



PLANNING SERVICES

TOWN & COUNTRY PLANNING ACT 1990 (as amended)

HEARING APPEAL

STATEMENT OF CASE

APPEAL SITE

Devonshire House School, 69 Fitzjohn's Avenue

APPELLANT

Mr Michael Loveridge, Devonshire House School

70 Kingsway

LONDON

WC2B 6AH

COUNCIL REFERENCE: 2015/1635/P

PLANNING INSPECTORATE REFERENCE: APP/X5210/W/16/3147225

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1. SUBJECT OF APPEAL

1.1. Statement in Support of the Council following appeal under section 78(2) of the Town and Country Planning Act 1990 against: failure of the Local Planning Authority to determine an application for planning permission for an "extension of the existing basement area, new lightwells to the south and north elevations and the erection of a glazed flat roof rear extension".

1.2. The Council would have recommended approval subject to 12 conditions and a Section 106 legal agreement securing i) a construction management plan and ii) a contribution to repair any damage to the public highway during construction.

1.3. The appellants dispute condition 12 which would state:

The proposed dining hall, kitchen, catering and plant rooms at basement level and the hall at ground floor shall not be used as classrooms or activities commensurate with classrooms and the former classroom in the eaves of the property shall not be used for purposes other than as a special tutoring room, and no more than 228 pupils shall be based at the site (Condition 12).

Reason: To ensure the proposed development would not result in an increase in private vehicle trips which would harm the already congested local transport network in accordance with policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the core strategy) of the London Borough of Camden Local Development Framework Core Strategy; and policies DP16 (The transport implications of development), DP17 (Walking, cycling and public transport) and DP21 (Development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies.

1.4. The appellant disputes condition 12 insofar as it relates to the pupil cap. In summary, the appellant, despite denying an intention to increase pupil numbers, raise a number of grounds as to the lawfulness of the proposed pupil cap condition. The council say the condition is necessary as there is a substantial risk that pupil

numbers would increase and in turn that would have a detrimental impact on local traffic.

- 1.5. The further 11 conditions would relate to standard 3 year implementation period; drawing numbers; design details/samples to be submitted; noise limits/attenuation; Energy Statement; details of chartered engineer; details of hard/soft landscaping; and tree protection measures.
- 1.6. The council's position on the appealed application was concluded following its presentation to a 'Member's Briefing' panel on 14th March 2016. The council's 'Delegation Agreement' provides for applications which have attracted objections to be reviewed by a 'Members' Briefing' panel to ensure objections have been addressed before granting permission under delegated powers. Alternatively, the panel can recommend that the decision is referred up to the Planning Committee instead. In this instance it was considered by the Members' Briefing panel that objector concerns had been addressed by way of the proposed conditions, particularly condition 12. The decision was issued accordingly.

2. SUMMARY

- 2.1. Devonshire House is a private preparatory school located on 4 sites locally. The planning application is for an extension to one of the sites. It was submitted on 18/03/2015 proposing: Extension of the existing basement area, new light wells to the south and north elevations and the erection of a glazed flat roof rear extension (ref: 2015/1635/P)
- 2.2. The Council would have recommended approval of the scheme subject to 12 conditions and a section 106 legal agreement. However, the appellant disputed condition 12, because it limits pupil numbers.
- 2.3. The Council has concerns that any further physical expansion would result in an increase in the number of pupils enrolled at the campus. This is based upon the historic development of the school and a steady increase in pupil numbers. Given the current number of pupils at the school, this would add to further pressure on the transport network, to the free flow of traffic, highway safety and to the detriment of local residents.

2.4. The area has a substantial amount of schools and the Director of Education has confirmed that there is no local demand for primary school places in this part of the borough (see appendix 23). There are numerous private schools like Devonshire House that attract pupils from beyond the local area. Many pupils arrive by private car and the links with traffic congestion has been well documented since at least 2000. Camden has undertaken a variety of measures to address this.

3. **SITE AND SURROUNDINGS**

3.1. No 69 is located on the west side of Fitzjohns Avenue, to the south of the junction with Arkwright Road. It is used as part of Devonshire House School. It is a four storey building dating from 1877. The application property is located within the Fitzjohn's Netherhall Conservation Area and is noted in the CA statement (appendix 20) as a positive contributor.

3.2. The building is detached. It has been previously extended at the rear. The site currently uses a teaching room on the ground floor for serving lunches with an existing basement area for the kitchen.

3.3. The school's website indicates that it is spread across four sites: number 2 and 4 Arkwright Road, 6 Arkwright Road and the application site at 69 Fitzjohn's Avenue.

3.4. The School is an independent day school providing education to children ages 3 to 11 years old. The Appeal Site is used for children aged 5 to 8 (corresponding with Years 1 to 3). As recorded in the application's Transport Statement there are 652 pupils on the School roll, with 228 of these based at the Appeal Site. The School has 126 staff, 31 of whom are based at the Appeal Site.

3.5. The number of pupils has increased at a growing pace. There have been an additional 122 pupils in the past 8 years. Data gathered from ISI (Independent School Inspectorate), Ofsted (see appendix 14) and previous planning applications

(see planning history section of this report) identify the school enrolment figures as being:

2007 – 530

2011 – 581

2012 – 581

2015 – 652

- 3.6. This shows that the school increased its enrolment between 2007-2012 from 530 to 581 (approx.12.75 students a year) but then increased more rapidly between 2012-2015, from 581 to 652 (approx. 23.66 students per year).
- 3.7. The site is currently open between 08:00 and 18:00 Mondays to Fridays during term time. The school is generally open to students between 08:20 to 15:50 Mondays to Fridays during term time. The enrichment / extended school programmes finish around 17:30.
- 3.8. It is understood that up to twelve members of staff existing are permitted to park at the school across all sites. The spaces are generally assigned to those members of staff who live furthest from the school and/or car share. On the basis there are 126 daytime staff this equates to a ratio of 10.5 staff per parking space. New staff are now not offered the option to park on site, on any basis.
- 3.9. There are currently 10 cycle parking spaces in the form of cycle racks and three non-motorised scooter parking areas at the School. The scooter areas provide space for up to c.60 scooters in total to be parked with space for c.20 scooters to be stored at the application site.

4. RELEVANT PLANNING HISTORY

Application site at 69 Fitzjohn's Avenue:

- 4.1. **2005/0151/P** - Removal of condition 4 (restricting number of school pupils to 200 on the school roll) attached to planning permission dated 21.11.00 (ref: PWX0002203R1) for the replacement of the existing rear extension by the erection

of a single storey rear extension to provide dining and wet weather facilities and staff office. **Withdrawn.**

- 4.2. **PWX0002203** - Replacement of existing rear extension by the erection of a single storey rear extension to provide dining and wet weather facilities and staff office. **Granted 20/11/2000 (Implemented)**

Surrounding sites

- 4.3. **2 Arkwright Road - 2012/3910/P - (part of Devonshire House school)** - Erection of roof extension to single storey outbuilding to create additional classroom space to existing school (Class D1). **Granted 26/02/2013** (with informative stating "You are advised that proposed roof extension hereby approved is intended to provide additional teaching space to the school not to increase the capacity of the school beyond the existing 581 pupils"). **(Implemented – the informative was not complied with as pupil numbers increased from 581 to 652)**
- 4.4. **St Anthony's School, 1-3 Arkwright Road - 2014/7847/P** - Expansion of St Anthony's School (1 Arkwright Road), to include the change of use of No. 3 Arkwright Road from residential (Class C3) to education use (Class D1), a 3 storey rear extension including excavation to No. 3 and formation of cycle parking. **Refused 27/01/2016 on the grounds including that:** *The proposed development, by virtue of its dependence on travel by private motor vehicles, would fail to adequately promote sustainable modes of transport or mitigate the impacts of the development on the already congested transport network*
- 4.5. **Former Hampstead Police Station, 26 Rosslyn Hill – 2016/1590/P** - Change of use from police station (sui generis) to school (Use Class D1) including the partial demolition and extension to the rear of the Grade II Listed Building and associated works. **Permission was refused on 9th August 2016** for a number of reasons including:
- *Due to its scale and intensity of use it would by reason of the additional trip generation and traffic congestion have a detrimental impact on the local transport network*

- *In the absence of sufficient information, the applicant has failed to demonstrate that the proposed development would not have a detrimental impact on air quality as a result of the proposal*

4.6. It is noted that during discussion at the DCC when the decision was made, the Director of Education confirmed his objection which stated that ... *the education department has planned for the projected population growth in the borough up to 2024/25 and provision in this part of the borough is sufficient.* This includes primary school provision in both the Hampstead and Belsize wards in which the subject appeal site is located.

5. RELEVANT APPEAL DECISION

- 5.1. The council refers to two appeal decisions to support its restriction on school pupils to ensure that the existing unacceptable traffic congestion is not exacerbated. This includes planning applications in L.B. of Hillingdon and L.B. of Hackney. These are set out below.
- 5.2. Firstly is appeal decision APP/R5510/A/10/2139254 at St John's School, Potter Street Hill, Middlesex, LB Hillingdon Council HA6 3QY. The appeal against a condition to cap pupil numbers was dismissed. The inspector found that there is a complex relationship between demand, drop-off, parking capacity and queuing and it is obvious that the increase in school places made a contribution to the current unsatisfactory highway flow and potential hazards.
- 5.3. The application relating to the appeal sought planning permission for the erection of an additional classroom and assembly area with library for pre-prep school, together with first aid room and staff toilet, without complying with a condition attached to planning permission Ref 10795/APP/2001/1600, dated 21 November 2001.
- 5.4. In dispute was condition 4 which stated that: "The total number of pupils at the school shall not exceed 350 and the total number of staff shall not exceed 40 full time equivalent". The reason given for the condition is: "To prevent the generation of additional traffic giving rise to problems of safety and congestion in Potter Street Hill." The school was found to be breaching the condition by approximately 55 pupils and 25 teachers.

