



Planning Inspectorate
Department of the Environment

Room 1404 Tollgate House Houlton Street Bristol BS2 9DJ
Telex 449321

Direct Line 0272-218927
Switchboard 0272-218811
GTN 2074

R6 | 11 | 21 | 89 05 109

ALLOWED

Recd. JK
28/6/90

[2433]

(Costs application
DISMISSED)

Roger Tym & Partners
Development Economists and Planners
9-10 Sheffield Street
LONDON
WC2A 2EY

Your reference
GWB/MB/2
Our reference
T/APP/X5210/A/89/128960/P2
Date 7 JUN 90

Gentlemen

TOWN AND COUNTRY PLANNING ACT 1971, SECTION 36 AND SCHEDULE 9
AS AMENDED BY THE HOUSING AND PLANNING ACT 1986
LOCAL GOVERNMENT ACT 1972 - SECTION 250(5)
APPEAL AND APPLICATION FOR COSTS BY NEW END COMMITTEE
PLANNING APPLICATION NO: PL/8905109

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal, which is against the failure of the London Borough of Camden Council to give notice of their decision within the prescribed period on an application for planning permission for change of use, conversion and redevelopment of former hospital buildings to provide class B1 use, residential and nursery uses and community/public use and the formation of a playground and underground car parking at the New End Hospital site, New End, Hampstead, London NW3. I held a local inquiry into the appeal on 23-30 January 1990. At the inquiry you made an application for costs against the Council on behalf of your clients, and I deal with this separately below.

APPEAL

2. At the outset of the inquiry you confirmed that, following discussions with the local planning authority, various modifications had been made to the plans as originally submitted, including the provision of a small retail unit, to try to overcome objections to certain aspects of the proposals made by the Council and others. The Council accepted that these modifications generally improved the scheme and were anxious that decisions on the possible future of the site should not be unnecessarily delayed; but, their main objections to the proposals still remained and they were concerned that the interests of other parties should not be prejudiced.

3. I took the view that the modified scheme was not substantially different from that submitted with the original application documents and that it would be reasonable in this case for the appeal to be determined on the basis of the modified proposals, which are summarised in the Burrell Foley Associates' A3 size volume of amended drawings dated 16 January 1990. It seemed to me the amendments would not prejudice the interests of other parties, but I agreed to consider any further written representations that might be made on these matters within a period of about 2 weeks after the close of the inquiry. Such further representations were made, and copied to yourselves and the Council, and I have taken these into account in reaching my decision.

4. From the information provided at the inquiry, from the written representations and from my site inspection I consider the main issue in determining the appeal is whether, in the light of the Council's policies for the area, the proposals would constitute an acceptable development with particular

regard to the likely effects, first, on listed buildings and on the conservation area; secondly, on the amenities of nearby residents; and, thirdly, on the provision of educational facilities.

5. The Council explained that, had the opportunity been open to them to do so, they would have refused the application for a number of reasons; their fundamental objection being the amount of Class B1 use proposed, which is now about 4220 sq m. They consider that the provision of this amount of B1 space would unacceptably conflict both with their general policies for the Borough, as set out in the Borough Plan, and also with the specific policies for this site, as set out in the approved Planning Brief.

6. The Borough Plan was adopted in 1987 and, together with the 1976 Greater London Development Plan (GLDP), comprises the statutory development plan for the area. Its relevant provisions, therefore, are important material considerations. However, the Borough Plan was adopted just before the Town and Country Planning (Use Classes) Order 1987 came into force and its policies do not refer directly to the B1 business use class. The Council argue that, because of the characteristics of the site and the former hospital buildings which you propose to convert to B1 use, it is probable that the buildings would be used as offices rather than, for instance, for light industrial purposes, and that the policies of the Borough Plan in respect of offices should apply. These accord with the GLDP and aim generally to restrict major office development and to steer any such development as may be permitted to certain specified areas, which do not include Hampstead.

