

PLANNING SERVICES**TOWN & COUNTRY PLANNING (DETERMINATION BY INSPECTORS)
(INQUIRIES) RULES 2000**

John Sheehy

**PROOF OF EVIDENCE
FOR PUBLIC INQUIRY COMMENCING ON 15th of September 2020**

APPEAL SITE

Former Hampstead Police Station,
26 Rosslyn Hill,
London NW3 1PD

APPELLANT

The Department for Education and Anthem Schools Trust

SUBJECT OF APPEAL

- Refusal of planning permission and listed building consent for change of use of the site from a police station (sui generis) to a one-form entry school (Use Class D1) for 210 pupils and business/enterprise space (Class B1) including alterations and extensions to the rear and associated works.

COUNCIL REFERENCE:

2019/2375/P (Planning Application); 2019/2491/L (Listed Building Consent Application)

PLANNING INSPECTORATE REFERENCE:

APP/X5210/Y/20/3248002 & APP/X5210/W/20/3248002/3248003

PROOF OF EVIDENCE OF JOHN SHEEHY

QUALIFICATIONS

- i. I have a Bachelor of Arts Degree in History from Trinity College Dublin, Ireland and a Masters Degree in Regional and Urban Planning from University College Dublin, Ireland. I am eligible for membership of the Royal Town Planning Institute. I have worked in the Council's Planning Service since October 2005. I am a Senior Planning Officer in the Enforcement Team. I also worked in Camden's Planning Site Development Team for over 2 years and Development Management Team for 4 years.
- ii. Prior to my employment with the London Borough of Camden I worked for Slough Borough Council as a Planning Policy officer for 6 months.
- iii. During the period in which I worked in the Development Management team I dealt with a number of applications for sites in the Hampstead ward. I have also dealt with numerous sites in this area in my current role as Planning Enforcement Officer.
- iv) I understand that in providing evidence to the Inquiry my professional duty is to Inquiry and this duty overrides any obligation to my employers. I confirm that the facts stated are to the best of my knowledge true and accurate, and that the opinions I have expressed represent my professional opinion.

SUMMARY

- i. As the Council's Planning witness, the main issue to deal with in my Proof is Overall Planning Balance.
- ii. In my Proof, I deal firstly with the main topic areas of the Inquiry, summarizing the Council's case in Transport, Air Quality, Noise and Heritage.
- iii. I then turn to Overall Planning Balance.
- iv. In my assessment of this, I have identified the benefits and disbenefits of the proposal, I have compared them against each other and explained the weighting which I think it appropriate to give to those in order to draw my overall conclusions on the appeals.
- v. I have structured my Proof by arranging the benefits and disbenefits under the NPPF sustainability headings (economic, social and environmental). In each of the three strands I have assessed the benefits and disbenefits of the proposal and provided a final overall assessment of where the balance lies.
- vi. In the economic strand I have concluded that the balance is on the side of the benefits as the building would be brought back into beneficial use, construction jobs would be provided and the school use would be retained in the borough. I am of the view that there are no clear disbenefits of the proposal in this strand. The benefits would not, however, go beyond the requirements of local plan policies. In particular there is no mention of the proposed B1 employment element being offered as affordable workspace, of opportunities for professional training and apprenticeships nor any innovation characteristics associated with this space, which would represent benefits of significant weight. As a result, in the economic strand, the proposal represents, in my view, an overall benefit but of a relatively low scale.
- vii. In the social strand the most substantial benefit would be, in my view, community access to the facilities in the evening and at weekends, which would also keep the listed building accessible to the public. This should be given moderate weight

in the balance. Other than that, the benefits would be mainly in connection with the school having a permanent home. Under the proposals, a new school would not be created, nor would extra capacity be provided for the existing school. As the proposal would not lead to greater educational choice, the relocation of the school is therefore a benefit of low, or at best, moderate weight in my view. The disbenefits would include noise impact from the proposed playground causing harmful loss of amenity to neighbours of the site. The air quality impacts of the development would particularly affect the health of a vulnerable group, children, and there would not be adequate mitigation at the site. The transport impacts, which are linked to air quality, would be significant with limited possibility of being controlled or mitigated. In terms of social sustainability, in my view the harm would be relatively significant and the balance is on the side of the disbenefits.

