

THE LONDON BOROUGH OF CAMDEN

At a meeting of the **PLANNING COMMITTEE** held on **THURSDAY, 14TH NOVEMBER, 2019** at 7.00 pm in The Council Chamber, Crowndale Centre, 218 Eversholt Street, London, NW1 1BD

MEMBERS OF THE COMMITTEE PRESENT

Councillors Heather Johnson (Chair), Flick Rea (Vice-Chair), Danny Beales, Marcus Boyland, Oliver Cooper, Adam Harrison, Samata Khatoon, Jenny Mulholland, Lazzaro Pietragnoli, Nazma Rahman and Anna Wright

MEMBERS OF THE COMMITTEE ABSENT

Councillors Andrew Parkinson, Georgie Robertson, Peter Taheri and Sue Vincent

ALSO PRESENT

Councillors Maria Higson, Angela Mason, Luisa Porritt, Tom Simon, Stephen Stark and Paul Tomlinson

The minutes should be read in conjunction with the agenda for the meeting. They are subject to approval and signature at the next meeting of the Planning Committee and any corrections approved at that meeting will be recorded in those minutes.

MINUTES

1. APOLOGIES

Apologies for absence were received from Councillors Andrew Parkinson and Peter Taheri.

Apologies for lateness were received from Councillors Lazzaro Pietragnoli and Flick Rea.

2. DECLARATIONS BY MEMBERS OF PECUNIARY AND NON-PECUNIARY INTEREST IN RESPECT OF ITEMS ON THIS AGENDA

In respect of items 7(2 + 3), Former Hampstead Police Station, Councillor Oliver Cooper declared for transparency that he had received a number of direct representations both in support and against the applications, but he had not considered these. He was an ex-officio member of the Hampstead Neighbourhood Forum as well as a member of other groups who had made representations, but he had not been involved in any discussions by those groups in respect of the applications. He considered therefore that he did not have a prejudicial interest and would therefore participate as normal in the discussion and vote on the applications.

Councillor Marcus Boyland declared in respect of items 7(2+3), Former Hampstead Police Station, that he was a governor of Fleet School, but had not been involved in any conversations regarding the applications. He considered, therefore, that he did not have a prejudicial interest and would therefore participate as normal in the discussion and vote on the application.

3. ANNOUNCEMENTS

Webcasting

The Chair announced that the meeting was being broadcast live to the internet and would be capable of repeated viewing and copies of the recording could be made available to those that requested them. Those seated in the Chamber were deemed to be consenting to being filmed. Anyone wishing to avoid appearing on the webcast should move to one of the galleries.

4. REPRESENTATIONS TO THE COMMITTEE

The Chair noted a large number of representations had been sent directly to Committee members on multiple applications and reminded all parties that the Committee could not consider any materials sent to them directly outside of the appropriate mechanisms for making deputations and written submissions.

RESOLVED –

THAT the deputation requests and written submissions contained in the supplementary agenda be accepted.

5. NOTIFICATION OF ANY ITEMS OF BUSINESS THAT THE CHAIR DECIDES TO TAKE AS URGENT

There was no urgent business.

6. MINUTES

The Chair noted a large number of representations had been sent directly to Committee members on multiple applications and reminded all parties that the Committee could not consider any materials sent to them outside of the appropriate mechanisms for making deputations and written submissions.

RESOLVED –

THAT the deputation requests and written submissions contained in the supplementary agenda be accepted.

7. PLANNING APPLICATIONS

Consideration was given to the report of the Executive Director Supporting Communities.

7(1) FLAT 1, 226 FINCHLEY ROAD, LONDON, NW3 6DH

The Chair outlined that the application had been deferred for further information at the Committee meeting on 8th August 2019. In line with usual practice, only those Members who had been present during the previous discussion could participate and vote on the application at this meeting. Of those Committee members present, those eligible were Councillors Danny Beales, Marcus Boyland, Oliver Cooper, Anna Wright and the Chair herself.