- 5.5. The inspector found that the school run created significant pressure on the highway network with long queues of traffic developing immediately before school start time; it was found that whilst most parents and carers drove responsibly there were instances of poor driving which made the situation worse; the inspector also found that the queues meant that the road was effectively reduced to single file for part of its length in peak periods. The tailbacks also introduce the potential for vehicle conflict and the possibility of vehicles mounting the footpath, or being so close to the footpath that wing mirrors could impact with pedestrians. These are potential hazards for car drivers and passengers, cyclists and pedestrians.
- 5.6. The inspector established that, LB Hillingdon's and appellant's transport witnesses disagree on how much of the queuing is attributable to the non-compliance with condition 4. But what is clear, is that there is a complex relationship between demand, drop-off, parking capacity and queuing and it is obvious that the increased demand has made a contribution to the current unsatisfactory circumstances. The detrimental road conditions occur for a short period of time and only on days when the school is operating at near capacity, but the severity of the effect of the queues must also be taken into account. The consequences of the additional traffic could be grave, for example if there was a serious accident, and while responsible actions by road users during the short peak times would minimise the likelihood of harm; clearly that cannot be guaranteed.
- 5.7. He went on to state that although the queues are infrequent, and the number of local residents affected is limited, the consequential harm would be of such magnitude that the scheme must be considered detrimental to highway and pedestrian safety and the free flow of traffic. Thus the development conflicts with the provisions of the development plan
- 5.8. The inspector concluded that allowing the development to continue in its current form would let the detrimental road conditions persist, with the consequential harmful effects on highway and pedestrian safety and the free flow of traffic.
- 5.9. The Council considers that this decision is relevant to the development at 69 Fitzjohn's Avenue. Whilst additional stress on the highway could be specifically attributed to the non-compliance with the condition (i.e the impact of the additional

students and staff) it was nonetheless found that allowing the development to continue in its current form would let the detrimental road conditions persist, with the consequential harmful effects on highway and pedestrian safety and the free flow of traffic.

5.10. This instance could arise at 69 Fitzjohn's Avenue with any additional increase in students impacting upon an already stressed highway.

5.11. It should be noted that the inspector did not raise concerns with the validity of the original condition restricting student numbers or its compliance with the 6 tests.

5.12. Secondly is appeal decision APP/U5360/A/1178425 at 6-8 Chardmore Road, London, N16 6AX (LB Hackney Council). The appeal against a change of use of a school was dismissed. The inspector found that not only would the development result in an unacceptable loss of residential amenity, it would be likely to give rise to an increase in congestion and on-street parking in the locality, to the detriment of highway safety.

5.13. The inspector states that there are several schools within the immediate neighbourhood and the traffic generating effects of the appellant's site could not be distinguished from those of other schools nearby.

5.14. The inspector considered it likely that a sizeable proportion of the pupils would arrive by car and that those additional traffic movements would add to the congestion which is already acknowledged to exist.

5.15. He went on to state that the failure of the appellants to address the way in which the appeal proposal might impinge on local traffic movements, or to seek means of minimising the increase in such movements...would conflict with policy and would likely give rise to additional congestion on the local highway network.

6. PLANNING POLICY FRAMEWORK

National Planning Policy Framework (NPPF) (2012)

On 27th March 2012 the Government published the National Planning Policy Framework (NPPF). The policies contained in the NPPF are material considerations which should be taken into account in determining planning applications.

The Development Plan

The London Plan (2016)

For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004 will be the Core Strategy and Development Policies of the London Borough of Camden Local Development Framework. The LDF was adopted on November 2010. It is therefore recent and up to date in accordance with paragraphs 214 and 216 of the NPPF should be given full weight. The relevant LDF policies to this appeal are listed below:

Core Strategy

- CS5 (Managing the impact of growth and development)
- CS11 (Promoting sustainable and efficient travel)
- CS13 (Tackling climate change through promoting higher environmental standards)
- CS14 (Promoting high quality places and conserving our heritage)
- CS16 (Improving Camden's health and well-being)
- CS18 (Dealing with our waste and encouraging recycling)
- CS19 (Delivering and monitoring the Core Strategy)

Development Policies

- DP15 (Community and Leisure uses)
- DP16 (Transport implications of development)
- DP17 (Walking, cycling and public transport)
- DP18 (Parking standards and the availability of car parking)
- DP19 (Managing the impact of parking)
- DP20 (Movement of goods and materials)
- DP21 (Development connecting to the highway network)
- DP22 (Promoting sustainable design and construction)
- DP23 (Water)

DP24 (Securing high quality design)

DP25 (Conserving Camden's heritage)

DP26 (Managing the impact of development on occupiers and neighbours)

DP28 (Noise and vibration)

DP29 (Improving access)

DP31 (Provision of, and improvements to, open space, sport and recreation)

DP32 (Air quality and Camden's Clear Zone)

Camden Planning Guidance

CPG1 Design 2015

CPG3 Sustainability 2015

CPG 4 Basement and Lightwells 2015

CPG6 Amenity 2011

CPG7 Transport 2011

CPG8 Planning Obligations 2015

Supplementary Planning Guidance

Fitzjohn's/ Netherhall Conservation Area Statement 2001

Full text of each of the relevant policies has been sent with the questionnaire documents.

7. VALIDITY OF THE PROPOSED CONDITION 12

7.1. The council considers that condition 12 is valid and meets all the required tests.

7.2. As noted above, the appellants dispute condition 12 which would state:

The proposed dining hall, kitchen, catering and plant rooms at basement level and the hall at ground floor shall not be used as classrooms or activities commensurate with classrooms and the former classroom in the eaves of the property shall not be used for purposes other than as a special tutoring room, and no more than 228 pupils shall be based at the site.

7.3. On a number of occasions the courts have laid down the general criteria for the validity of planning conditions. In addition to satisfying the court's criteria for validity, the Secretaries of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy all of the tests outlined below:

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects

7.4. The Council considers that condition 12 complies with all these tests:

- i.) The condition is necessary as, based on the evidence at hand, there are significant transport issues on or surrounding the site; the school has failed to comply with its own Travel Plan with there being a 17% increase in car usage to and from the school in the space of a year. The school has a history of increasing its enrolment, with a correlation between granting an extension at 2 Arkwright Road and subsequent increase in pupil numbers at a higher rate than previous years. The existing size of the school and its facilities is, as noted by the appellant, are not ideal and thus the council would contend that this in itself acts as a natural barrier to enrolling more students. The school has not demonstrated that it can effectively encourage sustainable modes of transport. The council therefore has concerns that any enlargement of the school without an appropriate cap on student numbers could lead to further students being enrolled and additional car trips to and from the site.
- ii.) The condition is considered to be relevant to planning as it relates to potential intensification of the school use and the associated impacts it could have on the highways network and amenity of neighbours. These are material planning

considerations and there are relevant policies in Camden's Local Development Framework. State these again

- iii.) The condition is considered to be relevant to the development being permitted in that the enlargement of the school could allow for an increase in the number of pupils attending. Although the school has not stated that this will be the case it is considered that an enlarged school with no control over pupil numbers clearly could lead to a larger enrolment and that the potential for detrimental impacts on the highways network could be such that the condition to cap student numbers is warranted. As mentioned above, the school has failed to comply with its own Travel Plan with there being a 17% increase in car usage to and from the school in the space of a year. The existing size of the school and its facilities is, as noted by the appellant, not ideal and thus the council would contend that this in itself acts as a natural barrier to enrolling more students. The school has not demonstrated that it can encourage sustainable modes of transport or that student numbers can be retained within the capacity of the site. The council therefore has concerns that any enlargement of the school without an appropriate cap on student numbers could lead to further students being enrolled and additional car trips to and from the site.

- iv.) The condition is considered to be enforceable, the school enrolment figures could easily be provided to the Council, were the numbers considered to be higher than the condition allows for an enforcement notice could be served. The school would then be in breach of condition until it reduced student numbers. The enforcement notice could be worded to allow a period of time to reduce numbers, taking into account school terms and enrolment periods; whilst this would not immediately reduce student numbers it would ensure that the number of students enrolled during the next school year could be reduced to ensure compliance.

- v.) The condition is considered to be precise and unambiguous, there is clarity in its intent and meaning, the total number of students allowed at the site under this condition is 228 and the proposed room uses have been concisely laid out.

- vi.) The condition is considered to be reasonable in all other respects, it relates to the site and the proposed development and seeks to cap student numbers and room uses in order to comply with policy and protect the highways network and amenity of residents. Moreover, the Appellant has stated that it does not intend to increase pupil numbers in any event.