- viii. In the environmental strand some of the benefits of the proposal such as retaining the exterior of the building are, in my view, relatively modest in scale and would be likely to be secured in the case of almost any redevelopment or change of use scheme. Meeting policy requirements in terms of environmental sustainability and regulation of construction impacts is a benefit of low weight; to merit greater weight in the planning balance the proposal would need to go well beyond policy requirements in these areas. Bringing this otherwise unused building into public use is one of the biggest overall benefits of the proposal and should, in my view, be given moderate weight. However there is an absence of positive measures to refurbish parts of the listed building that contribute to its significance or special interest which could be of significant weight in the balance. Within the environmental strand the magnitude of the harm to the listed building is considerable and should be given substantial weight in the balance. In my view the substantial weight of the heritage harm outweighs the scale of the benefits.
- ix. In conclusion I submit that in the economic strand, the scheme provides a low overall benefit. In the other two strands, the disbenefits outweigh the benefits. The proposal does not, in my view, represent sustainable development in accordance with National and Regional Policy, the Camden Local Plan and Camden Planning Guidance and the Council is of the view that the appeals should be dismissed.

STRUCTURE OF THIS PROOF

i) My evidence will be divided into 6 sections:

In Section 1 (Relevant Planning History) I shall provide a summary of the planning history relevant to the appeal.

In Section 2 (Proposal Subject to the Appeal) I will set out details of the proposed scheme.

In Section 3 (Planning policy and guidance) I shall highlight national, regional and local planning policies and guidance pertinent to the issues raised in my assessment.

In Section 4 (Site and Surroundings) I will describe the appeal site and surrounding area.

In Section 5 (Consideration of Issues) I will explain the Council's decision to issue the refusal.

In Section 6 (Conditions) I will set out the Council's suggested conditions should the Inspector decide to grant permission for the application; these conditions are put forward without prejudice to the Council's case and may change as a result of discussions with the Appellants which are ongoing.

ii) In addition to myself, the Council will call four other witness:

- Dr Michael Bull of Ove Arup and Partners who will provide evidence on Air Quality;
- Dani Fumicelli of Vanguardia Limited who will provide evidence on Noise;

- Stephen Burke Transport Officer who will provide evidence regarding the impact of the proposals on the street conditions and the transport sustainability and characteristics of the proposal; and
- Nick Baxter Conservation and Design Officer who will provide evidence regarding the impact of the proposals on the special historical and architectural quality of the listed building.

1.0 RELEVANT PLANNING HISTORY

Application site

- 1.1 **2016/1590/P and 2016/2042/L** A planning application and a listed building consent application were registered on 03/05/2019 for the “*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*”. The applications were refused on 09/08/2016. The substantive reasons were:

- i) The scale, bulk, height and detailed design of the proposed rear extension and its harm on the listed building and conservation area
- ii) The additional trip generation and traffic congestion
- iii) Impact on amenity of neighbouring residents – scale and intensity of use
- iv) Failure to demonstrate no impact in terms of air quality
- v) Failure to demonstrate no impact on trees
- vi) Further amenity reason – noise.

Associated applications - Abacus School – Jubilee Waterside

Abacus School currently operates from a site in the London Borough of Camden, where it opened in September 2013. There have been four temporary permissions for use of the Jubilee Waterside Centre at 105 Camley Street as a school. The most recent permission was granted to extend the use until 31st August 2024 (ref. 2020/1814/P, dated 9/07/2020).

2.0 THE PROPOSED DEVELOPMENT

- 2.1 The proposal seeks the change of use of the site from a police station (*sui generis*) to a one-form entry school (Use Class D1) and business/enterprise space (Class B1) including internal and external alterations and extensions to the rear.
- 2.2 The school would be a one-form entry free school for 210 pupils and 24 full time equivalent (FTE) staff members. The proposed school is intended to operate as a free school for a catchment area within the Belsize Ward. The school would be open to children from the ages of 4-11.
- 2.3 The proposal would involve an extension of 122.5sqm at rear lower ground and ground floors – to create enough space for a hall. The accommodation would be arranged over four floors (lower ground – second).
- 2.4 The stable block in the south-east corner of the site is included in the application and would house two of the proposed classrooms. The application involves the removal of modern additions to the building at the rear and the erection of a canopy. The application also involves the provision of a ramp access above the front lightwell on Rosslyn Hill.
- 2.5 The school hours would be 08:50 to 15:30 Monday to Friday during term time. The site would be open 08:00 to 18:00 to accommodate pre-school and after-school clubs. Conditions were suggested for the original application, limiting use of the playground to 120 minutes per weekday and to no more than four weekends per year.
- 2.6 The proposals also involve the provision of 231sqm of Class B1 employment use which would occupy the former Magistrates' Courtroom at ground and first floor levels; this is a physically separate area with its own access.

- 2.7 On 19/12/2019 the Council refused permission 2019/2375/P for the following development:

Change of use of the site from a police station (sui generis) to a one-form entry school (Use Class D1) for 210 pupils and business/enterprise space (Class B1) including alterations and extensions to the rear and associated works.