7. It seems to me that if the buildings were converted as you envisage it is likely that a proportion of them would be used for office purposes, but I also consider it likely that many studio and "high-tech" uses would also be attracted. Your evidence indicated that there would be a considerable demand for such accommodation, and it also showed that a significant number of professional service jobs, including those in the former hospital on this site, had recently been lost in the area. Considering paragraph 3.4 of the Borough Plan, it seems to me that in this instance the proposed development could have many of the advantages set out there and few of the disadvantages. I can understand the aim of the Council to seek to ensure that suitable sites are used mainly for housing and social or community purposes; but on balance, and bearing in mind the unusual if not unique characteristics of the buildings on this site and especially their past use and the potential for meeting important conservation objectives, I am of the view that B1 use as proposed could be considered favourably in principle without conflicting to an unacceptable extent with the underlying objectives of the policies of the Borough Plan.

8. Nor do I consider the provision of class B1 use in itself need conflict to an unacceptable extent with the terms of the approved Planning Brief. This requires provision to be made on the site for educational and community purposes, which I shall discuss shortly, and for the principal use of the remainder of the site to be residential. You explained that in the scheme as proposed some 56% of the building space would indeed be residential, comprising 60 flats, and some 35.5% class B1; the remainder being used for educational and community/public purposes, and also now including a corner shop as requested by the Council. Moreover, in approving an alternative scheme for the redevelopment of the site, designed by John Assael & Partners, which the developers say is not now viable, the Council have already approved the provision of some 1,625 sq m of B1 space, together with 86 residential units. Regional Planning Guidance Note 3, Strategic Guidance for London, published by the Secretary of State in September 1989, advises that.. "Boroughs should adopt a positive, flexible and realistic approach to business development throughout London." Discussion as to whether or not the amount of

B1 space now proposed for this site would be justified, to a large extent in my opinion now centres on conservation issues.

9. Several buildings on and near the site are listed as being of special architectural or historic interest and the site lies near the centre of the Hampstead Conservation Area. Views have been expressed recently as to the merits of the buildings on the site by many interested persons and bodies, and I have considered these, sometimes conflicting, views very carefully. It seems to me that this is an interesting and important group of buildings, both architecturally and historically, and is of very considerable townscape merit. The buildings have now been empty for about 3 years and, although efforts are being made to safeguard them, they are suffering damage. If they are to be retained they should clearly be brought into use at an early date. Concern was expressed that many of the unlisted buildings on the site could soon be demolished, the council having granted conservation area consent for their demolition at the same time as approving the John Assael & Partners scheme. This consent, however, was conditional on an exchange of contracts for the carrying out of an approved scheme of redevelopment. The developers, Berkley House PLC, have made it clear that the approved scheme will not proceed in the foreseeable future. They have also confirmed that if the present proposals were approved they would be implemented.

10. For convenience, I will consider the likely impact of the proposals on the listed buildings and the conservation area, on a building by building basis, in the order and adopting the building references set out by the Council in their Planning Brief:-

Building A - the Rotunda, formerly contained hospital wards and is listed in Grade 2. Its use for about 1625 sq m of class B1 space has already been approved by the Council as part of the John Assael & Partners scheme. This offers the opportunity to retain the circular internal spaces and seems to me very appropriate. Considerable care will be required in the implementation of certain details of the proposals and especially in the structural design of the ramped access to the underground car park. However, bearing in mind the Council's other building control powers as well as the need for listed building consent, I consider the present proposals for this building would be satisfactory. English Heritage, who strongly support the overall scheme, take the same view.

Building B - Kendall's Hall, is a former workhouse building which is also listed in Grade 2. Approval has already been granted as part of the John Assael & Partners scheme for its conversion to residential use in a similar manner to that now proposed, which would create 18 flats. It is intended that the exterior of the building would be repaired and not materially altered. The proposals offer considerable scope to improve the setting of the building at the rear and, again bearing in mind the need to obtain listed building consent, could be of significant benefit to the building and the area.

Building C - the Planning Brief envisages that this building may be demolished in order to provide an access into the site off New End. This is logical and I consider that the proposed replacement building, which would be designed a similar style to the existing but with a vehicular way through at ground level and basement car parking below, would be acceptable. You explained that it would be your intention to ensure easy and safe access for the disabled. The height of this building has been considerably reduced from that originally proposed and, with an extension into part of building D, it would now accommodate 16 flats instead of the 19 flats originally proposed.