8. BACKGROUND TO TRANSPORT ISSUES.

- 8.1. It is a fact that there is a substantial concentration of schools in the area with many private schools attracting pupils from a wide area and a substantial proportion travelling by car. It is also a fact that concerns about linked traffic congestion and associated air quality issues have been the subject of local concern for many years and still remain today. Concerns, for example, were raised recently in the local newspaper, Camden New Journal on Thursday 30th June (appendix 17) about the negative impact of this over concentration. In response to this appeal, an informal traffic survey was undertaken by council officers on 5th July 2016 (See section 15 of this report for full details). The results confirmed these concerns and highlighted a number of issues such as congestion, double parking, manoeuvring which delayed other road uses and private school coaches blocking public bus stops and affecting London bus operations (see appendix 21 for photographic evidence and section 15 of this report for more details)
- 8.2. The Government Directyou.gov website provides data on the number of schools within specific areas. Within 0.27miles of 69 Fitzjohn's Avenue there are 10 schools (see Appendix 19). When compared to other residential areas the London Borough of Camden this is a higher than average concentration of schools:

Camden town – 10 schools within a 0.46mile radius

Highgate – 10 schools within a 0.87mile radius

West Hampstead – 10 Schools within a 0.55mile radius

Kilburn – 10 schools within a 0.37mile radius

- 8.3. This is not intended to be an exhaustive list of every part of Camden, nor does it take into account the size or type of school, but does suggest that when compared to other residential parts of Camden the total number of schools in the area is highly concentrated.
- 8.4. Data from a number of documents from 2007 to 2014 provide data on air quality. The "Review of School Run Policy and the Issue of Dispensation Permits", (submission dated 12th June 2007 to Culture and Environment Scrutiny Committee [see appendix 9]) refers to a number of documents as follows; Sixth Report of Session of the House of Commons Environmental Audit Committee (26th November 2014) and 2013 Air Quality Progress Report to London Borough of Camden indicate that there has been an increase in NO₂ levels of between 40-60 µg/m³ in 2007 to between 58-73 µg/m³ in 2009. National and European guidelines state that the figures should not exceed 40 µg/m³
- 8.5. Camden Council's 2010 traffic survey for vehicles travelling north and southbound on Fitzjohn's Avenue for the weeks commencing 7th and 14th June 2010 (169,802 cars) and the holiday periods of 19th and 26th July 2010 (145,286 cars) identify that there are over 1,200 additional cars per day on the road during term time than during holiday periods.
- 8.6. The issues of the school run in Hampstead have been a long running concern amongst residents. Local groups and residents have provided feedback on a number of recent planning applications. This is outlined in this statement under the Relevant Planning History and Scrutiny of Relevant Applications for Local School Extension section. Their main concern with planning applications for schools relate to congestion, pollution and other associated school run issues. There are also numerous reports in both local and national media highlighting the concern, please see Appendix 19 for a selection of media reports.
- 8.7. In response to these issues, Camden has undertaken a programme of measures to address concerns dating as far back as the year 2000 as outlined below.

9. THE COUNCIL HAS UNDERTAKEN MEASURES TO ADDRESS THE TRANSPORT ISSUES RELATING TO THE HAMPSTEAD SCHOOL RUN

9.1. Camden Council has recognised that the concentration of schools in NW3 is responsible for congestion, air pollution and the associated impacts on amenity. It has introduced measures with the aim of reducing the impacts of the school run on the local community. The reports and documents produced to demonstrate this are outlined in chronological order below:

9.2. 15th October 2001 - The Overview and Scrutiny Commission took a reference from the Council meeting of 15th October requesting the Commission look into 'the difficulties caused by school run traffic in Hampstead and throughout the borough to provide positive solutions'

9.3. 18th December 2001 – The School Run Scrutiny Panel was established by the Commission on 18th December 2001 with the following Terms of Reference: -

- To examine the causes and extent of the school run traffic problem in the borough, drawing on existing data.
- To identify whether any additional data should be collected, particularly with regard to measuring the impact of each school on the volume of traffic in the area.
- To examine the various efforts being made by the Council, schools and other organisations to address the problem of school run traffic in the borough, focussing on those areas where the problem is most prevalent, and to examine the achievements to date and the potential of these efforts to tackle the problem.
- To examine in particular the pros and cons of the current parking dispensation
- To make recommendations for future action by the Council, schools and other organisations.

9.4. March 2002 – The report of the School Run Scrutiny Panel summarised as follows;

- The effects of taking children to and from school are most noticeable in the Belsize Park and Hampstead areas where it has been estimated that journey

times increased by 50% to 60% because of the numerous schools, including many Independent schools in the vicinity.

- As well as increasing congestion and pollution, which impacts negatively on people's health and on the environment, this traffic has road safety implications for pedestrians and road users and causes inconvenience for local residents.
- The AA (Automobile Association) Foundation for Road Safety Research published a national report that examined the school run and associated issues which was drawn from evidence in the National Travel Survey. The report stated that since the mid-eighties, the number of children travelling to and from school by car increased by about 60%.
- Officer evidence (based on the Oscar Faber Study to determine the travel pattern to Camden Schools) suggested that
- Between 1,600 and 1,800 pupils (out of 22,668) and LEA (Local Education Authority) and Voluntary Aided schools were travelling by car
- Up to 4,250 pupils (out of 7,188 known day pupils) at Independent schools were travelling to school by car.
- The majority of Independent schools in the borough are in the Hampstead area.
- Approximately 60% of pupils at Independent schools travel to school by car. And that in Hampstead there are approximately 3000 car journeys being made each morning and each afternoon in Hampstead alone.
- The Council has been tackling school run issues over the last ten years mainly through road safety improvement programmes:

Recommendations to address the issues as follows:

- Parking dispensation scheme: with effect from September 2002 various measures to limit parking permits would be introduced. The dispensation permits allow parents to park for up to 15 minutes in a residents' bay. These

permits are offered in addition to the short-stay parking spaces already available near schools.

- The aim was to reduce permits to 40% of 2004 level in 2006/07, dropping to 20% of 2004 levels in September 2007 and no permits issued from September 2008 onwards.
- Green Travel Plans: Encourage all schools in Camden to produce Green Travel Plans. With effect from September 2003, only those schools that have Green Travel Plans, and which have been approved by the Council, will be allowed to participate in the Parking Dispensation Scheme.
- Pupil information database: to aid in better transport planning
- Parking enforcement: measures to increase wardens and enforce more thoroughly
- Public transport: Council to lobby for additional bus routes and re-zoning of Hampstead Heath Station to Zone 2.
- School Buses and school bus bays
- Remote Drop off & Collection Points
- Walking Buses, Cycling and Car-sharing

9.5. 19th July 2005 - School Run Annual Progress Report. The report provides a progress update on school travel plans, the administration of the school parking dispensation scheme and measures to support school travel plans. The report also outlines a future strategy and sets out a recommended work programme

9.6. 21st November 2006 – Review of School Run Policy and the Issue of Dispensation Permits (first review). This report reviews the school travel plan and school run work of the Council since the previous annual report. It outlines the proposed review of policy that was programmed to take place.

9.7. 15th February 2007 - Review of School Run Policy and the Issue of Dispensation Permits (Second review). The report identified that the policy of reducing parking

dispensation permits was in the fourth year of a 6 year programme. With the aim to reduce permits to 40% of 2004 level in 2006/07, dropping to 20% of 2004 levels in September 2007 and no permits issued from September 2008.

- 9.8. 21st June 2007 - Review of School Run Policy and the Issue of Dispensation Permits (Third and final review). This review collected evidence to assess if the policy has been meeting its objective to reduce the school run and its impact, whether continuing the policy is likely to do so in future, and determine policy options for the future.
- 9.9. Following a 6 week consultation ending in April 2007 an extensive six-month review of the existing school run policy was undertaken.
- 9.10. The exercise covered all 37 schools, and 36 stand-alone nurseries taking part on the Camden Parking Dispensation scheme (at the time). These facilities are mainly situated in the north of the borough (such as Hampstead and Belsize).
- 9.11. Key findings from the public consultation included:
- Residents with children, parents and schools want to hold the number of permits at the current [2007] level (40 per cent of the original allocation)
 - Residents without children want to stop the issuing of any permits in July 2007.
 - Resident's associations want zero permits by September 2008.
 - The emergency services and the Frognal & Fitzjohn's Safer Neighbourhood Panel also want zero permits by September 2008
 - Children said they most preferred to travel to school by bicycle (24 per cent) or on foot (24 per cent)
- 9.12. The measures taken by the Council following the public consultation and review of policy consist of:
- Limiting the number of permits issued to 500 a year from September 2008;

- Not allowing any new schools to enter the scheme and permits will be allocated with a priority for younger children. Schools will continue to decide how they distribute the permits to parents.
- The permits being used with clock cards, i.e drivers will have to set the time they arrive at the parking bay. This is designed to be fairer on parents who may have children at two different schools. It will also allow fairer enforcement.

9.13. These measures follow on from issues identified before 2002, when, the council agreed a scheme to gradually phase out parking dispensation permits over five years, with all permits to be phased out by September 2008. This was agreed following a cross-party scrutiny panel inquiry which heard evidence from parents, local residents, school representatives and transport experts. It decided that the uncontrolled issuing of parking dispensation permits by schools was adding to the traffic congestion problem and recommended that this concession be withdrawn.