- 2.8 Planning permission was refused by notice dated 23 December 2019. The LBC stated the following reasons for refusal:

1. *The proposed development by virtue of its use, location and catchment area is likely to result in an increase in trips by private motor vehicles, increased traffic congestion and exacerbating air pollution and would fail to sufficiently prioritise sustainable modes of transport, contrary to policies T1 (Prioritising, walking, cycling and public transport) and C2 (Community facilities) of the Camden Local Plan 2017 and policies TT1 (Traffic volumes and vehicle size) and TT2 (Pedestrian environment) of the Hampstead Neighbourhood Plan.*
2. *The proposed development, by virtue of the proximity of its outdoor amenity space to neighbouring residential properties would result in an unacceptable increase in noise disturbance to the detriment of the amenity of neighbouring residents contrary to policy A1 (Managing the impact of development) of the Camden Local Plan 2017.*
3. *The proposed development by virtue of its location on a main road with poor air quality, which could harm the health of pupils, would not be an appropriate location for a school, contrary to policies A1 (Managing the impact of development) and CC4 (Air quality) of the Camden Local Plan 2017 and policy S3 of the emerging London Plan December 2017.*

- 2.9 Listed building consent (LPA Ref: 2019/2491/L) was refused by notice dated 19 December 2019. The LBC stated the following reasons for refusal:

1. *The proposed internal works would result in the loss of plan form and original fabric including the fixtures and fittings of the magistrates court which would fail to preserve the special architectural and historic interest of the host building, contrary to policy D2 (Heritage) of the London Borough of Camden Local Plan and policy DH2 (Conservation areas and listed buildings) of the Hampstead Neighbourhood Plan.*

3.0 PLANNING POLICY AND GUIDANCE

Local Development Plan policy status

- 3.1 Copies of all the Camden Local Plan policies that formed part of the reasons for refusal were sent with the questionnaire.
- 3.2 With regard to the appeal against the refusal of planning permission (refs. 2019/2375/P APP/X5210/Y/20/3248002) the determination of this needs to be made in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 which states:

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

- 3.3 The appeal against the listed building consent refusal (refs. 2019/2491/L, APP/X5210/W/20/3248003) needs to be determination must be made in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, in particular the statutory obligation under s.16(2):

In considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

National Planning Policy Framework (NPPF)

- 3.4 The revised NPPF was published on 19 February 2019 and sets out the government's planning policies for England and how these are expected to be applied. This revised Framework replaces the previous National Planning Policy Framework published in March 2012, and revised in July 2018. It provides a national planning policy framework against which all planning applications and decisions must be made. It sets out a presumption in favour of sustainable development. The policies contained in the NPPF are material considerations for the purposes of determining the planning appeal.

Camden Local Plan (2017)

- 3.5 The Camden Local Plan and supporting policies map were adopted by the Council on 3 July 2017 following Examination in Public.
- 3.6 With regard to the Local Plan policies relevant to this appeal, there is high degree of consistency between them and the NPPF so due weight should be given to the Local Plan policies in accordance with Paragraphs 212-3 of the NPPF.

London Plan - Consolidated with alterations since 2011 (2016)

- 3.7 This document, published in March 2015, is consolidated with all the alterations to the London Plan since 2011.

Draft London Plan – Intend to Publish (2019)

- 3.8 A draft New London Plan was published by the Mayor for consultation in December 2017, with the consultation period ending on Friday 2 March 2018. The draft Plan was subsequently considered by a formal Examination in Public which ran between Tuesday 15 January 2019 and Wednesday 22 May 2019. Formal adoption was expected in late 2019 / early 2020 and has been delayed by the Ministerial comments and the coronavirus pandemic, however the draft plan is at a late stage in its process of adoption and is a material consideration in decisions.

- 3.9 The current 2016 Plan is still the adopted Development Plan, but the Draft London Plan is a material consideration in planning decisions. The significance given is attributed more weight as it moves through the process to adoption.

Camden's supplementary planning guidance

- 3.10 Camden Planning Guidance (CPGs) provide advice and information on how we will apply our planning policies. The Council has reviewed its Camden Planning Guidance documents to support the delivery of the Camden Local Plan following its adoption in 2017. The update was carried out in two phases to manage the amount of material to be consulted on at any one time and ensure that relevant revised CPG documents take into account changes to the London Plan and to national planning policy. The CPG documents are 'material considerations' in planning decisions, although they have less weight than the Local Plan or other development plan documents.
- 3.11 The CPGs were adopted by the Council following consultation in two batches: on 26 March 2018 and 15 March 2019.
- 3.12 Consultation on minor updates of the following CPGs began in August 2020 and will run until 9 Oct 2020. This is a limited update to the CPG documents listed below, focussing on amendments to reflect wider planning changes, or to provide clarification or updates. Adoption is envisaged in December 2020. This is the list of CPGs subject to consultation which are relevant to the current appeal:

Employment and business premises, Energy efficiency and adaptation, Air quality, Amenity, Public health and wellbeing, Design and Basements.