Building D - is an infirmary extension dating from about 1896. It is not listed, but in my opinion is an attractive building which makes an important

contribution to the street scene, both along New End and Heath Street. In an earlier version of the Planning Brief it was intended that it should be retained, but this was subsequently modified and in the John Assael & Partners scheme a replacement mainly residential building was approved. Only a small part of the building would be residential in the present proposals, with most of the building being in class B1 use and with a shop unit now proposed at the western end. I consider that the design of this unit could materially affect the appearance of the block and that its design would need to be approved by the Council. Parking would be provided in the basement and at the rear of the building. The structure and internal arrangement of the building, in my view, is such that it lends itself more readily to B1 use than residential, which would be likely to involve costly structural alterations. The external elevations of the block would be modified slightly, including the provision of dormer windows and an appropriate treatment for the shop front, and in terms of their likely visual impact I consider the proposals for block D would be very acceptable.

Buildings E/F - these two 4-storey ward blocks are central to the conservation discussion. They are plain functional buildings running back from the main New End blocks, with their height exaggerated by the steep fall of the land across the site and the modest size of the immediately adjoining buildings. The view from Streatley Place of the Mansfield Place cottages with the Rotunda and the cliff-like block E/F rising up behind is as dramatic as any view I saw in the conservation area. The blocks are of interest as part of the historic development of the workhouse/hospital complex, especially in their contribution to the choice of circular ward design in the Rotunda. I consider that if buildings E/F were demolished the loss would be harmful to the setting of the Rotunda and Kendall's Hall, and also to that of the listed school building and blocks of flats to the south of the site, and would have a major damaging impact on the character and appearance of this part of the conservation area. In this respect, therefore, I consider the proposed scheme has the advantage over that approved by the Council, which would demolish this block. I can see that it would be difficult to convert these former wards to residential use, but they would be well suited to class B1 use as proposed. A modern extension on the western side of the block would be demolished and the details for the restoration of the block following demolition would need to be agreed with the Council.

Buildings G/H/J - at present these comprise a modest 2-storey former ward block, married couples quarters and a single-storey temporary building. They are located inside the complex and have little impact on the street scene or the wider conservation area. The Council have approved the demolition of these buildings, as part of the John Assael & Partners scheme, and in this case in my judgement this would be acceptable. It would afford opportunity to enhance the area to the rear of Kendall's Hall, and residential redevelopment would help meet the requirements of the Planning Brief and generate finance to assist with environmental aspects of the proposals and the provision of other facilities, which I shall discuss shortly. The replacement building presently proposed would be 7 storeys high, providing 26 flats and a nursery, which is the same as that already granted approval, but its ground floor would be set at a lower level. The building has been carefully designed, in effect as a number of separate blocks, so as to reduce its visual impact and to respond to the scale of nearby listed buildings. In my opinion, its modern design is appropriate for this location and, providing suitable external finishing materials were selected, I consider the effect of the building as part of the overall scheme would be to enhance the area.

Building I - the former hospital laundry, is a small charming building which contrasts dramatically with building E/F and which I consider well worth retaining. In the approved scheme it would be demolished but as now proposed

it would be modified and used for community/public purposes, which seems appropriate in view of its location on a footpath near the school. You envisage that a doctors surgery would be located there. For this to be acceptable I consider it would be necessary for you to indicate the parking spaces that would be allocated and the means of access from these to the surgery.

11. Other features of the proposed scheme, including the creation of a camera obscura, the retention of the former hospital chimney stack, and the creation of a new piazza and public footpath through the site, would all contribute to the enhancement of the area for the benefit of the wider public. Retention of buildings on the site would also accord with conservation policies of the Council, for instance as set out in their Policy Guidance 4/87; and in general in my view, would be less likely to give rise to disturbance and geotechnical problems than would demolition and redevelopment. My overall conclusion on conservation matters therefore is that, with certain safeguards which could be ensured by attaching conditions to a planning approval, the proposed scheme would be beneficial to the listed buildings and their setting, both on and near the appeal site, and could help preserve and enhance the character and appearance of the conservation area. In addition to the matters I have already discussed, conditions would also be needed in my view to ensure the choice of external finishing materials on the buildings would be satisfactory and that the landscaping of the site, including hard paving, would be to an appropriate standard.