10. TRANSPORT ANALYSIS

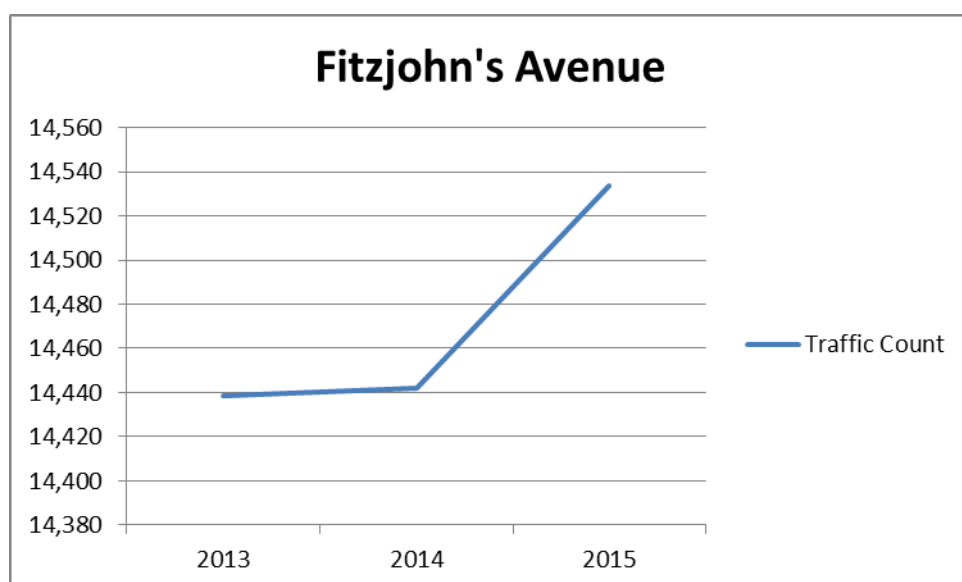
10.1. The area around the site at 69 Fitzjohn's Avenue is considered to be particularly overburdened, with one of the key contributors to this being the concentration of schools with parents taking part in the "school run". The Council conducts annual traffic count surveys within 200 metres of the proposed site, due to ongoing concerns of congestion and pollution in this area. Fitzjohn's Avenue is considered a Borough Distributor Road (BDR) and is a key north-south connection for Camden Borough. A BDR is a road that serves to flow traffic from one key area or town centre of the borough to another. It is expected to have lower flow rates than on the Strategic Road Network (SRN) which serves to feed traffic London wide, these are designed to take the additional traffic.

10.2. The borough average for a BDR is 9,303 trips by motor vehicle during the day for a 12 hour period. The latest survey (March 2015) conducted shows that Fitzjohn's Avenue is greatly pressurized with 14,533 trips in the same period. This is 56% higher than the borough average. We also find that this is far higher than the average SRN in Camden Borough which is 11,616 trips in the same period, as stated above these are designed to carry the additional congestion burden.

However we find that Fitzjohn's Avenue is 25% higher than the average SRN, it is generally avoided to host SRNs in densely populated residential area such as this and are set due to traffic volumes if unavoidable. This is not possible in this case due to the width of the carriageway and foot path. This leads to a number of issues for the local resident such as heavy congestion, low air quality, delays to public transport, reduced road safety and traffic filtering out into local residential roads in an area that has a high concentration of residential dwelling and Schools.

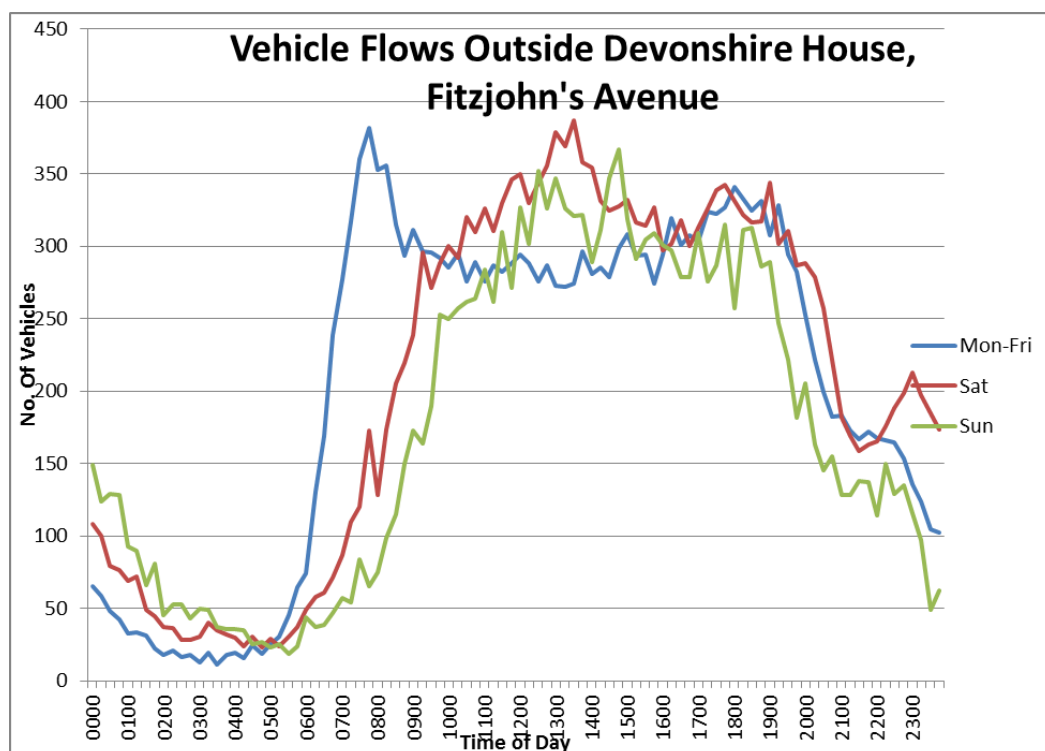
10.3. We have been monitoring this area for the last 3 years, the results are outlined in fig 1 where we can see that the issues of congestion are continually getting worst in this area.

Fig 1



10.4. Fig.2 below provides a breakdown of the flow of traffic throughout the day, the peak times of traffic outside the school are between 7:15 to 8:45 in the morning and 16:15 to 18:00 in the evening. These peak times of heavy congestion coincide with the start and end of normal school times, which indicates that the concentration of schools in the area of having a detrimental effect on the area

Fig 2



10.5. There are a number of existing problems in the Hampstead and Belsize areas, which currently suffer from higher concentration of schools. In this area of Hampstead alone is St Anthony's School (located across the road), Fitzjohn's Primary School (located 150 metres away), Henderson Court Day Centre (200 metres), University College Senior School (250 metres), St Mary's School (250 metres), North Bridge House Senior School (200 metres) and The Tavistock Children Day Unit (300 metres).

10.6. The Appellant's Transport Statement (2.20) provides us with a modal split that shows more than 20.7% (136) of the pupils traveling by car. This data is extracted from the 2015 School Travel Plan which was also submitted to the council last year. The 2016 School Travel Plan has now been submitted and has shown a huge increase in the number of pupils travelling to school by car. This currently stands at 37% (242). With a 17% increase in car travel to the school there is an evident lack of progress from the school to reduce the number of pupils arriving by car this can lead to a number of issues including air pollution, road safety, congestion and impact on neighbouring residential amenity. Based on this evidence it is considered that the school is not successfully promoting sustainable transport to and from the site.

- 10.7. There is no local catchment area for this school. A significant number of parents and pupils come to the school come from a significant distance and are dependent on car use. This is contrary to DP17 which states that "The Council will resist development that would be dependent on travel by private motor vehicles."
- 10.8. Data provided as part of the schools Travel Plan shows us that the school contributes to 3.3% (484 trips per day) of this congestion on a daily bases, which is far higher than we would expect for any one institution.
- 10.9. Taking into account the high level of schools concentrated in the area, it is reasonable to assume that the cumulative effect of other schools, which also show high car use are major contributors to the congestion in this area and in the wider borough. With St Anthony's School less than 100 metres away with 44% car use of the student body, (School Travel Plan 2015/16) and St Mary's School 250 metres away with 29% car use (School Travel Plan 2013-14).
- 10.10. The proposed enlargement of the school is a risk which could allow for an increase in student numbers and therefore could have a detrimental impact on the highway. The appellant's Transport Statement submitted with the application states throughout the document, in sections 1.4, 4.2, 4.8 and 6.5 that "The development will not in itself generate any significant vehicular traffic." Whilst this "in itself" may be true; the Transport Statement does not take into account that the additional space could mean a change in habits for the pupils as they will be reallocated to the new areas available. This could have a wider effect of the use of the building, the school may use the new learning room to be allocated as an additional class room, the new dining hall will also be available, for much of the day unused, and could be used for a variety of uses such as Physical Education classes, a drama room and many other purposes.
- 10.11. As this is not considered or addressed in the Transport Statement the council considers that the appellants have not addressed policy DP16 which states in section 15 that we require the "Transport Assessment to demonstrate how a new school development won't exacerbate the issues with congestion, road safety and parking problems related to the "school run".

11. APPELLANT'S ADDITIONAL TRANSPORT ASSESSMENT (JULY 2016)

11.1. The appellant has provided additional information in the form of a Transport Assessment, submitted to Camden Council in July 2016. The new information included in this document is titled as follows:

Education demand

Traffic Count and Assessment

Observation of school related traffic (19th May 2016)

11.2. While an additional assessment of the on street conditions are welcome, the Council contends that the conclusions on this additional information do not mitigate our concerns, are not based on up to date information or that any increase in pupils number would not have a negative impact on the local community.

Educational Demand

11.3. Whilst Hampstead school spaces are highly sought after, this however is more a case of the reputation of the school rather than local need and this leads to schools drawing pupils in from large distances. While it is accepted that there is a demand in this area, it is not however accepted that there is a need for spaces.

11.4. The Government Directyou.gov website provides data on the number of schools within specific areas. Within 0.27miles of 69 Fitzjohns Avenue there are 10 schools (see Appendix 19). When compared to other residential areas the London Borough of Camden this is a higher than average concentration of schools:

11.5. The Council has recently refused an application for a new school at 26 Rosslyn Hill (see para 4.5) within 0.24 miles, based on a lack of need for spaces in the area and its contribution to congestion and negative effect on air quality in the area. Our education department have stated that in the next 5 years they predict a surplus of spaces for this area without requiring any additional increase in spaces (see appendix 23 for details).

11.6. For these reasons any additional increase in spaces would not primarily serve a local community need, but would only further draw pupils from outside the area, who would inevitably drive.