- 3.13 Copies of these documents will be submitted following this proof.

Relevant development plan policies for appeal

3.14 The following Local Plan and London Plan policies are the relevant development plan policies in relation to the appeal; although the Intend to Publish version of the London Plan is not part of the development plan for statutory purposes, the equivalent policy references are given in the table for convenience:

London Plan (2016)	Draft London Plan - Intend to Publish (2019)	LBC Local Plan (2017)	Hampstead Neighbourhood Plan (2018)
Policy 3.16 (Protection and Enhancement of Social Infrastructure)	Policy GC3 (Creating a healthy city)	Policy G1 (Delivery and location of growth)	Policy DH1 (Design)
Policy 3.18 (Education Facilities)	Policy GG5 (Growing a good economy)	Policy C2 (Community facilities)	Policy DH2 (Conservation areas and listed buildings)
Policy 5.2 (Minimising Carbon Dioxide Emissions)	Policy D4 (Delivering good design)	Policy C3 (Cultural and leisure facilities)	Policy DH3 (The urban realm)
Policy 5.3 (Sustainable Design and Construction)	Policy D5 (Inclusive Design)	Policy C5 (Safety and security)	Policy NE2 (Trees)
Policy 5.7 (Renewable Energy)	Policy D13 (Agent of Change)	Policy C6 (Access for all)	Policy NE4 (Supporting biodiversity)
	Policy D14 (Noise)	Policy E1 (Economic development)	Policy BA3 (Construction management plans)
Policy 6.3 (Assessing Effects of Development on Transport Capacity)	Policy S3 (Education and childcare facilities)	Policy E2 (Employment premises and sites)	Policy TT1 (Traffic volumes)

Policy 6.9 (Cycling)	Policy E1 (Offices)	Policy A1 (Managing the impact of development)	Policy TT2 (Pedestrian environments)
Policy 6.13 (Parking)	Policy E2 (Providing suitable business spaces)	Policy A2 (Open space)	Policy TT3 (Public transport)
Policy 7.1 (Lifetime Neighbourhoods)	Policy HC1 (Heritage conservation and growth)	Policy A3 (Biodiversity)	Policy TT4 (Cycle and car ownership)
Policy 7.4 (Local Character)	Policy S1 (Improving Air Quality)	Policy A4 (Noise and vibration)	Policy HC2 (Community facilities)
Policy 7.6 (Architecture)	Policy T1 (strategic approach to transport)	Policy D1 (Design)	
Policy 7.8 (Heritage Assets and Archaeology)	Policy T2 (Healthy Streets)	Policy D2 (Heritage)	
Policy 7.15 (Reducing and Managing Noise, Improving and Enhancing the Acoustic Environment and Promoting Appropriate Soundscapes)	Policy T5 (Cycling)	Policy CC1 (Climate change mitigation)	
Policy 7.19 (Biodiversity and Access to Nature)	Policy T6 (Car Parking)	Policy CC2 (Adapting climate change)	
Policy 7.21 (Trees and Woodlands)	Policy T6.2 (Office parking)	Policy CC3 (Water and flooding)	
	Policy T7 (Deliveries, servicing and construction)	Policy CC4 (Air quality)	
	Policy GG1 (Building)	Policy CC5 (Waste)	

	strong and inclusive communities)		
	Policy GG2 (Making the best use of land)	Policy T1 (Prioritising walking, cycling)	
	Policy D1 (London's form, character and capacity for growth)	Policy T2 (Parking and car free development)	
	Policy D3 (Optimising site capacity through the design – led approach)	Policy T3 (Transport Infrastructure)	

3.15 The heritage policies listed above are relevant for the purposes of both appeals.

Supplementary Guidance

Camden's supplementary planning guidance:

- Camden Planning Guidance (CPG) Access to All (March 2019)
- CPG Amenity (March 2018)
- CPG Air Quality (March 2019)
- CPG Community uses, leisure and pubs (March 2019)
- CPG Design (March 2019)
- CPG Developers Contribution (March 2019)
- CPG Employment sites and business premises (March 2018)
- CPG Energy efficiency and adaptation (March 2019)
- CPG Transport (2019)
- CPG Planning for health and wellbeing (March 2018)

3.16 The following documents are also relevant:

- Hampstead Conservation Area Statement 2001
- Camden's Clean Air Action Plan 2019- 2022