12. As regards the amenities of nearby residents, the intended height of building C and the likely impact of alterations to building D are now less than originally proposed. There would still be some limited reduction in daylight and loss of direct sunlight to some of the properties on the north side of New End at certain times of the year, and there would also be the possibility of increased overlooking; but the effects of these changes on the amenities of nearby occupants would not be so unreasonable in my view as to warrant withholding planning permission, and the Council did not seriously argue otherwise. Similarly in respect of buildings E/F and their relationship to the Mansfield Place cottages, and also to residential properties fronting onto Heath Street; I considered this situation very carefully and, bearing in mind the historic relationship between the properties and the B1 use now envisaged, the proposals would not in my opinion be likely to lead to an unacceptable loss of privacy. I consider unreasonable overlooking could occur, however, between the proposed residential building J and the back of Nos.10 & 12 New End; but I am reasonably satisfied that the relationship between these buildings would be acceptable providing the first floor windows in building J were of such a design as to prevent direct overlooking to the rear. A condition to ensure this would be needed in my view if permission were to be granted.

13. As I have said, I agree with the Council that a proportion of the proposed class B1 properties would probably be used as offices and I consider that others would be used for "high-tech" purposes. Such uses generally would not be expected to give rise to unreasonable noise or other disturbance. Some properties however could clearly be brought into industrial use and whilst, by the nature of the B1 definition the uses would have to be acceptable in any residential area without detriment to the amenity of that area, in view of the very close proximity of some of the old hospital buildings to existing and proposed dwellings, I consider it would be reasonably necessary if the proposals were to be allowed to ensure that the windows to the proposed B1 buildings and any air handling equipment that might be installed would be of an appropriate design and would ensure unreasonable disturbance to nearby residents would not occur.

14. The Council expressed strong concern about the likely harmful effects on the nearby area of vehicular movements and on street car parking that could be generated by the proposals. The surrounding streets are narrow and I can see that in this situation, close to the centre of Hampstead with nearby schools and other mixed uses as well as residential, parking and congestion is quite properly an important consideration. However, this is a substantial and valuable site; the former hospital use must have generated a significant number of vehicles, and whatever uses might reasonably be envisaged for the site, would in my view be likely to have similar effects. With the present scheme, any substantial increase in the residential component and a reduction in B1 uses as suggested by objectors could exacerbate difficulties, especially in terms of evening and weekend parking and the movement of vehicles at peak hours. With the proposed mixed use of the site it seems to me traffic would be more varied and dispersed. The proposed B1 type of uses envisaged would not be likely to attract large numbers of heavy vehicles and the proposed on-site servicing arrangements and 8 ground level parking spaces would in my view be satisfactory. Moreover, the restricted provision to be made for operational parking for the B1 uses in accordance with the Council's standards, together with the ready access to public transport and other facilities, would deter non-essential vehicle users. Adequate parking provision is to be made for residents and other users in an underground car park, now with 88 proposed spaces, and, providing a condition were attached to any approval to ensure an appropriate distribution of the spaces to the various uses within the site and to control the movement of vehicles, I consider that, as regards their impact on the amenities of nearby residents and the area generally, the proposals would be acceptable.

15. An important aspect in the formulation of the Planning Brief for the site from the Council's point of view was that at least 0.5 acres should be allocated to provide new nursery facilities and also additional play space for the existing New End Primary School, which is located on the other side of Streatley Place. In the approved John Assael & Partners scheme, such facilities are provided and the developers, Berkley House PLC, entered into a Section 52 Agreement, amongst other provisions, to lease the premises at a peppercorn rent to the Council, although not required to do so by the terms of the Planning Brief. In the scheme now proposed, a double nursery unit and playground would be provided; but, although the developers would be quite prepared for the Council to lease the premises on a long term basis, they would no longer be prepared to enter into a Section 52 Agreement to lease it at a peppercorn rent.

16. It seems to me that, especially with minor modifications to the layout as were discussed at the inquiry and indicated on the Burrell Foley sketch plan dated 29 January 1990, the proposed nursery unit and play area would meet the required standards and overcome the detailed objections that were put forward. The total area of the educational provision, however, would be less than that set out in the Brief and would not be sufficient to provide any significant separate usable play space for the sole benefit of the Primary School. I can see that this would be disappointing for the school, which is at present short of play space. However, even with the approved scheme, it seems to me it would be difficult to sensibly divide the proposed play area and the existing problems of supervising children would not be markedly improved. Moreover, the approved scheme demonstrates that to create 0.5 acres of flat space on the appeal site, which is about one third of the overall site, can only be achieved at considerable environmental cost, including the demolition of a number of buildings I consider very worthy of retention. On balance, I take the view that the scheme now proposed represents a reasonable compromise solution in terms of the provision of educational facilities and, providing the layout were adjusted as discussed, I consider that in this regard it would be acceptable. I also consider it possible that other measures might be taken

to improve the present arrangements for play at the school, including increased or alternative use of the plot of land to the east.