Traffic Count and Assessment

11.7. The appellant has conducted a traffic assessment outside the school conducted at term time on Monday 6th June to Friday 10th June 2016, a one week Monday – Friday assessment.

11.8. As supplied in the new TS in section 2.7 there is a drop in speed at the peak times of 8-9; this could be due to the impact of additional traffic related to the school, but cannot be confirmed as this is also a key time for commuters to travel to work. The second dip in traffic speed is 3-4 and then increasing after: this can be directly linked to people conducting the school run as it is too early to be linked with people returning home from work. This shows that the amount of traffic travelling to and from the area as part of the “school run” is having a detrimental effect on traffic leading to prolonged periods of parking during the school run period, which impacts adversely on congestion and air quality.

11.9. Section 2.7.4 concludes that “There are however no characteristics of a flow pattern that is dominated by education demand which would be expected to include elevated demand during 08:00 – 09:00 hours and 15:00 – 16:00” However, upon a closer analysis, graphs 3 & 4 do not support this statement. This can be seen most distinctly in graph 4 where there is a clear increase in numbers around 09:00 hours and again at 15:00 – 16:00. This is also collaborated with our own assessment that is shown in Fig 2 of this document where it is indicated that peaks in traffic are immediately before and after school times, when parents or carers would be collecting pupils.

11.10. Therefore the appellant's analysis confirms an elevation of congestion during the school run period. It should be noted that no comparison is provided by the appellant with non-term times.

Observation of school related traffic

11.11. The onsite observation (19th May 2016) provided in the Transport Assessment (SKP/RJM/18178-02e) has raised a number of instances around the school in the morning peak (0800 – 0905):

- i) A high turnover of lawful parking spaces
- ii) Some parking on double yellow lines;
- iii) Some instances of accesses being blocked; and
- iv) Instances of U-turning traffic.

And in the afternoon peak the following issue were identified

- v) There was not a high turnover of lawful parking spaces;
- vi) There was extended periods of double yellow line parking;
- vii) There were instances of accesses being blocked; and
- viii) Only between 1550 and 1600 hours were there some instances of U-turning traffic.

11.12. Most of these observed events lead to further concern that there are issues around the school that are caused by parents driving to and from the school. As stated in the appellant's Transport Statement the above instances are caused by pupils which among others "include Devonshire House pupils, but they are by no means predominant." Despite the observations suggesting that Devonshire House is not the only cause on these instances the appellant appears to admit that they are a contributor.

11.13. The main observation that is highlighted in the report is in section 3.2.6, where it was identified that despite school staff being present parents continued to parking illegally. Thus the school are unable to control to illegal parking, which by its nature, impacts on the risks to pedestrians and road users.

11.14. The Council's observations during sites visits (See section 15 of this report for more details) have reported that the traffic situation can be very hostile, with accounts of illegal parking and blocking of both lanes on Fitzjohn's Avenue directly outside the school. With a large number of parents choosing to drive to and from the school

each day, many parents were illegally parking in residents bay and pay & display bays in the morning and afternoon (without making payment). This adds to the congestions in the area with additional traffic and parents slowing traffic when entering and exiting parking facilities. It was also recorded that a number of parents pull out of these bays, performing U-turns or in some cases a three point turn which has led to both carriageways of Fitzjohn's Avenue being blocked for flowing traffic stopping traffic altogether (see appendix 21 for photographic evidence).

11.15. Ability to Accommodate Additional Demand

11.16. The Appellant has submitted an assessment on the potential impact of an increase of 60 pupils traveling to and from the school; this covers pedestrian impact on crossings, impact from additional traffic on flow and parking restraints. The assessment goes into detail on the impact on the local crossing facilities which includes a Zebra Crossing and a traffic signal junction. This outlines that a small increase (38 movements) needing to use these facilities resulting in an increase would not have an overly detrimental effect on traffic flow or the requirement for additional pedestrian facilities. This is welcome; the council would encourage the school to further promote the current school body to use these facilities by increasing the level of sustainable travel to and from the school such as walking and cycling. This would also have the added advantage of reducing an already congested and overly polluted road (see sections 10 for details).

11.17. In section 3.5.1 it looks at the additional vehicular impact, however it is unclear as to how a number of the assumptions have been assessed. It has been assumed that 60 extra pupils would result in 10 additional car trips during peak hours (0800-0900 and 1500-1600). Based on the 2015 School Travel Plan used as part of the Appellant's submitted Transport statement, it outlines 20.7% of the pupils use vehicles to and from the site which would equate to 12.47 extra vehicles and 24.94 trips per day. Using the more up to date 2016 School Travel Plan 37% of pupils come in vehicles equating to an extra 22.2 vehicles and 44.4 trips a day. It has also failed to take into account additional teaching and support staff that would be required with an increase in pupil numbers. We do not therefore feel that this has

properly assessed the impact an increase in the student body would have on the local highway.

11.18. In our conclusion this assessment has not taken properly into account our concerns of the impact additional vehicles will have on the public highway or what effect of creating additional school spaces would have on an area that already has surplus capacity. Putting aside the appellant's lack of detail in their assessment, their conclusion states that an increase of 60 pupils would "have no adverse impact on delay and capacity of the local road network". It is the opinion of the Council that any impact will be adverse and unwelcome in this area; by increasing spaces available at this school it would only exacerbate the problems when we are seeking to reduce them.

12. DEVONSHIRE HOUSE SCHOOL TRAVEL PLANS

12.1. The key aim of a Travel Plan is to promote the use of sustainable modes of transport through a range of soft measures, as well as highlighting the benefits of travelling by modes other than the private car. This is done by identifying existing barriers to traveling by sustainable modes and addressing them through actions to achieve modal shift targets.

12.2. The appellant's Transport Statement submitted with the application (2.20) provides us with a modal split that shows more than 20.7% (136) of the pupils traveling by car across all four sites; this data is extracted from the 2015 School Travel Plan which was submitted to the council last year. The 2016 School Travel Plan has now been submitted to the Council and shows a significant increase in the number of pupils traveling to school by car. This figure is now 37% (242) across both sites. With a 17% increase in car travel to the school there is an evident failure by the school to reduce the number of pupils arriving by car. Should this level of increase continue, the school would cause even further additional pressure on an already overburdened road.

12.3. An increase in pupils arriving by car would contribute further to the existing road congestion and associated impact on road safety, air pollution and neighbouring

residential amenity. Based on this evidence it is considered that the school is not successfully promoting sustainable transport to and from the site.

13. SCRUTINY OF RELEVANT APPLICATIONS FOR LOCAL SCHOOL EXTENSIONS

13.1. The council seeks to ensure that school extensions do not impact on the local highway network. Objections have been consistently raised by local residents and groups regarding impacts on the highway from proposals to extend Devonshire House and other schools. The following looks closely at: i) the type of concerns raised by the local residents and groups about exacerbating the current unacceptable congestion on the highway, ii) the terms of permissions granted and iii), implications.

Application site at 69 Fitzjohn's Avenue

13.2. On 20/11/2000 an application for *Replacement of existing rear extension by the erection of a single storey rear extension to provide dining and wet weather facilities and staff office* was approved (ref: PWX0002203). This permission included the following condition:

The numbers of pupils accommodated by the school shall not be increased beyond the existing number of 200 pupils on the school roll, as a result of the extension hereby approved.

Reason: To ensure that the premises are not used for purposes which would be likely to generate an excessive amount of vehicular traffic in order to ensure compliance with the requirements of policy TR11 of the London Borough of Camden Unitary Development Plan 2000.

13.3. It should be noted that this condition was not disputed at the time and was placed on the development to ensure that it would not generate an excessive amount of vehicular traffic. It should also be noted that the pupil numbers on the site, at this time, were 200 or less (and are now at 228).

13.4. Following this grant of permission, an application to vary the wording of this condition was submitted to the Council (ref: PWX0103367). It was proposed to reword the condition as follows:

The extension to replace the existing veranda to the rear of 69 Fitzjohns Avenue which is hereby approved, shall not be used as additional class form rooms, unless such use as a class form room replaces a current class form room use elsewhere and therefore does not increase class formroom capacity in the School.

Reason: to ensure that the accommodation is used to enhance the quality of teaching, provision and care at the School and not for the creation of additional class form room capacity which might generate vehicular traffic over and above what would otherwise pertain.

13.5. However, this application was withdrawn before determination; the Council has no record as to why it was withdrawn.

13.6. The appeal statement states that the parent application (ref: PWX0002203) was not implemented, and as such the condition to limit student numbers at the school does not stand. Nonetheless, it is important to note that even in 2000 the council was concerned with the potential impact any enlargement of the school could have on traffic and sought to limit pupil numbers as a direct result of the school's enlargement.

13.7. And since then, as noted above, there has been a steady growth in pupil numbers on the site since 2000 from on or below, 200 to 228 in 2015 when the application in question was submitted.

Other Devonshire House School Sites

13.8. On 26/02/2013 an application was granted at 2 Arkwright Road (one of Devonshire House School's other sites) for "Erection of roof extension to single storey outbuilding to create additional classroom space to existing school (Class D1)". (ref: 2012/3910/P). This scheme appears to have been implemented.