4.0 SITE AND SURROUNDINGS

- 4.1 The appeal site is the vacant Former Hampstead Police Station at 26 Rosslyn Hill. The site is located on the northern side of Rosslyn Hill at the junction with Downshire Hill. In land use planning terms, a police station is considered as a sui generis use, being a use that does not fall within any defined use class. The use of the appeal site as a police station ceased in 2013 and the building was sold to the Department of Education in 2014. The use of the property has therefore left the control of the only body who could operate it within its authorised use. As a result the Council considers that the former use has terminated/ been abandoned.
- 4.2 The building comprises a basement, ground floor and two upper storeys. Due to topographical changes (the site slopes down to the rear), the basement is at ground level at the rear. The building has two wings at the rear and forms a 'U' shape.
- 4.3 The application relates to the site of the former police station, the associated former stable block to the rear. The former police station includes a magistrates' court and some prison cells. There is a hardstanding area that was used for car parking at the rear. A Victorian residence (currently vacant) abuts the site to the South East and was formerly used by the Metropolitan Police. The residence does not form part of the appeal site.
- 4.4 The building is Grade II listed and sits within the Hampstead Conservation Area. The main building is three storeys, plus a basement, and constructed in red brick with stone dressings as designed by J Dixon Butler (1910-13).
- 4.5 The building is referred to in the Hampstead Conservation Area Statement as an imposing feature of the Rosslyn Hill and Downshire Hill streetscape character.
- 4.6 The site falls within the area covered by the Hampstead Neighbourhood Plan and the proposals are assessed against the policies within this plan as well as those

of the Local Plan. The Hampstead Neighbourhood Plan designates this part of the conservation area as Character Area 3 – 19th Century expansion.

- 4.7 The main entrance is on Rosslyn Hill, with other entrances including the vehicular entrance on Downshire Hill. The Judges' Chamber area of the Magistrates' Court is accessed off Downshire Hill. To the rear, the slope of Downshire Hill results in level access to the lower ground floor. The building has two wings to the rear, at each end of the façade, forming a U-shaped building. There is a two-storey stable block to the eastern corner of the site, which was built at the same time as the main building.
- 4.8 The site has a PTAL rating of 4, which is a 'good' accessibility level and the site sits within a controlled parking zone.
- 4.9 It is believed that the building was occupied by the Metropolitan Police from 1913 until 2013. The site is currently owned by the Educational Funding Agency (EFA), who purchased it in 2014. The purchase was part of a wider scheme promoted by the Mayor of London, through which public land and property was to be freed up across Greater London to accommodate 11 free schools.
- 4.10 The area is predominantly residential. The site is bounded by the rear gardens of flats on Downshire Hill to the north-west and north, by the rear gardens of properties on Hampstead Hill Gardens to the north-east and borders the side of 24 Rosslyn Hill to the south-east.

CONSIDERATION OF ISSUES

- 5.1 The principal issue in my Proof, as the Council's planning witness, is Overall Planning Balance. The issues are, however, dealt with in the order set out in the Pre-Inquiry Case Conference Note: Transport, Air Quality, Noise, Heritage and Planning Balance.

The following section (paragraphs 5.2-5.41) summarizes the Council's case on the topic areas by reference to the specialist witnesses. My Overall Planning Balance assessment begins on paragraph 5.42.

Transport

- 5.2 In summary, the Council is concerned that the proposal would lead to an increase in trips by private motor vehicles, increased traffic congestion and harmful air pollution. In particular, the appellant has not provided sufficient information to demonstrate that their proposal will not have a significant air quality impact.
- 5.3 The Council's traffic surveys show that the location of the appeal site is particularly overburdened with vehicle traffic, with one of the key contributors to this being the concentration of schools in Hampstead and Belsize Park.
- 5.4 The Planning Statement submitted with the application noted in paragraph 2.10 that there are 49 primary schools in a two-mile radius of the catchment area.
- 5.5 Policy C2 Community Facilities requires a balance to be struck between the advantages of making provision for community facilities, including schools, and impacts on residential amenity and transport infrastructure.
- 5.6 The location of the site in relation to the catchment area in Belsize Ward would materially increase private vehicle usage in the local area compared to the existing amount of traffic in the local area especially at pick up and drop off times.