17. As part of the adjustment to the nursery facilities I have just discussed, it would also be reasonably necessary in my view for a condition to be attached to any approval to ensure Streatley Place would be widened slightly to about 3.5 m so as to facilitate access for emergency vehicles to the school and flats. You said this could be carried out on land owned by the developers and they agreed to make the necessary arrangements to achieve this with the Highway Authority.

18. As I have said, the circumstances of this site are unusual and, although I am aware that there are other large buildings in the area, I do not consider that an approval in this instance should unreasonably increase pressure on the Council to approve further applications in situations that might otherwise have been regarded as inappropriate. In summary therefore, it seems to me that the proposals would be likely to be of benefit to the listed buildings on the site and help preserve and enhance the conservation area, and would not conflict with the objectives of the Council's planning policies nor have such material harmful effects in respect of the amenities of residents and the provision educational facilities as to warrant withholding approval, and my overall conclusion is that, subject to the conditions I have discussed, planning permission should be granted.

19. The Council asked, if permission were to be granted, for a number of other matters to be subject to conditions, including the proposed method of work and restrictions on future changes to approved uses. In view of the characteristics of this part of the conservation area, I consider it would be necessary for the appellants to agree a method for carrying out the works with the local planning authority in order to ensure congestion and any harmful effects on the amenities of residents and other occupants of nearby buildings arising during the construction period were kept to a minimum. In view of other controls however and in the light of the advice of Circular 1/85, I do not consider conditions in respect of the other matters raised by the Council would be reasonably necessary or justified.

20. I have taken into account all of the other matters raised against the appeal but these do not outweigh the considerations leading to my conclusion.

21. For the above reasons, and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for change of use, conversion and redevelopment of former hospital buildings to provide class B1 use, residential and nursery uses, community/public use, a retail unit, and the formation of a playground and underground car parking at the New End Hospital site, New End, Hampstead, London NW3 in accordance with the terms of the application [No.PL/8905109] dated 6 February 1989 and the plans submitted therewith, as modified by the Burrell Foley Associates A3 size volume of amended drawings dated 16 January 1990, subject to the following conditions:

1. The development hereby permitted shall be begun not later than 5 years from the date of this letter.
2. Details of the external facing materials for the roofs and walls of the development hereby approved shall have been submitted to and approved in writing by the local planning authority before development commences.
3. No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include details of all existing and proposed ground levels and details of finishes of hard paved areas, as well as indications of

all existing trees on the land, and details of those to be retained, together with measures for their protection in the course of development.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

5. Development shall not begin until details of the layout, numbers and allocation of parking spaces and the means of access thereto have been submitted to and approved in writing by the local planning authority.

6. A method of work statement on demolition and construction procedures and the movement of construction vehicles shall be agreed with the local planning authority before development commences.

7. Development work on building D shall not begin until details of the design of the proposed shop unit have been submitted to and approved in writing by the local planning authority.

8. Development work on buildings A, D and E/F shall not begin until details of windows and any air handling equipment to be installed or retained in those buildings have been submitted to and approved in writing by the local planning authority.

9. Development work on building E/F shall not begin until details of the treatment of the western facade of that building following demolition of an existing extension have been submitted to and approved in writing by the local planning authority.

10. Development work on building G/H/J shall not begin until details of the north facing first floor windows in block J, which shall not afford overlooking of the rear of Nos. 10 & 12 New End, have been submitted to and approved in writing by the local planning authority.

11. Development work on building G/H/J shall not begin until modified details for the nursery and playground layout, as indicated on the Burrell Foley sketch plan dated 29 January 1990 and incorporating a widening of Streatley Place within the site to 3.5 m, have been submitted to and approved in writing by the local planning authority.

22. Attention is drawn to the fact that an applicant for any consent, agreement or approval required by a condition of this approval has a statutory right of appeal to the Secretary of State if approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.

