surrounding houses on Downshire Hill are also largely traditional in form. The flat-roofed front extension was already out of character, and adding bulk to it, such that it protrudes further above its existing form would be harmful to the conservation area. Works to the rear of the police station are not in the immediate vicinity of the stables and so are not directly relevant. They relate in any case to an office development with flats, which means that they are not appropriate comparison for this domestic development, nestled among traditional houses.

3.8 Finally, the applicant argues that no objections were received from the amenity societies. Amenity societies are voluntary bodies and lack of response to an application represents no indication either way. When they do object, their objection is a significant consideration, but, if, for whatever reason, they do not respond, the normal considerations of planning are still applied.

#### **Appellant's detailed arguments:**

##### **"We followed the pre-app guidance"**

3.9 As has been shown above, the pre-application advice clearly stated that any increase in the built form at this location would increase the already unwelcome prominence and bulk of the pre-existing structure. The appellant appears to have fully understood this and submitted a proposal in line with the advice, which was duly granted consent.

At no point are the matters the appellant raises in this section – 60% reduction in the size of the roof extension, walls behind parapets, dormer windows, side and back windows overlooking neighbours' gardens – mentioned in the pre-app document.

##### **"Given the unique characteristics of the site location and the buildings, the impact of the proposed mansard roof would not be material"**

It is not denied that the pre-existing structure is unique. What is in question is whether its already harmful impact should be magnified. The fact that a harmful structure already exists does not justify its enlargement.

3.10 At this point it might be pointed out that the appellant's references to a mansard roof are inaccurate. A mansard is a specific traditional sloping roof form often used to enlarge a historic building. What is proposed here is a box roof extension, which is not contextually appropriate to the host stables building or typical of houses on Downshire Hill. The pre-existing form of the evidence store to the listed building has the virtue of already existing in the conservation area, so is a "fact on the ground", so to speak. However, were an application to be made to build it today, it would not be granted consent. It is plainly harmful to the listed building. Considered in isolation from the listed building, in its positioning relative to the houses and gardens on Downshire Hill and, it is analogous to a garden building. Given this, it would be inappropriate for it to gain bulk or an additional storey.

3.11 The appellant states that the stables is curtilage listed. This is incorrect. The stables is specifically mentioned in the listing ("Former Police Station and Courthouse, including stable and harness room, railings and lamps"). He goes on to quote a previous delegated report which describes the evidence store as a "modest ancillary building which does not contribute to the listing". It could indeed be argued that the evidence store harms the listed building. Either way, the addition of bulk to its roof would only increase this absence of contribution. Again, he quotes the previous appeal result which said that the stables' contribution to the

“character and appearance of the HCA is limited”. Whether or not the contribution is modest, it will certainly not be improved by adding a box roof extension to the evidence store attached to its front.

### **3.12 “The public benefits of this proposal outweigh the ‘less than substantial harm’”**

The appellant quotes the inspector’s appeal decision again, in which he states that finding a use for the listed building is a public benefit. It should however be borne in mind that the inspector was referring to the stables building, not to the evidence store, and was considering the unauthorised removal of Westmoreland slates, not a roof extension. It should also be borne in mind that that a beneficial use for both the stables and the evidence store has now been found, when their conversion to residential use was allowed, so this public benefit has already been claimed. The appellant again mentions the benefits of creating additional housing. This proposal would create one additional bedroom in a luxury dwelling in Hampstead. It would not create a new home and its limited contribution is not considered to outweigh the harm caused to the listed building and to the conservation area. In reality, the benefit created by the additional bedroom would be entirely private.

### **3.13 “The design of the mansard roof is sympathetic to its surroundings”**

The design is not sympathetic to any of the historic buildings in the vicinity. It could be said to be sympathetic to the evidence store on which it stands but that is not a form that it is considered appropriate to enlarge in this setting. The appellant cites a large box roof extension at 52 Downshire Hill as a precedent. 52 is not a listed building and the extension is highly inappropriate, being harmful to the conservation area and the setting of the listed building next door. It was granted planning permission in 1995 and detailed records do not appear to survive, but this pre-dates the NPPF and the strong protection it offers to the historic environment. The appellant states that zinc can be an appropriate material for roof extensions. This is true. However, it is not appropriate to add a roof extension to this evidence store, by virtue of its proximity to the façade of the host listed building and its backland position, given that the proposed extension and exposed solar panels will protrude above the party wall of the communal gardens next door. A precedent is cited in an appeal for a roof extension at 4b Hampstead Hill Gardens. However, 4b is not a listed building and does not adjoin a listed building. It is also part of a short terrace of modern houses and is a frontage property, rather than a former evidence store in a backland site. It is not therefore a relevant comparison. The applicant quotes the inspector, who wrote: “The setting of the listed buildings, key to how their significance is appreciated, relates principally to the street views of these tall, closely packed houses.” This inspector was explaining how views of listed buildings across the street seen over the top of the appeal site from behind were not a major consideration, as opposed to making a generalisation about what is important about the setting of all listed buildings. That inspector went on to write that: “Preserving every view within a conservation area might unreasonably preclude any degree of change, however appropriate”. But this does not mean that no view within a conservation area should be preserved. The upwards extension of this evidence store, in the setting of the listed building and the neighbouring gardens would not constitute an appropriate change.