The Planning Officer confirmed that the condition set out in the previous supplementary agenda was still recommended as set out in an appendix to the report.

On being put to the vote it was, with 4 votes in favour, none against and 1 abstention:

RESOLVED –

THAT planning permission be granted subject to conditions as set out in the report.

ACTION BY: Director of Regeneration and Planning

7(2) FORMER HAMPSTEAD POLICE STATION, 26 ROSSLYN HILL, LONDON, NW3 1PD

7(3) RELATED APPLICATION

Consideration was also given to the deputations and written submissions as outlined at item 4 above.

The Planning Officer outlined some proposed amendments to conditions as part of his presentation:

- Condition 4 regarding salvage and retention would be tightened up by changing it to a discharge condition and referring to the original flooring;
- Condition 15 would be amended to make it clearer that the school was restricted to a one-form entry primary school with ancillary use limited to community use under the Community Use Plan; and

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- Amendments to the condition on hours of community use to remove reference to community groups and set out hours of use as Saturdays until 17:00 and Sundays until 18:00.

If the Committee was minded to approve the applications, the final wording of these amendments would be agreed using the standard delegation to officers.

The Legal Adviser reminded the Committee that the application could only be determined on planning grounds in accordance with the relevant policies. Education considerations were only relevant in so far as they were referred to in planning policy and he referred the Committee to paragraphs 7.1 to 7.4 and 7.10 of the report.

Committee members noted this advice but commented that there was a burden on planning authorities to make provision for schools in their areas, and that in recent years there had been limited effort looking at alternative sites for Abacus Belsize Primary School ('Abacus'). It was suggested that the London Plan did not add as much weight in terms of positively favouring schools as suggested in the report, but the guidance in the National Planning Policy Framework (NPPF) was noted.

In discussion, Members made the following points:

- Existing air quality in the area was poor and there was a lack of detail on how the impact on pupils would be adequately mitigated;
- The existing concentration of schools in Hampstead and Belsize creating a cumulative impact was a material consideration;
- The information on projected and planned car journeys arising from the survey undertaken seemed implausible; and
- The 46 long-stay cycle and scooter places provided were only a small proportion of the 210-pupil intake, notwithstanding staff as well. This was therefore not reassuring in terms of supporting a car-free school.

Invited to respond, the agent for the applicant confirmed that there would be 34 cycle spaces to the rear of the school alongside 18 scooter spaces. There would be an additional 4 cycle spaces at the front of the school. On the policy points, he commented the NPPF was clear about ensuring sufficient choice of school places and Abacus established that choice given the make-up of existing schools in the area.

On air quality, the Planning Officer confirmed there was poor air quality on Rosslyn Hill, but given the commitment to a car-free school this would not worsen. An air quality report had been submitted and the assessing officer was satisfied that the proposals were appropriate; air would be taken in from the rear and filtered through a ventilation system. The air quality in the playground, which was to the rear, was considered to be within the acceptable range.

Asked to comment on air quality, the depute in objection set out that all the evidence was that the air pollution on Rosslyn Hill was demonstrably unacceptable for school pupils. The Planning Officer commented that the London Plan set out that

schools should not be situated on main roads unless air quality could be mitigated. Officers were happy that mitigation had been provided and the air quality inside the building and in the playground would be at safe levels.

Committee members queried whether a negative impact on school rolls at other schools represented a failure to protect existing resources, which was referenced in planning policy. Policy also cited need in the context of need for facilities. The Planning Officer advised that policies generally talked about choice and diversity of choice and encouraged school developments. Need for a school was not referenced in any specific planning policy though it was important to note this was not a new school and need had not been a reason for refusal of the previous application. Committee members disagreed and emphasised that London Plan and Hampstead Neighbourhood Plan seemed to provide planning grounds to consider need.