13.9. Appendix 4 contains further details. But to summarise, objections were received by 5x neighbours and the Heath & Hampstead Society. Their concerns covered a range of issues including amenity/privacy, sunlight/daylight, overdevelopment of the site and the following on congestion/school pupil numbers:

- This application should only be permitted if Devonshire House guarantees that they are not increasing the number of pupils at the school. Any increase in their pupil numbers is bound to bring more traffic into this already congested area;
- Prince Arthur Road and surrounding roads are massively overburdened with major building works involving heavy lorries and vehicles occupying parking areas mainly without parking permits. Noise and dirt are a constant annoyance and there is no control of weekend work. The School has historically been unconcerned about the effects its building works have had on surrounding residents, particularly at weekends when it has habitually ignored weekend working restrictions.
- School numbers - No information in the DAS or elsewhere of the implications of the proposal on school numbers. No indication of what limitations have been imposed on the School except that the overall pupil population of 581 is quoted. We assume that some limit applies, especially in terms of traffic generation and the school run.

13.10. The permission contained an informative which stated:

You are advised that proposed roof extension hereby approved is intended to provide additional teaching space to the school not to increase the capacity of the school beyond the existing 581 pupils.

13.11. The documents submitted by the school in relation to this application make no reference to utilising the extension to house additional students, but rather imply that it is necessary "In order to be able to meet the demands of the new curriculum and modern technology Devonshire House needs be equipped with a specialist ICT suite, an art, design technology suite for the older children and a music / music technology room" as stated in their design and access statement, which goes on to say "In line with a comprehensive programme of works, It has been assessed that it would be possible to create the specialist teaching spaces by rationalising and reconfiguring the existing space in the main buildings of the school site. However two more specialist teaching spaces are required to fulfil the requirements of the national curriculum, with an estimated minimum floorspace of 80-100m²".

- 13.12. Nonetheless, the Council felt it necessary to remind the school that these classrooms should not be used to increase student numbers by way of an informative. Whilst the Council acknowledges that an informative may not have been the most appropriate approach to take, but at the time the school stated there would be no increasing of student numbers, and the Council accepted this, in good faith, albeit with an informative .
- 13.13. However, of particular concern to the Council is that following the granting and implementation of the 2 Arkwright Road permission, the overall enrolment across all school sites increased from 581 in 2012 to 652 pupils in 2015 or 71 pupils across 3 years, which is an average of 23.66 pupils a year.
- 13.14. Therefore the granting of the application for improved facilities and no increase in pupil numbers, which is similar to that under consideration in this appeal, resulted in an increase in pupil numbers.
- 13.15. Further, as referred to above, between 2000 and 2015 there was an increase in pupil numbers of at least 28 (from 200 to 228) at the subject site, 69 Fitzjohn's Avenue Site (data taken from previous planning applications, Ofsted reports and ISI)
- 13.16. From the above information, there is a correlation between additional space being granted at the school (and subsequently implemented), and the pupil numbers increasing year upon year at a rate

St Anthony's School 1 Arkwright Road

- 13.17. On 27/01/2016 an application was refused for *Expansion of St Anthony's School to include the change of use of No. 3 Arkwright Road from residential) to education use (a 3 storey rear extension including excavation to No. 3 and formation of cycle parking. (ref: 2014/7847/P)*
- 13.18. Appendix 5 contains further details, but to summarise there were 58 x objections to this application from neighbours, The Heath and Hampstead Society, The Netherhall Neighbourhood Association and the Church Row and Perrins Walk Neighbourhood Association also objected. Their concerns covered a range of issues including

congestion, loss of residential floorspace, air pollution, amenity/privacy, sunlight/daylight, overdevelopment of the site and basement construction concerns.

13.19. Concerns were significant in regard to congestion and the school run with all local groups commenting extensively on the matter (see Delegated Report in Appendix 5 for full details).

13.20. Of particular relevant are the following comments provided by The Heath and Hampstead Society, stating:

- For many years, Hampstead has been a magnet for school development in North London, overwhelmingly in the private sector. This has now reached the point of over-development, to the great detriment of the local community. This concentration of schools in Hampstead and its near neighbouring areas, is completely disproportionate, unsustainable, and justifies restraint, in order to mitigate (although not eliminate) its harmful effects.
- Within the small area of NW3, there are (2015) a total of 39 schools, with a total school roll of over 10,250 students.

13.21. Church Row and Perrins Walk Neighbourhood Forum also provided the following information:

- There are currently 55 schools in NW3 with more than 11,500 pupils of which 4500 are at schools on or very close to Arkwright Road and Fitzjohns Avenue. The population of Hampstead Town Ward is just 10,616 of which less than 1200 are of school age. The number of pupil places is a multiple of the number of local pupils.
- Contrary to Policy DP16 that states "in areas with an existing problem with the school run, it is unlikely that the Council will grant planning permission for educational facilities that are likely to exacerbate the problem". As a matter of policy all schools should be looking to protect their pupils, and as a minimum have proactive travel plans to reduce vehicle traffic. Such plans have to be self-governing as with one Camden Council employee monitoring all such

plans for the entire borough there is no real ability to monitor never mind enforce.

13.22. As with previous applications at schools within the area, the issue of traffic congestion caused by the school run forms the main concern for local residents and groups and was the basis for the Council refusal.

13.23. The main reason for refusal was:

The proposed development, by virtue of its dependence on travel by private motor vehicles, would fail to adequately promote sustainable modes of transport or mitigate the impacts of the development on the already congested transport network. This would be contrary to policies CS11 (Promoting sustainable and efficient travel) and CS19 (Delivering and monitoring the core strategy) of the London Borough of Camden Local Development Framework Core Strategy; and policies DP16 (The transport implications of development), DP17 (Walking, cycling and public transport) and DP21 (Development connecting to the highway network) of the London Borough of Camden Local Development Framework Development Policies.

14. **SCRUTINY OF THE PROPOSED PLANS SHOW THERE IS POTENTIAL FOR THE SCHOOL TO ACCOMMODATE MORE PUPILS**

14.1. There is scope for proposal to free up space which could be used for additional teaching rooms for additional pupils. This is examined below.

Devonshire House School is spread across four sites: 4 Arkwright Road (pre-reception and reception ages), 2 and 6 Arkwright Road (8-13 age group) and the application site at 69 Fitzjohn's Avenue (5-8 age group).

14.2. The proposed development consists of the following:

- Extension of existing basement under raised terrace (excavating approx. 168sqm) to allow for creation of new hall.
- Replacement of non-original rear extensions with glazed flat roof extension to allow for enlargement and consolidation of existing rooms
- Creation of new lightwell to the south (combining with existing lightwell); New lightwell to the north; new lightwell to the front.

- 14.3. The interior use of the building has been developed over time and is laid out in an ad hoc manner with teaching rooms, shared dining room/teaching room and office at ground floor and additional teaching rooms and toilet facilities at basement floor level
- 14.4. School lunches are served in a teaching room on the ground floor, which is also used for tuition, music and other school matters, whilst the kitchen is in a small space at basement level. The existing basement has limited connection to the main access at ground floor level
- 14.5. Whilst the front of the building and the front driveway has been retained close to its original state, the rear of the building has been previously extended with a pitched roof rear extension which wraps around the floorplan of the building.
- 14.6. The stated intent of the proposal is to rationalise the layout and improve circulation. The existing staircase is to be extended down to basement level and a main lobby space is to be created at that level.
- 14.7. The existing basement is to be extended under the main building and the rear terrace to create a large Dining Hall facing the rear garden.
- 14.8. Access to and from the kitchens will be direct to the Dining Hall, to rationalise access for the students and the staff involved. A further space under the terrace is to replace teaching space for one class currently at roof level, which the appellant states is used as a SEN (special educational needs) space.
- 14.9. The existing extension would be replaced with a larger flat roof, full width extension which would create a space, listed on plans, as a 'lobby' area with a staff room, this lobby would link the teaching rooms, hallway and office at the rear of the building.
- 14.10. The proposal would add an additional 205sqm of floorspace to the building would free up existing space within the building. As noted above, an existing classroom at

roof level would be re-provided in the basement extension, thus freeing up the existing classroom to become a 'learning support room' (as annotated on the proposed floorplan drg 421.02 B).

14.11. Similarly, a new dining room will be created at basement level, which frees up the existing Teaching/Dining Room at ground floor level (as annotated on drg 421.S01 B). At present the room is utilised in a mixed use fashion for a range of activities; these could all be relocated to the basement dining room thus freeing up the ground floor room for additional teaching space.

14.12. There is an identified and real risk that unless restrictions are placed on the use of rooms, and there is a cap on pupil numbers, this freed up space would be used for additional teaching rooms.

15. THE COUNCIL'S INFORMAL TRAFFIC SURVEY JULY 2016

15.1. On the 5th July 2015 2016 between 08:00-09:00 and 15:15-16:30 Council Officers carried out an informal traffic survey to identify the issues affecting the area around Fitzjohn's Avenue and Arkwright Road. Photographic evidence of the issues at hand can be seen in Appendix 20.

15.2. The Officers observed from Devonshire House School on Fitzjohn's Avenue and Arkwright Road and also St Anthony's School (Arkwright Road) and St Marys School (Fitzjohn's Avenue).

15.3. The following issues were identified:

- Parents/guardians parking in residents' bays and single yellow lines while drivers let children out.
- Coaches dropping off students at all schools which were observed. These caused a particular problem when parked and arriving/leaving as traffic was brought to a standstill on Arkwright Road as they manoeuvred.
- School coach parking in the TFL bus stop on Fitzjohn's Avenue (for approx. 15mins) forcing London Buses to stop in the middle of the road (for

passengers to alight/get on) as they could not pull in – again causing traffic to come to a standstill.

- General overwhelming of the roads due to traffic/congestion, school run traffic/coaches causing numerous cases of traffic standstill through the periods observed.