- 5.7 The Council accepts that looking, in an informed and qualified way, at trip generation from Kentish Town Police Station may be useful as a comparator to establish the historic trip generation from the former Hampstead Police Station although the Kentish Town Police station was and is significantly busier than the Hampstead Police station ever was. Based on the parking capacity and the relative size of the stations, a two-way total of 39 vehicle movements (or 51 with an alternative correction factor) is a realistic estimate for the level of movements of the former police station use, albeit that use of the site appears to have been in decline from 2008.
- 5.8 The appellant's survey information showed that 4% of pupils and staff travelling to bus pick up points to the School's existing location were dropped off by car. This would equate to approximately 8 private vehicle trips (16 two-way trips) in the AM and PM peak for the 210 pupil capacity. The Council considers that there would be a material increase in vehicular trips and relying on a walk to school ethos is insufficient to insure against private car use.
- 5.9 Based on a comparison with other schools in the area which serve the same age group and have similar gradients in surrounding streets, transport officers estimate that with the 210 pupils at the school this would equate to 46 arrivals and departures twice a day which, together with servicing, would give a total of 186 movements.
- 5.10 As the estimated total of journeys is well in excess of even the historic baseline the appeal proposal is not consistent with Policy C2 (Community facilities) which states that the Council will refuse applications for new schools or the expansion of existing schools in the Belsize and Hampstead area, unless it can be demonstrated that the number of traffic movements will not increase.
- 5.11 Assuming that the historic use has been abandoned and cannot be revived, it is nevertheless important that some use is found for the building. In principle a use such as residential or office could be suitable. In the case of either of these uses the proposal would need to be car-free to comply with Local Plan policies, with only disabled persons entitled to a parking permit where necessary under Policy T2a and T2b. There would appear to be scope for off site servicing by using the rear yard

which could be controlled by condition or legal agreement. As a result, a redevelopment of the site for an alternative use such as residential or office use would have the potential to achieve a number of traffic movements that would be minimal/nil.

- 5.12 In terms of air quality from traffic, the development is marginal in terms of acceptability. The appellants' own assessment demonstrates that they are at over 95% of the relevant transport emission benchmark. This assessment appears to be based on an optimistic assumption of no traffic using the site during school holidays and if the number of trips increase by just one vehicle, the benchmark would be breached. The appellant has mentioned potential use of the site for a Summer fair which would be likely to generate traffic from those attending and delivering to site. Deliveries to site by van may also take place outside of school term.

Air Quality

- 5.13 A Proof of Evidence has been prepared by the Council's Consultant Dr Michael Bull of Ove Arup and Partners. In pages 4 and 5 his proof Mr Bull sets out a Summary of the Council's case.
- 5.14 The site location is particularly sensitive as far as Air Quality is concerned. Rosslyn Hill is a busy road with heavy volumes of traffic AND is located IN an Air Quality Management Area (AQMA). Air pollution is already over the UK Objective for annual mean nitrogen dioxide concentrations and there is evidence concentrations are close to, or exceed the World Health Organisation standard for PM₁₀.
- 5.15 The proposed use, a school, involves a group of the population that are particularly vulnerable to air pollution, namely children; the school would be open to children from the ages of 4-11.
- 5.16 Planning policies at national, regional and local level aim to locate sensitive uses away from more polluted areas to reduce exposure to air pollution. Public Health England has recognised the role of the planning system in reducing exposure to

pollution and in separating people from pollution. They also note that it is better to reduce air pollution at source rather than mitigate the consequences.¹

- 5.17 The appellant's air quality report notes that the UK Objective for annual mean nitrogen dioxide concentrations is exceeded at the lower floors at the front of the building.
- 5.18 Mitigation is proposed through sealing and filtration at ground floor level. Whilst once within the school the children at ground floor level could benefit from filtered air, they would be exposed to poor air quality travelling to and from the site and in the playground.
- 5.19 The development is unlikely to be air quality neutral (as required by Local Plan Policy CC4) as it will be used for other purposes outside of term time. It is marginal in this respect but only needs one more journey a day to be over the threshold.
- 5.20 The air quality at the appeal site is poor with the air quality report submitted with the application concluding that parts of the site are likely to exceed the annual mean air quality for nitrogen dioxide. The users are mainly children who are particularly affected by air pollution, and planning guidance advises locating sensitive uses away from busy roads and areas of poor air quality.
- 5.21 The proposed development is in an area where there is a risk of NO₂ concentrations being above the relevant air quality standard. The proposal does not meet policy objectives to site schools in areas to reduce exposure of the occupants to air pollution. As a result the proposal is unacceptable in terms of air quality.

Noise

- 5.22 A Proof of Evidence on this topic has been prepared by the Council's Consultant Mr Dani Fumicelli setting out our detailed case.
- 5.23 As noted above, the area surrounding the site is predominantly residential. Numbers 50, 51 and 52 Downshire Hill, which are all residential properties located adjacent to

¹ Public Health England, Review of interventions to improve outdoor air quality and public health, March 2019.

the appeal site, are separated from the site by rear gardens 1.0m to 5.0m in length. The communal garden of the Hampstead Hill Gardens mansion block borders the appeal site. This is more generous in scale, as are the gardens to 24 Rosslyn Hill and 3 Hampstead Hill Gardens.