Turning to potential safeguarding issues arising from design of the space, the applicant and agent advised there were no windows from Class B1 office space that looked on to the school playground and there was separate access to the office space on Downshire Hill. The internal lift was shared between the school and office space, but designed so that doors to the offices opened on one floor on one side of the lift, and the doors to the school opened on a different floor on the opposite side. Access was limited to those with key cards – none of whom would be children – and the key card would not allow an office user to go to the school floor or vice-versa. Nor would the system allow office users and school users to access the lift at the same time. The Head of Development Management advised that something could be added into the proposed Management Plan to cover the safeguarding points for avoidance of doubt.

Committee members commented that it would be difficult to discourage parents driving their children to the school as it was situated on a main road, which would also hamper it being part of the Healthy School Streets programme. Queries were raised around the transport modelling with it suggested that the 20% of pupils being dropped by car at New End Primary School was a more reasonable benchmark, especially with the site on an uphill location. The siting of the school outside of the catchment area was also remarked on, and although not by much, still raised concerns about the temptation for parents to drive to the school. Responding, the agent for the applicant advised that the entire school catchment area was within a 20-minute walk to the school and parents were committed to a car-free approach.

The Transport Officer outlined that as the application was for a change of use the approach was to compare existing use with proposed use. Unfortunately, there was no credible data available for traffic and trips associated with the site when it had been in use as a police station. Therefore, officers had looked for a comparable site and decided that Kentish Town Police Station, as a police station in the borough with comparable floorspace, was the best site to use by way of comparator.

Committee members suggested that given the differences the police station locations, only limited weight should be given to that data. The Local Plan, it was suggested, was clear that additional traffic should not be permitted at this site. The

proposals appeared lacking in terms of strict controls for preventing car use and it was difficult to enforce a car-free school at this location.

The Head of Development Management advised that there were controls proposed in support of a car-free scheme and both planning enforcement and highways powers available to enforce. Those controls including a robust travel plan and on total number of pupils and how they arrived, were wide-ranging and by contrast there were many schools in Hampstead with no such controls. It would not be appropriate to use a vacant building as a baseline for measuring transport impact, and the appropriate baseline was use as a police station. Data was however available for the school's existing site. Officers had considered the information available and concluded there was no negative transport impact.

Answering a question, the Planning Officer confirmed that the scheme was being assessed as an existing school moving to a new site. Pupils were already travelling to and from the area to the school's existing site, which was much further away from the catchment area than the site, which was 250 metres outside the catchment area.

Committee members expressed the view that some elements of the report seemed to assess the scheme against policies regarding new schools and other elements were reliant on policies for existing schools. The Head of Development Management outlined that the Committee was being asked to consider a change of use from a police station into a Class D1 use, which included school use. The consideration was then whether an existing school – not a new school – moving to this location had such impacts that it could not be permitted. She highlighted that Abacus had been operating for a number of years at Jubilee Waterside, where permission for use as a school was temporary. The Committee was advised that the previous reasons for refusal were a material planning consideration, and that previous application had been assessed as an existing school. While policies had changed in recent years, they were substantially the same in terms of assessing this application.

Committee members noted that there would be less than substantial harm arising from the proposals in heritage terms and this had to be balanced against the public benefit, and it was not clear what public benefit there was from the application as there was no need for school places in the area at this time. They also highlighted the adoption of the Hampstead Neighbourhood Plan since the previous application was considered, which set out the need to be cautious around permitting additional schools in Hampstead because of cumulative impacts.

Officers drew attention to paragraphs in the NPPF offering general encouragement for new school infrastructure, and advised that their interpretation was that the London Plan added weight to this. The Neighbourhood Plan had equal weight to the Local Plan, and the application had been assessed against it, specifically noting the section regarding schools. Sufficient mitigation through conditions and a Section 106 legal agreement was available to conclude that the application complied with the Neighbourhood Plan.