15.4. The problems observed and identified above endorse concerns raised by local residents, groups, the press and the council about what occurs on a weekday basis during term time and are a very real issue for the residents of the surrounding area who feel blighted. The congestion and chaotic nature of the school run in this area and associated noise and fumes, is an on-going issue which has been identified since as far back as the year 2000 (see section on Council measures to address the Transport Issues relating to school runs), however the issue has not gone been resolved.

15.5. Furthermore school coaches are having a direct impact on the wider London Transport bus network by obstructing the free-flow of London buses and could potentially impact upon passenger safety as buses are being forced to allow passengers on/off at non-designated areas (as coaches are parked in the TFL bus stops). Increase in pupils has potential to add to the need for school coaches that are needed for school trips, regular daily transport to the off- site sports pitches that each school has and travel to and from school.

16. THE COUNCIL'S DECISION

16.1. This is an appeal for non-determination. However, as noted above, the council would have recommended approval for the scheme subject to a number of conditions. The appellants dispute condition 12, which reads:

The proposed dining hall, kitchen, catering and plant rooms at basement level and the hall at ground floor shall not be used as classrooms or activities commensurate with classrooms and the former classroom in the eaves of the property shall not be used for purposes other than as a special tutoring room, and no more than 228 pupils shall be based at the site (Condition 12).

- 16.2. The Council has produced a delegated report, which was presented at a Member's Briefing meeting on 14th March 2016 (see Appendix 1). The report established that the principle of the proposed extensions and alterations was acceptable on design grounds and would not impact upon neighbouring amenity in terms of loss of privacy, sunlight/daylight, or outlook.
- 16.3. 6 objections were received from neighbours with comments summarised ranging from pollution concerns, noise from pupils, lack of waste storage, private school not contributing to the community, basement setting a precedent and it being unnecessary development.
- 16.4. However, the main bulk of concern revolved around pupil numbers and the impact on traffic in the area.
- 16.5. Similarly, The Redington/Frognaal Association and Church Row & Perrins Walk Associations objected for similar reasons as above, with their main concerns also surrounding the pupil numbers and impact on traffic/congestion:
- 16.6. There is a real risk that enlarging the school would impact upon traffic/congestion (and associated issues) in the area unless there is sufficient restriction in place to control pupil numbers/use of rooms; The Council concerns have been echoed by local residents and groups through their responses during the consultation period, as such it was considered necessary to restrict the potential for growth give this risk.
- 16.7. The report (See appendix 1) produced for the member's briefing meeting on 14th March 2016 states that "The applicant has advised in email correspondence that there would not be an increase in the number of pupils. However the numbers of pupils has increased over the last 15 years and the increase in floor area by 200sqm would add additional capacity to the school facilities, which has the potential to further expansion elsewhere within the school campus" (para 1.17).
- 16.8. It goes to state that "In order to ensure that the additional 200sqm of new floorspace would over time not be used for additional pupils a condition is imposed which would ensure that the proposed dining hall, kitchen, catering and plant rooms at basement level shall not be used as classrooms for activities commensurate with classrooms and the former classroom in the eaves of the property shall not be used for purposes

other than as a special tutoring room and no more than 228 pupils shall be based at the site. This will ensure that the proposal would not result in an increase additional car journeys to and from the site, have implications for the local transport network and the extent of air pollution" (para 1.18).

16.9. It was noted that "concerns have been raised from local groups about the potential impact of the development on air quality of the area". And then states "However, given that there would not in increase in traffic this is not considered to be an issue", this is based on the condition restricting both the use of the rooms, and the numbers of pupils, therefore limiting any potential for increasing traffic as a direct result of the development.

17. WHY THE COUNCIL CONSIDERS IT NECESSARY TO CONTROL PUPIL NUMBERS

17.1. Since at least the year 2000 the Council has acknowledged there is a significant impact caused by the high concentration of schools within the Hampstead Area and has sought through evidence based reports and pro-active measures to reduce the impact during this time (See section 8 of this report)

17.2. Nonetheless the Council is limited in its ability to control the unfettered growth in pupil places at existing schools and, although parking permits have been restricted within what the legislation allows, and most schools provide a travel plan it is clear that there is still a significant issue with school run traffic in the Hampstead Area.

17.3. The Council does have planning powers to limit student numbers by way of planning conditions or s106 legal agreements where developments have the potential to create space which could be used to increase student enrolment.

17.4. The Council similarly can refuse schemes where it is felt there would be an undue impact on the highways network as a result of increased student numbers (as at 1-3 Arkwright Road).

17.5. With regard to Devonshire House School the following issues have been identified in this report:

- There has been a demonstrable increase student numbers since at least the year 2000.
- There would appear to be a correlation between Devonshire House School being granted additional space and, following implementation, the number of pupils increasing (i.e. 2 Arkwright Road application 2012/3910/P – see section 4 for further details).
- The school has taken the approach before of stating that additional space (at 2 Arkwright Road) would be solely to improve existing facilities. The Council took this on good faith and only used an informative to state that numbers should not increase above 581. The school did not comply and pupil numbers are now 652.
- The school has failed to comply with its travel plan; with a 17% increase in car travel between in the 2015-16 period.
- The proposed development would free up space within the school to allow for rooms to be changed to permanent classrooms i.e creation of additional classroom in basement (leaving a classroom available in the upper part of the building) and provision of new basement dining hall leaving existing dining room/mixed use room available at ground floor level.
- The area has a substantial amount of schools (see appendix 19) and the Director of Education has confirmed that there is no local demand for primary school places in this part of the borough (see appendix 23).

17.6. Furthermore, Independent Schools have a commercial element, and whilst their aim is to provide a high quality education it is also beneficial for them to enrol as many students as possible where it is possible to maintain standards. By allowing for the school to be enlarged it would be possible for the school to maintain class sizes, and utilise freed up space within the building to enrol additional students. The increase in student numbers, specifically in the Hampstead area is an on-going concern for the council, which has a duty to ensure balance between often conflicting interests. It is clear that the school run issue is causing significant impacts on the highways network and to residential amenity within the area. The council has introduced

measures to address an identified problem and has a history of reports to support this.

- 17.7. The Council has taken the approach to limit student numbers, or refuse applications which are unacceptable, in the area when presented with applications which have a risk of increasing pupil places.
- 17.8. There is no material difference between the current application at 69 Fitzjohn's Ave and the previous 2 Arkwright Road application; the school has implied for both that they are merely to improve facilities for existing students, however the informative relating to 2 Arkwright Road application, advising that student numbers should not increase beyond 581, was ignored.
- 17.9. The Council must therefore ensure that any further impact on the highways network is minimised and future growth of pupil number is controlled at the school. It is considered appropriate therefore to limit pupil number by way of condition in relation to the planning application to enlarge the school.
- 17.10. The appellant notes that there are no limits on the school at present and it could lawfully accept more pupils, the Council accepts this. However, this does not mean that unfettered growth of the school should be allowed where there is a real risk, and genuine concerns by the council, that an enlargement of the school could have impacts on the highways network. The Council has the ability to apply relevant conditions to mitigate the impact of development and in this case is proposing to utilise planning conditions to allow for the existing facilities to be improved, whilst ensuring there would be no additional impact on the highways network.
- 17.11. Given the increase in the number of students being driven to school, a 17% increase in the space of a year (which goes against the school's Travel Plan) and the significant transport concerns raised by not just this school, but the concentration of schools in a very small area, there is considered to be sufficient justification to cap the number of students at the current level to minimise any potential impact. It would be open to the appellants to apply for planning permission to increase the school numbers at the site. The school would be required to provide sufficient and robust evidence to the Council to demonstrate that it has been successful in securing

sustainable modes of transportation to and from the school, in accordance with their own Travel Plan, should they wish to increase the number of students attending the school at a future date.

18. APPELLANT'S GROUNDS OF APPEAL

18.1. The appellant's grounds of appeal are summarised as follows:

- i. The LPA has not relied on any evidence to conclude that the Proposed Development will have an impact on the local transport network;
- ii. Without prejudice to the Appellant's position that there is no impact on the local transport network from the Proposed Development, even if there were any significant impacts, there is no evidence which justifies the LPA in concluding that such impacts would be significant and hence justify the imposition of a condition capping numbers of pupils; and
- iii. Condition 12 as proposed does not meet the statutory tests in that no impact has been identified to mitigate, it does not directly relate to the proposal and it is not fair or reasonable to impose such a Condition given the nature of the Proposed Development.

19. RESPONSE TO GROUNDS OF APPEAL:

19.1. Reason i) The council has not relied on evidence to conclude that the development would have an impact on the local transport network;

19.2. As set out at sections 8 (Measures the Council has taken), 9 (Transport Analysis), 10 (Devonshire House School Travel Plans) council has relied on evidence in the form of council data identifying the number of schools and pupils in the area; data held on the school in the form of its travel plan, the submitted transport assessment and information on its catchment area and growth in recent years to make an assessment on the potential impacts of development on the transport network.