23. The developers attention is also drawn to the enclosed note relating to the requirements of the Buildings [Disabled People] Regulations 1987.

24. This letter does not convey any approval or consent which may be required under any enactment, byelaw, order or regulation other than section 23 of the Town and Country Planning Act 1971. Your attention is drawn to the provision of Section 277A of the Town and Country Act 1971 [inserted into the Act by the Town and Country Amenities Act 1974] as amended by paragraph 26[2] of Schedule

15 of the Local Government Planning and Land Act 1980 which requires consent to be obtained prior to the demolition of any building in a conservation area.

APPLICATION FOR COSTS

25. In support of the application for costs, you claimed that the Council acted unreasonably in their handling of the application. They lost drawings and they failed to respond to numerous letters and requests for meetings, when modifications might have been made to the proposals to overcome objections. They were unreasonably influenced by the needs and interests of the Health and Education Authorities; and in framing the Planning Brief and in assessing the application they failed to meet their obligations under the 1971 Act to preserve or enhance the character or appearance of the conservation area. The Council also acted unreasonably in applying their Borough Plan office policies to the proposed B1 uses, and they were inconsistent in their handling of this application compared with the scheme designed by John Assael & Partners, which they approved.

26. In reply, the Council referred to paragraph 6 of Circular 2/87 and argued that it must be shown that unreasonable action had led to unnecessary expense in connection with the inquiry. It was the Council's fundamental objections to the proposals that had led to the inquiry, not the handling of the application; but, in any event, the Council had not acted unreasonably. Decisions are taken in Committee and it is not practicable for Members to convene ad-hoc meetings in response to barrages of letters. Informal meetings with officers could not have overcome the fundamental objections. Conservation matters were fully and properly taken into account in formulating the Brief and assessing the proposals. The application of office policies to the proposed B1 space, did not prejudice the Council's view of the scheme. The John Assael & Partners scheme is very different to that now proposed, in many respects, and the Council assessed the proposals on their planning merits.

CONCLUSIONS

27. In determining your application for costs, I have borne in mind that in planning appeals the parties are normally expected to meet their own expenses, irrespective of the outcome of the appeal, and that costs are awarded only on the grounds of unreasonable behaviour. Accordingly I have considered the application for costs in the light of Circular 2/87, the appeal papers, the evidence submitted by the parties, and all the relevant circumstances in this appeal. The concern of the appellants following the application, that buildings on the site might be demolished before their proposals were properly appraised, is understandable; but I consider the Council were aware of the alternative approaches to the site and it seems very unlikely that further meetings would have overcome their basic objections.

28. The Council clearly took conservation matters into account, as well as other material considerations, and carried out public consultations which supported their view, before approving the Planning Brief. Although recent support for the present proposals indicates a shift in local opinion, and I have come to a different conclusion on the merits of the group of buildings on the site, I do not consider the action of the Council in formulating and applying a Brief which aimed to meet a number of important needs in the area as well as certain conservation objectives can be construed as so unreasonable in this case as to constitute the basis of an award of costs, especially in view of the strong support for the Brief maintained by the Conservation Area Advisory Committee.

29. As I have already indicated in my letter, because of the characteristics of the buildings and the site, I do not consider the application of the office

policies of the Borough Plan to B1 proposals is as critical to consideration of the merits of this application as it might be in other circumstances. It is evident that the Council's underlying objections also applied to other components of the class B1 use as well as offices. They were prepared to show some flexibility, as indicated by their approval of some B1 use in the John Assael & Partners scheme, but not to the extent now proposed. They were clearly entitled, in my view, to form different judgements about aspects of the two sets of proposals and to come to different conclusions as to the acceptability of the two applications because of the considerable differences in the schemes.

30. Although my own judgements on a number of important matters are different to those of the Council, I do not consider the actions of the Council were so unreasonable or that they caused the appellants such significant unnecessary expense as to warrant an award of costs against them.

FORMAL DECISION ON COSTS

31. For the above reasons and in exercise of the powers transferred to me, I hereby determine that your application on behalf of the New End Committee for an award of costs against the London Borough of Camden Council be refused.