### **3.14 “The extension and mansard roof are valuable additions to our community’s housing stock”**

It has been explained that, while housing provision is a significant consideration, it is not the only consideration. As previously mentioned, the addition of an extra bedroom would make

no meaningful contribution to the Council's housing numbers as the principle of providing a new residential unit is already established. No new units would be provided as part of this proposal. In addition, larger homes are of lower priority within the Borough, and indeed the Hampstead Neighbourhood Plan emphasises the need for smaller (studio, 1 and 2 bedroom) market units. The proposal would result in large single-dwelling which would not meet the priority needs of the Borough. The need to consider other planning considerations is clearly supported in appeal decision APP/X5210/W/24/3352179 dated 13/02/2025. The appellant notes that the development could "clearly have been a new semi-detached compact two-bedroom home". There would be no chance of such a house being considered acceptable in this location. The appellant's statements about footprints and plot sizes do not take into account the nature of this backland site, attached as it is to the front of a listed building and adjoining neighbouring gardens. Obviously, were the site to be a gap site, facing a street, among other multi-storey dwellings, different constraints would apply.

### **3.15 "The PV panels are a critical addition to this highly energy efficient extension"**

There is no objection to solar panels *per se*. The solar panels attached to the consented proposal were screened behind a parapet. This meant that they were not prominently visible except from above. In this scheme, the appellant's need to reduce the upward bulk of the proposal has led him to leave the solar panels entirely on display from all angles and in all views. This prominent array of rooftop plant is at odds with the garden character of its surroundings and so is harmful to this part of the conservation area as well as to the setting of the listed stables. Given the constrained nature of the site, abutted on two sides by neighbours' gardens, the consented scheme relied heavily on roof lights. Revisions to screen these roof lights were requested for the benefit of surrounding upstairs residents who would otherwise have suffered excessive upwards light pollution at night. The revised roof lights remained nonetheless concealed behind the enclosing parapet. In this case, the appellant cannot provide "mitigating enclosures" for his solar panels without further increasing the bulk and mass of the roof extension. Finally, the appellant states that "highly energy efficient housing" should be supported. But the consented scheme already was highly energy efficient. The solar panels are not the issue in contention; the point is that, in increasing the height of the proposal in an attempt to add a bedroom, the solar panels are removed from their screened position, elevated above the party wall and thrown into stark relief on the rooftop.

### **3.16 Conclusion**

In summary, the appellant already has consent for an acceptable development on this site, that does not significantly worsen the harm caused by the inappropriately sited evidence store. Please see above referencing planning permission 2024/0222/P and listed building consent 2024/1090/L. Although the evidence store is harmful to the character and appearance of the Hampstead Conservation Area and to the setting, layout and fabric of the listed stables building, the retention of its general envelope has been accepted.



## 2. Failure to secure an Affordable Housing Contribution:

The appellant states that no contribution was ever discussed at any point as part of the application process, and states that it is therefore unclear how this could be a reason for refusal.

**3.17 Response to point 2:** The appellant has not provided a planning argument as to why an affordable housing contribution should not be made. Policy H4 of the Local Plan states for developments for self-contained housing which includes at additional 100sqm of residential floorspaces and less than 10 units, an affordable housing contribution will be sought. Although this is contrary to the requirements of the NPPF, the Inspector when examining the 2017 Local Plan stated that this policy requirement was justified, citing Camden's particularly acute need to affordable housing. Moreover, on the previously consented application at this site, the appellant willingly agreed to an affordable housing contribution as demonstrated in the signed section 106 agreement for planning permission ref. 2024/0222/P. This was also the case for application ref. 2022/0329/P. It is understood that the previous payment-in-lieu has been received by the Council's planning obligations team. It is therefore difficult to understand the appellant's apparent surprise at the inclusion of the affordable housing contribution as a reason for refusal when the previous consents for similar developments have all included such a contribution. As is made clear in the delegated report, this refused application seeks a larger residential floorspace than the previous schemes and payment-in-lieu contributions are calculated based on total additional residential floorspace. Policy H4 is clear that with regards to a piecemeal approach to development, where proposals are split up, the affordable housing contribution is taken as whole, based on the accumulation of floorspace. This is to ensure that developments do not circumvent the Council's affordable housing policies. This policy requirement is clearly supported under appeal ref. APP/X5210/W/23/3320798.