19.3. As demonstrated in section 9 (Transport Analysis) and Appendix 19 (map showing concentration of schools) there are a number of existing schools in the Hampstead

and Belsize area, which leads to pressure on the highway network, particularly during peak morning and afternoon periods

- 19.4. As noted in section 17 above, following the granting and implementation of the 2 Arkwright Road permission, the overall enrolment across all school sites has increased from 581 in 2012 to 652 pupils in 2015 (or 71 pupils across 3 years).
- 19.5. Section 9 (Transport analysis) provides further evidence the impact on the transport network pupils and schools is having and the increase in car travel to the school, based on the school's travel plan to the school.
- 19.6. Further evidence outlining the schools travel plans is found in section 10 of this report.
- 19.7. The Council considers that it has based its assessment on sound evidence and judgement to conclude that were additional pupils enrolled at the school there would in all likelihood be an increase in vehicular travel to and from the site. At present the school is limited by its size in regards to the number of students it can enrol, it is considered that enlargement of the school without any control on pupil numbers would place undue strain on the already overburdened highway network.
- 19.8. Reason ii) there is no evidence which justifies the LPA in concluding that such impacts would be significant and hence justify the imposition of a condition capping numbers of pupils;
- 19.9. As outlined above there are a number of issues surrounding the lack of progress from the school to promote sustainable forms of transport; the large catchment area and the cumulative impact of numerous schools within very close proximity of each other causing harm to the highway network and neighbouring amenity. All of which raises concerns that any expansion of the school, even if not explicitly to allow for additional classrooms could lead to a gradual increase in the number of students on site with all the associated risks as outlined in sections 9 (Transport Analysis) and 17 (Why the Council considers it necessary to control pupil numbers) .
- 19.10. The Council therefore considers that there is substantial evidence justifying the condition capping pupil numbers.

19.11. Reason iii) Condition 12 as proposed does not meet the statutory tests in that no impact has been identified to mitigate, it does not directly relate to the proposal and it is not fair or reasonable to impose such a Condition given the nature of the Proposed Development.

19.12. The council has clearly demonstrated that the proposal meets the statutory tests. Please refer to the Conditions section in Paragraph 7 above.

20. ADDITIONAL POINTS RAISED BY THE APPELLANTS

20.1. The appellant raises 9 further points from para 32 onwards in their appeal statement. These are addressed as follows:

20.2. First: in response to para 33, the council has demonstrated throughout this report in and particularly in paragraphs 8,9, 10, 13 and 16 that there are real risks to the transport network which is already severely impacted upon at peak times. The submitted transport statement only assesses the impact based on the current student numbers, therefore clearly doesn't identify an issue, however it is not unreasonable to expect that enlarging a school could allow for additional pupils; the transport statement fails to take this into account.

20.3. The appellants have subsequently submitted an additional transport assessment taking into account an additional 60 pupils on site. The Council's response to this can be seen in section 11.15.

20.4. Whilst internal comments from Highways Officers are not published this does not mean there was no objection to the scheme.

20.5. Second: In response to para 34 the Council has demonstrated, in in paragraph 7 that the proposed restrictions are appropriate. The Council has also demonstrated throughout the report and particularly in paragraphs 3, 4, 12, 13 and 16 that the school has increased pupil numbers since at least 2000. Since planning permission was granted and implemented for an extension to the school site at 2 Arkwright Road, additional pupils have been accepted at an increased rate even though the

extension was solely intended to be for an improvement of existing facilities (and not explicitly for additional pupils).

- 20.6. Third: In response to para 35, the council considers it necessary to restrict the existing use of the ground floor hall. The creation of a larger new hall in the basement could allow for the existing functions of the ground floor hall to be syphoned into the new hall; thus allowing the existing ground floor hall to be used as a permanent classroom and increasing the schools pupil numbers by virtue of this.
- 20.7. Fourth: In response to para 37 please refer to paragraph 7 above where each statutory test of a condition is addressed. Furthermore, there is evidence of a correlation between the school receiving planning permission to extend (at 2 Arkwright Road) and increasing student numbers following implementation of the scheme.
- 20.8. The council took it in good faith that the development was solely for the improvement of existing facilities and only used an informative to remind the school that student numbers should remain at 581. This was not followed and the council is concerned about the real risk of the enlargement of the school being utilised to increase student numbers further thereby impacting detrimentally on the already overburdened highways network.
- 20.9. Fifth: In response to para 38, the council accepts that there are no limits on pupil numbers at present. However it does not seem unreasonable to deduce that enlargement of the current floorspace could allow for additional pupils to be enrolled by utilising that additional space (as appears to have been the case at the 2 Arkwright Road site). Therefore the Council is using its powers to ensure that pupil numbers are controlled and that the scheme improves the facilities for existing pupils.
- 20.10. The Council does consider that the development would, in itself, give rise to the potential to utilise the additional space within the building as classroom space, thus allowing an increased student enrolment. It considers that were the suggested condition 12 applied to limit both the room use and the overall student numbers on the site, that the development would both improve the facilities for the existing

enrolment of students, without having a detrimental impact on the wider highways network.

- 20.11. Sixth: In response to para 40, the transport statement has been formulated based on the existing number of pupils at the site, and as such clearly would not demonstrate any additional vehicular trips. However, it fails to address that the increased space gives rise to the potential to increase student numbers. As outlined above, the school does appear to have utilised additional space to enrol additional students following the 2 Arkwright Road application to extend. It does not demonstrate that any additional students at the site could also be accommodated without there being a detrimental impact on the highways network.
- 20.12. As the transport statement has been carried out based on the current number of students this is further justification to support the Council's cap on student numbers at the existing level. It has not been demonstrated the development would not have a detrimental impact beyond 228 students and as such, the condition is appropriate.
- 20.13. Seventh: In response to para 41, unfortunately the council is unable to trace APP/U5930/A/08/2090054 on the PINS Website. The Waltham Forest website has partial appeal decision (only front and back pages of decision) for ref: 2008/0541 so we cannot comment on this appeal.
- 20.14. Each site will have its own specific planning considerations, the inspector felt, for whatever reason that conditions restricting use and student numbers were not necessary in the case of the 32 Lindley Road decision at Waltham Forest.
- 20.15. In the case of 69 Fitzjohn's Avenue the Council considers that the very specific set of circumstances relating to the long term and widely reported school run issues in Hampstead warrant careful control of any application with the potential to increase student numbers.
- 20.16. Nonetheless, in support of the Council's approach is appeal decision APP/R5510/A/10/2139254 at St John's School, Potter Street Hill, Middlesex, LB Hillingdon Council HA6 3QY. The appeal was dismissed. This appeal has been fully outlined and assessed in Paragraph 5 above.

- 20.17. Eighth: In response to para 42. Any discussions between the Council and the applicant prior to the final decision being issued should be treated as informal and non-binding. It would be both unfair and unrealistic to hold the council to account for informal discussions held throughout the determination period.
- 20.18. Throughout the course of every application the Council will have various discussions taking into account consultee responses and the views of senior colleagues, whilst a consistent approach is always the aim, there will be situations in which the final outcome differs from the informal discussions.
- 20.19. Ninth: In response to para 43. The school has failed to successfully promote sustainable forms of travel to and from the school, with a 17% increase in car travel to the school between 2015-16 as identified in their travel plans.
- 20.20. Whilst the council encourages all schools to produce travel plans the schools will benefit by way of parking dispensation only when a travel plan is provided to the council. Furthermore, if the travel plan is not being implemented successfully it cannot be given weight in support of potential school enlargement.
- 20.21. The council welcomes the additional cycle parking spaces.
- 20.22. Nonetheless, any measures taken by the school do not negate the need for the school to successfully demonstrate to the council that the proposed enlargement and potential increase in student numbers would not have a detrimental impact on the highway network. As such a condition capping room use and limiting student numbers is considered the only acceptable way to ensure the development does not contribute to congestion in the area.
- 20.23. The appellant also raised the following points within their appeal statement which the council would like to clarify:
- Para 28 (iii): The Council can confirm that permission (PWX0002203) has not been implemented. Enforceability or applicability of that condition is therefore not relevant to this appeal.
 - Para 28 (iv): When viewed in context it is considered that, were the scheme implemented with condition 12, then it would indeed be for improvements to

buildings and thus the development would not in itself generate any significant vehicular traffic.

The Council has addressed, throughout this report, why it considers that the enlargement of the school could realistically allow for increased student numbers and the risk it poses unless there is a cap and restrictions.

- Para 28 (v): The council has addressed this in paragraphs 4, 7 13, 16 and 17 ,

The Council would again reiterate the scheme at 2 Arkwright Road whereby the school proposed to extend only to improve facilities, yet the school enlarged from 581 to 642 pupils.

- Para 28 (vi) The basement excavation would be 168sqm, when combined with the additional extension the total floorspace would be 205sqm.

21. CONCLUSION

21.1. Should the school, as it suggests, not wish to increase student numbers it is of concern why in principle it opposes the condition to limit pupil numbers.

21.2. The Council has set out above the reasons why the Council considers Condition 12, specifically limiting pupil numbers is necessary and appropriate.

21.3. There is a real risk that the school will increase the pupil numbers.

21.4. If numbers are increased then there will be significant pressure placed upon the highway network in the Hampstead area as a direct result of the School Run; and associated impacts on the amenity of residents (noise, pollution, inability to park).

21.5. The Council has identified that the school is failing to comply with its Travel Plan by not encouraging sustainable modes of transport to and from the school; has an unlimited catchment area and is in an area which has a high concentration of schools. Its student enrolment numbers have increased substantially year upon year (across all sites) following the granting/implementation of an extension at its 2 Arkwright Road site – the numbers enrolling would appear to indicate that an additional class of students is now enrolled each year (when prior to this the increase was approx. 12 additional students a year). The school has also failed to adhere to

council advice on the 2 Arkwright Road application which advised that student numbers should not increase beyond 581.

21.6. It is considered that the enlargement of the school, coupled with the factors above and mentioned in the report, could allow for an increase in student numbers which would have a detrimental impact on the highways network.

21.7. The condition to cap student numbers and restrict room use is both appropriate and fair in that it will allow the school to cater for its current number of students without impacting upon the highway network which is already highly overburdened.

21.8. The inspector is therefore respectfully requested to dismiss the appeal against the non-determination of planning permission and to uphold all suggested conditions.