- 5.24 The main source of noise from the proposed school use would be the playground located at the rear at ground floor level. Due to their relative shelter from noise sources, the rear rooms of the properties surrounding the proposed playground represent parts of their homes where residents can enjoy a high standard of amenity at all times of the day. This is also true of the rear gardens.
- 5.25 National, regional and local policies recognise the potential harm the introduction of new noise-generating uses can have on neighbours. This can result in change of behaviour such as avoiding rooms and spaces during periods of intrusion, having to keep windows shut and disturbance to daytime rest.
- 5.26 As part of the proposal, an acoustic screen would be erected along the boundary with 50 Downshire Hill. The residents of 51, 52a and 52 have not opted to have the screen.
- 5.26 Given the small size of the playground for the number of pupils (210), the school proposed staggered break times. They stated that they would need the playground for a combined maximum time of 120 minutes per day during the week.
- 5.27 The increase in noise that would result from this level of use of the playground would have a significant impact on the amity of neighbouring residents when the playground is in use. This impact is demonstrated in the appellant's report and there are no planning controls such as conditions that could limit the noise of children playing.
- 5.28 The appellant's noise report does not consider the nature of the change of the noise environment, or how any of a range of qualitative factors recognised as influencing the impact of noise, might influence the assessment of the effects on the local soundscape. Rather a comparison is made against the Local Plan Appendix 3 thresholds for entertainment premises on the basis that human voices are listed among the many noise sources for consideration in these types of development. This

is an unsatisfactory comparison as entertainment premises tend to be located in town centres with different background noise levels to the rear of the site, a tranquil former Police Station car park. In addition, different sound frequencies would be generated in the case of a children's playground than would be the case for an entertainment venue or a car park. However, the appellant has not assessed the frequency spectrum, one of the appropriate metrics required by Appendix 3

- 5.29 In addition, the appellant's noise report states that residents on the upper floors of the affected properties would need to keep their windows closed when the playground is in use in order to achieve internal noise levels in accordance with BS 8223 and that this standard would be exceeded if the windows of homes are open.
- 5.30 The above shows that the site cannot accommodate a playground for 210 pupils without a materially detrimental impact on the amenity of surrounding residents. The Council's is of the view that the impact on amenity caused by additional noise would be unduly harmful. The appellant agrees there would be harm in terms of amenity, but argues that it would offset by public benefits – which the Council disputes. The significance of this in planning terms and the amount of weight the Inspector should give to it is discussed in the Overall Planning Balance section below.

Listed Building Matters

- 5.31 A Proof of Evidence setting out our detailed case on the Listed Building Appeal has been prepared by the Council's Conservation Officer Nick Baxter.
- 5.32 The building is Grade II Listed and its special interest lies, in part, in its integration of two branches of justice, enforcement and the judiciary in that it comprises a police station and an original purpose-built courtroom which is still fully fitted out with the original furniture and layout.
- 5.33 The building was designed in 1912 by John Dixon Butler, Architect and Surveyor to the Metropolitan Police. It opened in 1913 and was operational until 2013.

- 5.34 The courtroom is the most significant room within the listed building and its importance is set out in detail in the list description in which it is identified as “possibly the first police station and courthouse providing facilities for dealing with juvenile suspects”. With regard to the rest of the building, the facilities for juvenile offenders and the cell block at the east of the building are of particular significance. The circulation routes around the building, with separate entrances for the public, the magistrates and the accused are fully legible, each separated from the other to prevent encounters.
- 5.35 Whilst some of the fabric has been removed, and there are later alterations (which are of some interest in listed building terms) the original plan form of this purpose-built listed police station largely survives. Under the proposals, this would be significantly altered.
- 5.36 It is proposed to remove the Magistrates Court fittings and furniture although the wall panelling and magistrates’ bench would be retained – although not in situ - along with the magistrates’ doors and private staircase.
- 5.37 The Juvenile Offender facilities on the ground floor beneath the Courtroom comprise the Juvenile Offenders Examination Room, the Juvenile Offenders Waiting Room and a linked Magistrates Room. The original cellular layout is proposed to be converted to a single Business Enterprise Space and its floorplan rationalised to a large single room. An adjoining Business Enterprise Lobby would occupy the remainder of the former Juvenile Offender facilities.
- 5.38 The cell block on the eastern side of the building, which still contains remnants of its meticulously-planned original layout of women’s and men’s cells and associated passages, would be rationalised into a single large space described as a Hall. The room to the front of the cell block, originally the grand Charge Room, would be cut to two thirds of its size and its relationship with the associated cell block compromised by the incongruous addition of a staircase.
- 5.39 Officers acknowledge that a police station or a court is unlikely to move into the premises again. However, this is no justification for removing the original furniture

and fittings of the courtroom which could be retained with other uses. Likewise there is no justification for the removal of the floor plan, fabric and finishes to the Juvenile Offender facilities and to the cell block.