I am Gentlemen
Your obedient Servant

K. Barton

K BARTON BArch DipTP Regd Archt
Inspector

APPEARANCES

FOR THE APPELLANTS

Mr G W Brisbane - of Roger Tym & Partners, Development Economists & Planners, 9-10 Sheffield Street, London WC2A 2EY.

He called

Mr D Christie MA - Chairman of New End Committee, 24 Belsize Crescent, Hampstead.

Mr J Kirke CEng MICE
MIHT MITE DipTE - of Gilmore Hankey Kirke Ltd, Architects, Engineers & Planning Consultants, St James Hall, Moore Park Road, London SW6.

Dr E Robinson BSc PhD - Senior Lecturer in Geology, University College London.

Mr D Millichap LLM - of the Planning Group of Norton Rose, Solicitors.

Mr G Meehan - Joint Managing Director of Berkley House PLC, 111 Regents Park Road, London NW1 8UR.

Mr J Burrell MA AADip
RIBA - of Burrell Foley Associates, Architects & Urban Designers, 15 Monmouth Street, Covent Garden, London NW3 5QU.

Ms J Robbins BA DipTP
MRTPI - of Roger Tym & Partners.

FOR THE LOCAL PLANNING AUTHORITY

Mr R Langham - of Counsel instructed by the Chief Executive of the London Borough of Camden.

He called

Mr J Davies BA DIP UPI
MRTPI - Principal Development Control Officer North West Area Team, London Borough of Camden.

Mr D March DipArch RIBA
DipTP - Area Co-ordinator, Planning and Environmental Services Department, London Borough of Camden.

Ms A Broom BSc MSc - Principal Traffic Planner, Planning and Environmental Services Department London Borough of Camden.

Mr R Lanwarne BSc - Assistant Education Officer (Development), Education Department, London Borough of Camden.

INTERESTED PERSONS

Mr C Bird - Barrister, of English Heritage, the Historic Buildings and Monuments Commission for England.

He called

Mr P Pugh BSc ARICS MRTPI - Senior Professional Officer, London Division of English Heritage.

Mr J Warshaw BArch DipTP AADip(Cons) Regd Archt RTPI - Chair, Planning Applications Panel, Hampstead Conservation Area Advisory Committee, c/o 22 Lyndhurst Gardens, London NW3 5NN.

Ms T Sladen MA - Secretary, The Victorian Society, 1 Priory Gardens, Bedford Park, London W4 1TT.

Ms J Dartford - Chairman of the Camden Civic Society, 21 Bartholomew Villas, London NW5 2LJ.

Mr P Harmes - Local resident, 1a New End, Hampstead London NW3.

Mrs P Jones - Headteacher of New End Primary School Streatley Place, Hampstead, London NW3 1HU.

DOCUMENTS (INCLUDING PLANS & PHOTOGRAPHS)

Document 1 - List of persons attending the inquiry.

Document 2 - Letter of notification of the inquiry and persons notified.

Document 3 - Bundle of letters and petitions from submitted by interested persons regarding the appeal.

Document 4 - Legal judgements submitted as relevant to consideration of the appeal.

Document 5 - Appendix NEC/2 to the proof of Mr Christie.

Document 6 - Appendix NEC/3/A to the proof of Mr Christie.

Document 7 - Appendix NEC/3/B to the proof of Mr Christie.

Document 8 - Appendix NEC/3/C to the proof of Mr Christie.

Document 9 - Appendix NEC/3/D to the proof of Mr Christie.