Responding, Committee members outlined that the thrust of the NPPF was to place importance on ensuring sufficient school choice. As an existing school, this application did not offer additional choice and simply preserved existing choice. Therefore, this part of the NPPF should not be given any significant weight. Nor did the application expand, alter or improve a school site, which was supported. The NPPF was however clear on protecting existing resources, which must include broader community infrastructure such as schools. In summary, no strong positive weight should be given to the application being for a school and the consideration was whether the impacts of the scheme were acceptable.

The Legal Adviser remarked that the overall tenor of planning policy was to look at such school proposals positively, but agreed that this was an unusual application and there was scope for policy to be interpreted differently. He added that in terms of protecting existing resources, the London Plan also set out the need to facilitate the provision of existing social infrastructure, which this application, in effect, achieved.

Answering additional questions, the Planning Officer informed the Committee:

- The accessibility of the site had been examined, and officers were satisfied that it met the required standards for disability access;
- Fire safety was generally a matter for Building Control, who had indicated that they could see no reason on the face of it why the application would not meet safety requirements;
- There was some debate on the existing number of car parking spaces, but the proposal was car-free and there would be no parking on site as the entire space was needed for the playground; and
- All servicing would take place onsite.

The applicant was invited to set out what measures Abacus would take to improve its STARS accreditation from silver to gold, as there was limited detail in the draft Travel Plan. Committee members were informed about a walking bus being trialled, agreed staffing to support travel plan measures, as well as continuing with all the existing measures, which would be enhanced by being closer to the catchment area. Committee members reiterated concerns that the different location and topography and not having a bus from the area to the school's existing site would change behaviour meaning that existing measures would not necessarily translate. The Planning Officer agreed there would be a change in behaviour and while the site was uphill and on a busy road, that it was far closer to the catchment area meant that in officers' assessment that change would be a positive one.

It was queried by Committee members why the office space was upstairs while some of the classrooms were in lower ground rooms with less light. The Planning Officer advised that the classrooms at the lower level did have windows and sufficient natural light. The agent for the applicant added those rooms would have access to outdoor space and were designed to educational space standards. Rooms at the lower level at the front, with less light, were for support staff and not teaching.

The Legal Adviser confirmed that there was a very high threshold to the test for determining that the building was not suitable for a school and in his view that threshold was not met. The Planning Officer added that it was a civic building, so suggesting it was not suitable for another civic use was difficult to sustain. The Head of Development Management added that there were separate standards on school buildings outside the planning framework that the applicant would need to adhere to, and hence it did not need to be covered in detail as part of the planning assessment.

Turning to the less than substantial harm arising from the proposal, Committee members queried whether given the lack of historic magistrates' courts it was not unreasonable to seek to preserve it with its fixtures and fittings. The test used on whether or not it was suitable as a modern magistrates' court was also critiqued, as there may be other uses that reduced the harm. Less than substantial harm would arise, and it was reiterated that it was not clear that there was public benefit to outweigh this given the lack of need and detrimental impact on other local schools. The Planning Officer outlined public benefits from bringing the building back into use, retaining a civic use for the public, conservation and improvements to heritage aspects, and providing a permanent home for a school close to its catchment area.

The Conservation Officer informed the Committee:

- The site was seemingly the first provision of a facility for juvenile defendants and therefore a use involving young people was appropriate;
- Over a number of years, the three separate uses had been blurred as the police adapted the building for their use. As a result the existing building no longer represented the original Dixon Butler design, though there were some remaining features such as fixtures and fittings;
- A continued use as a police station and magistrates' court would require adaptations that would result in harm;
- The less than substantial harm had to be managed against any public benefits and optimum use. Investment in and maintenance of the building for civic use was a public benefit;
- Officers had negotiated a number of changes to guard against overdevelopment and there were a number of conditions to safeguard the heritage, including a salvage condition; and
- The NPPF had a hierarchy of acceptability of changes where there were specifically designed buildings that it was difficult to continue to use with the same use. This proposal conformed with that by preserving a number of features in a space that could not be used as a modern court.