## 3. Failure to secure Car Free development

The appellant argues that because the previous permissions include car free development secured under the signed section 106 legal agreements, there is no need to re-secure car free development under this application.

**3.18 Response to point 3:** The delegated report makes this issue clear, insofar that because the previously allowed schemes have not been fully completed at time of determination, and the new use (Class C3) has therefore not been implemented, then it is appropriate to still secure a car free development under a 106. The refused application is a new planning application, rather than an amendment application to vary a previous consent. The concern is that if a car free development wasn't secured under this application, then in future it could be argued by the applicant that this permission was the one that has been implemented, and therefore, it could be argued that the applicant is entitled to a car parking permit. Securing car free development under this application would therefore limit any future confusion over this matter and would ensure that the development is compliant with policy. A new legal agreement is therefore needed to secure this new permission as car free. Again, the appellant has failed to provide a planning argument as to why car free development should not be secured, and states that it was never discussed during the application. The appellant has signed two previous legal agreements for similar developments at the site so it is unclear why they are confused that a third agreement is being sought. It stands to reason, based on the previous two applications, that a legal agreement is sought, given that the new use is yet to commence. Had the previous permissions been fully completed, and the new use implemented, then the Council may

have treated this new application for an additional storey as an extension to an existing residential property, as opposed to a new residential development. This is clearly reflected in the development description.

#### **4. Conclusion**

4.1 Based on the information set out above and having taken account of all the additional evidence and arguments made, it is considered that the proposal remains unacceptable for reasons set out within the original decision notice. The information submitted by the appellant in support of the appeal does not overcome or address the Council's concerns.

#### **5. Section 106 matters**

5.1 It is noted that reasons for refusal 2 and 3 could be overcome by entering a section 106 legal agreement. At time of writing, the Council has contacted the appellant and sought to work towards a legal agreement, however, no response has been received from the appellant.

#### **6. Suggested conditions should the appeal be allowed.**

The development hereby permitted shall be carried out in accordance with the following approved plans:

Reason: For the avoidance of doubt and in the interest of proper planning.

All new external work shall be carried out in materials that resemble, as closely as possible, in colour and texture those of the existing building, unless otherwise specified in the approved application.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017.

Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the following, shall be submitted to and approved in writing by the local planning authority:

- a) Details including sections at 1:10 of all windows (including jambs, head and cill), ventilation grills, external doors and gates;
- b) Manufacturer's specification details of all facing materials (to be submitted to the Local Planning Authority) and samples of those materials (to be provided on site).

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.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 (and D2 if in CA) of the London Borough of Camden Local Plan 2017.

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 buildings.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy CS14 of the London Borough of Camden Local Development Framework Core Strategy and policies D1 and D2 of the London Borough of Camden Local Plan 2017.

Prior to commencement of above ground works, drawings and data sheets showing the location, extent (no.xx panels /at least xxm2) and predicted energy generation of photovoltaic cells (at least xxkwh/annum) / energy generation capacity (at least xxkWp) and associated equipment to be installed on the building shall have been submitted to and approved by the Local Planning Authority in writing. The measures shall include the installation of a meter to monitor the energy output from the approved renewable energy systems. A site-specific lifetime maintenance schedule for each system, including safe roof access arrangements, shall be provided. The cells shall be installed in full accordance with the details approved by the Local Planning Authority and permanently retained and maintained thereafter.

Reason: To ensure the development provides adequate on-site renewable energy facilities in accordance with the requirements of policy CC1 (Climate change mitigation) of the London Borough of Camden Local Plan 2017.

The two storey extension approved under 2024/0222/P and 2024/1090/L shall not be used as a separate residential unit of accommodation unless planning permission has granted this alteration.

Reason: To protect the amenity of adjoining occupiers and the area in accordance with policies A1 and D1 and D2 of the Camden Local Plan 2017

Before the development commences, details of secure and covered cycle storage area for 2 cycles shall be submitted to and approved by the local planning authority. The approved facility shall thereafter be provided in its entirety prior to the first occupation of any of the new units, and permanently retained thereafter.

Reason: To ensure the development provides adequate cycle parking facilities in accordance with the requirements of policy T1 of the London Borough of Camden Local Plan 2017.

Before the relevant part of the work is begun, detailed drawings, or samples of materials as appropriate, in respect of the bin store shall be submitted to and approved in writing by the local planning authority:

- a) Details including sections at 1:10
- b) Plan, elevation and section drawings, at a scale of 1:10;
- c) Manufacturer's specification details of all facing materials (to be submitted to 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.

Reason: To safeguard the appearance of the premises and the character of the immediate area in accordance with the requirements of policy D1 and D2 of the London Borough of Camden Local Plan 2017.

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

Yours sincerely,

Edward Hodgson  
Senior Planning Officer