- Document 10 - Appendix NEC/4A & 4B to the proof of Mr Christie.
- Document 11 - Bundle of petitions, including NEC/19, and letter from 2 local Councillors dated 22 January 1990 put in by Mr Christie.
- Document 12 - Aerial photograph of the site put in by the appellants.
- Document 13 - Letter from the New End Committee dated 26 February 1989 to Councillor Nirmal Roy.
- Document 14 - Appendix A to the proof of Mr Kirke.
- Document 15 - NEC/5, proof and appendix on the geology of New End, put in by Mr Robinson.
- Document 16 - Appendix A1 to the proof of Mr Millichap.
- Document 17 - Surveyors' reports to Berkley House plc put in by Mr Meehan.
- Document 18 - Appendices I-V, to the proof of Ms Robbins.
- Document 19 - Appendices LBC1-4, 6-10 & 12-21, put in by Mr Davies.
- Document 20 - Appendix LBC 11, put in by Mr Davies.
- Document 21 - Copy of the "Borough Plan", the London Borough of Camden Local Plan.
- Document 22 - "Floorspace per Worker Ratios in Commercial Premises in London", London Research Centre.
- Document 23 - Block C sunlight assessment, put in by Mr Davies.
- Document 24 - "Conservationist's Guide to Hampstead", Hampstead Conservation Area Advisory Committee 1982.
- Document 25 - Six A3 sheets appraising the proposed scheme and comparing it with the John Assael approved scheme, put in by Mr Warshaw.
- Document 26 - Bundle of letters and petitions regarding the application, put in by the Council.
- Document 27 - Report of the Director of Planning and Communications to the Planning and Communications Committee on 2 April 1987.
- Document 28 - Consultation responses on revisions to the New End Hospital site planning brief.
- Document 29 - Appendices to the proof of Ms Broom.
- Document 30 - Letters and plans attached as appendices to the proof of Mr Lanwarne.
- Document 31 - Statutory Instrument 1981 No.909 The Education (School Premises) Regulations 1981.
- Document 32 - Education Development Plan, February 1989, London Borough of Camden.

- Document 33 - NEC14, correspondence regarding hospital staffing levels.
- Document 34 - Appendices 1-17 to the proof of Mr Pugh.
- Document 35 - Twelve photographs of the site, put in by English Heritage.
- Document 36 - Letters, reports, plans and newspaper articles attached as appendices to the proof of Mr Warshaw.
- Document 37 - Appendices to the proof of Ms Sladen.
- Document 38 - Sketch regarding the effect on sunlight, put in by Mr Harmes.
- Document 39 - Plans, letter and petition attached as appendices to the proof of Mrs Jones.
- Document 40 - Berkley House plc, Soil Report No.C.4265A, put in by Mr Mehan.
- Document 41 - Letters and news items put in as appendices to an additional statement by Mr Christie.
- Document 42 - Copy of Legal Agreement dated 9 June 1989 Ref.27368/MDC.
- Document 43 - Letters from Savills in mid-1989 regarding the marketing of the New End Hospital site.
- Document 44 - "Visual Survey", Hampstead Conservation Area Advisory Committee January 1973.
- Document 45 - Plan dated 29/1/90 showing possible amendments to proposed nursery/ playground layout.
- Document 46 - Letter from Mr Christie dated 29 November 1989 to Mrs Rose Lee.
- Document 47 - Press articles relating to New End Hospital development.
- Document 48 - Plans showing waiting restrictions and present traffic flows.
- Document 49 - Plans showing sections to blocks J and D and proposed levels.
- Document 50 - Drawing 87013/561, existing north and south elevations to blocks C and D.
- Document 51 - List of conditions proposed by the Council, should the appeal be allowed.
- Document 52 - Schedule of communications and copies of letters between the appellants and the Council.
- Document 53 - Two plans dated February 1988 showing the extent of Hampstead Village Conservation Area.
- Document 54 - Set of 28 application drawings showing the Burrell Foley Associates scheme, dated February 1989 and numbered BF/260/- 21-30; 36-39; 41-47; 51-54; and 61-63.
- Document 55 - A3 size volume of plans, photographs and notes describing the Burrell Foley Associates application scheme dated February 1989

- Document 56 - Burrell Foley Associates drawings numbered BF/260/-
21B; 22B; 23B; and 24B; and sketches SK03 and SK04 and amended
North Elevation to Block C.
- Document 57 - Burrell Foley Associates drawings numbered BF/260/-
21A; 21C; 24A; 24C; 25A; 26A; and 27A submitted with letters to
DOE and Camden dated 5 December 1989.
- Document 58 - Drawing BFA/28-60/SK05 submitted with letter dated 22 December
1989 showing further reduction in height of Block C.
- Document 59 - Drawings BF/260/70 and 71 submitted with letter dated 5 January
1989 showing proposals for Kendall's Hall, Block B.
- Document 60 - A3 size volume of plans, photographs and notes dated 16 January
1990 describing the amended Burrell Foley Associates proposals.
- Document 61 - Set of 64 plans put in by the Council illustrating the scheme
prepared by John Assael and Partners.
- Document 62 - A3 size volume of drawings put in by Mr Warshaw showing the John
Assael and Partners scheme.