Committee members suggested that the assessment reduced the heritage value of the magistrates' court to a minimal level, on the basis it was no longer useable as a magistrates' court. There was value in preserving the magistrates' court in that setting and it was not clear the application represented the minimum intervention needed to retain it for public use. It was easy to envisage events taking place in the space, which would require fewer changes.

The Head of Development Management reiterated that it was a listed building designed for a very specific use, with the fixtures and fitting designed for that use. Given it would not reopen as a police station and magistrates' court, retaining some form of public use was a benefit. It was difficult to identify other uses that would require less intervention, while ensuring there was use of the space. A residential scheme would lead to significantly more harm for example. Officers had negotiated a scheme that preserved as much of the historic fabric as reasonably possible.

Responding to a question, the Conservation Officer outlined the basis of the Grade II listing as being on the basis of architectural interest and historic use, with the civic presence and hierarchy of spaces referred to. Features such as the courtroom panelling, furniture, detailing, cornices and joinery were referred to, but with it noted the court was significant as a whole courthouse experience. She added that the application included proposals to restore the room, including repairing plasterwork and removing the suspended ceiling to expose the original ceiling.

The Planning Officer commented that it had been the applicant who had commissioned Historic England to update the listing so they could better understand the heritage and how to preserve it. He reiterated there was no alternative use that could be expected to maintain all the existing fixtures and fittings. A Class B1 office use would see some of the features retained, but it would not be reasonable to retain them all. Committee members commented that the school could keep the space vacant and use it for events potentially, citing other historic magistrates' courts being preserved. Providing an alternative use simply because the school did not want to use the magistrates' court space was not the test. The Head of Development Management cautioned that there were a limited number of uses for the magistrates' court and very few parties who would be willing to retain it fully. If it was insisted that the magistrates' court had to retain all its features, the likely outcome was an empty building, which would be harmful to it as a Grade II listed building.

Turning to noise, the Planning Officer advised the Committee:

- Children would make noise in the playground but only during two hours per day in term-time. This was considered acceptable;
- The previous application had been for two-form entry with double the number of pupils, who would have been using a smaller playground. Therefore the noise was significantly less for this scheme;
- The proposed conditions balanced the need for pupils to have a good outdoor environment against amenity impacts on residents;
- A condition would allow use of the playground for four weekends a year;
- Acoustic screens were proposed, but would not be for the closest properties due to loss of daylight;
- There were a mixture of types of rooms in residential properties adjacent to the playground as well as some rear gardens;
- The nearest property was 1 metre from the proposed playground; and
- The Community Use Plan would cover the details of hours and access for community use.

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The Head of Development Management commented that the test was whether it was acceptable to have the proposed use next to residential properties, and highlighted that there were a number of schools in the borough next to residential properties. It was accepted residents in the area did not want the noise from a school and there was an impact, but the conditions achieved a balance. There was also a benefit to residents from having a use at this site that limited noise at evenings, the majority of weekends, and during school holidays.

Committee members queried whether the acoustic screens would be effective given how close the residential properties were to the playground. The height of the screen also appeared intrusive and impacted on daylight to those properties. Members remarked that the agent of change was the school moving to the site, and under the agent of change principle, it was local residents who were impacted and whose amenity needed to be protected. It was not clear that permitting a significant noise impact at a certain time during the day was acceptable, nor that mitigation through a screen that diminished daylight reaching a residential property protected amenity. Having a screen suggested that there was a noise impact, otherwise mitigation would not be needed.

The Planning Officer advised that a noise report had been submitted and that the potential impact on existing residents had been assessed. While the noise of children playing could not be mitigated in itself, given the limited period when this would occur and conditions proposed, the noise impact was considered limited and acceptable. He clarified that conditions would manage the times that the playground could be used and not put a cap on the number of decibels, with proposed condition 6 being amended accordingly in the supplementary agenda.

The noise consultant for the applicant advised that the noise report had found the noise of children playing the playground to be at most 64 decibels, with an average of 60 decibels. He commented that proposed use of the playground had been reduced to two hours a day since the noise report had been submitted. The acoustic screens would enhance the screening provided by the existing brick wall, and their height was designed to balance impact on daylight to the residential properties while mitigating some of the noise from the playground. The applicant confirmed that access to the playground for two hours per day was considered sufficient. Committee members queried whether the school could operate effectively with no use of the playground for after-school activities as happened with many other schools.

The Transport Officer advised in response to a question that a financial contribution would be secured to look at the pavement outside the school and ensure there was a safe crossing point. Committee members noted that children outside the school and waiting at any crossing would be subject to high particulate matter and therefore poor air quality. They also raised concerns about the air quality impact for children walking to Hampstead Heath for outdoor learning. The Planning Officer replied that walking was encouraged generally, and that Downshire Hill was less busy than Rosslyn Hill so there were no objections from officers to children walking to the Heath. He also outlined there was a small canopy area in the playground that would

not be controlled by the hours condition on the playground, and while not large enough for sports or similar, gave pupils the opportunity to go outside other than during the conditioned two hour window.

On being put to the vote it was, with 9 votes unanimously against:

RESOLVED –

- i) THAT planning permission subject to conditions and a Section 106 legal agreement as set out in the report, supplementary agenda and verbally at the meeting not be granted;
- ii) THAT listed building consent subject to conditions as set out in the report and supplementary agenda not be granted.

In discussion, Committee members suggested that the applications contravened policies related to protecting amenity of existing residential users as a result of noise impact from use of the outdoor space. There was a deficiency of robust evidence to show how granting the applications would not lead to additional car journeys, and therefore granting the applications was likely to lead to increased traffic and a negative impact on the local transport network and resultant poorer air quality in the area. Internal heritage aspects in the listed building, particularly the loss of fixtures and fittings in the magistrates' court, would be lead to less than substantial harm, without sufficient public benefits to outweigh this. Finally, there would be negative air quality impacts on users of the building due to its location on a main road where there was poor air quality.

On being put to the vote it was with 9 votes unanimously in favour:

RESOLVED –

THAT for the reasons set out above, planning permission and listed building consent be refused.

ACTION BY: Director of Regeneration and Planning

7(4) 115 -119 CAMDEN HIGH STREET, LONDON, NW1 7JS

This application was deferred due to lack of time.

7(5) EDINBORO CASTLE, 57 MORNINGTON TERRACE, LONDON, NW1 7RU

Consideration was also given to the deputations as outlined at item 4 above. The Chair confirmed as per the supplementary agenda that she was stepping down from the Committee to speak in her capacity as ward councillor for Regent's Park so the Vice-Chair assumed the Chair.

Upon being asked, the applicant confirmed they were happy to agree to the condition proposed by the ward councillor speaking in objection as their intention was always to end use of the marquees at 10pm with dispersal starting at the same time.

The Planning Officer advised in response to a question that while there was an overlap between the licensing and planning regulatory frameworks, there were planning conditions proposed which were enforceable including serving an injunction if necessary.

On being put to the vote, it was with 7 votes in favour, 1 against and 1 abstention:

RESOLVED –

THAT planning permission be granted subject to conditions as set out in the report and an additional condition to end use of the marquees at 10pm, with no drinks to be served after 9:30pm.

**7(6) 53-55 CHALTON STREET AND 60 CHURCHWAY, LONDON, NW1 1HY
AND 70 CHURCHWAY, LONDON, NW1 1LT**

7(7) RELATED APPLICATION

These applications were deferred due to lack of time.

8. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

There was none.

Having adjourned between 8:26 and 8:30 pm, and 10:08 and 10:11 pm, and having moved Committee Rule 19(a), the meeting ended at 10:30 pm.

CHAIR

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MINUTES END