- 5.40 Heritage benefits of the scheme comprise the Downshire Hill entrance being put back into use, the removal of a false ceiling in the court waiting room, revealing its original proportions and a cornice characteristic of Dixon Butler.
- 5.41 The harm caused by the proposal, which includes the loss of most of the plan form of the police station as well as the loss of the fittings of the courtroom, is very damaging in listed building terms. In addition to this, the almost total loss of the building's interior would undermine its special architectural and historical character and have a harmful impact on the elements that contribute to its significance as a listed building. In NPPF terms, the Council considers that the harm to the listed building is at the upper end of "less than substantial".

Overall Planning Balance

- 5.42 I recognise that the appeal proposal has benefits and disbenefits in planning terms. and that the key factor in establishing its acceptability is Overall Planning Balance.
- 5.43 In order to assess Overall Planning Balance, the benefits and disbenefits of the proposal need to be identified, compared against each other and a conclusion drawn as to where the balance lies. As a guiding principle the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 7). The objective of sustainable development is summarized as meeting the needs of the present without compromising the ability of future generations to meet their needs.

- 5.44 The determination of the appeal against the refusal of planning permission needs to be made in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 which states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 5.45 The determination of the appeal against the listed building consent refusal needs to be must be made in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, in particular the statutory obligation under s.16(2) which states that in considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.46 Returning to planning policy, paragraph 10 of the NPPF states that a presumption in favour of sustainable development should run through decision making. The dimensions of sustainable development are economic, social and environmental. These should be sought jointly.
- 5.47 As a similar guiding principle to the NPPF, the Council's Local Plan has identified four key priorities for the location and delivery of growth. These are set out in the supporting text of Policy G1 at paragraph 2.6:
- Securing self-contained housing and affordable housing;
 - Supporting businesses and job provision by providing or retaining premises to support businesses staying or expanding in Camden and supporting training, apprenticeships and qualification opportunities;
 - Securing infrastructure and services to meet the needs of residents, workers and visitors including transport, utilities, education, health, open space, emergency services needs and digital infrastructure requirements; and
 - Ensuring growth is delivered in a way that protects amenity and avoids harmful effects on existing and future occupiers and nearby properties.

- 5.48 These priorities broadly align with the NPPF sustainable development strands and will inform the assessment below.
- 5.49 I have structured this section of my Proof by arranging the benefits and disbenefits of the proposal into the three sustainability strands in tables below. The benefits and disbenefits are assessed against the material planning considerations, which are the policies of the Local Plan, Camden Planning Guidance and the London Plan.
- 5.50 The intention is not to categorise every single benefit and disbenefit of the proposal. Instead I have identified what the Council considers the principal ones, followed by an assessment of the overall balance in each of the three areas, as well as a final overall assessment.
- 5.51 In terms of the weight to be given to a particular issue in assessing planning balance, it should be noted that there is judicial authority to the effect that harm to listed buildings should be given ‘considerable importance and weight’². The effect of s.38(6) Planning and Compulsory Purchase Act 2004 in relation to the planning appeal is to presume in favour of a decision in accordance with the development plan and paragraph 11 of the NPPF enshrines this in national policy. Otherwise, it is for the decision maker to decide about the relative weightings to ascribe to the various material considerations in play. Accordingly, following an approach which I have observed inspectors taking in many appeal decisions, I have enumerated the benefits and disbenefits under the three NPPF strands of sustainable development and then I go on to explain the weightings which I think it appropriate to give to those considerations in order to draw my overall conclusions on the appeals.
- 5.52 I would point out that I was not involved in the pre-application discussions for this proposal, I did not attend the DM Forum and was not the case officer for the application. As I had no involvement prior to becoming case officer during the appeal period, I have been able to approach the assessment of overall acceptability with a fresh perspective and have relied on my detailed knowledge of the Borough, extensive professional experience and my planning judgement.

² Barnwell Manor Wind Energy Ltd v. East Northants DC, English Heritage and the National Trust [2015] 1WLR 45 at para 22 and Whitby v. SoST [2015] EWHC 2804 (Admin); [2016] EWCA Civ 444

Economic strand

- 5.53 In Section 6 of the NPPF entitled Building a Strong, Competitive Economy, Paragraph 80 states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 5.54 Paragraph 80 also makes clear the importance of driving innovation and supporting areas with high levels of productivity.
- 5.55 The following are the principal benefits and disbenefits of the scheme in this strand:

Benefits	Disbenefits
<ul style="list-style-type: none">• New employment floorspace created by the change of use to business enterprise space of 231sqm. This includes flexible workspaces and lease periods;• Construction of new floorspace with an uplift of 131m² - New build and refurbishment will provide employment to contractors and builders;• Retention of a primary school in the London Borough of Camden with jobs and educational places;• Proposal would increase local trade on high street.	

Economic Strand - Assessment

5.56 Local Plan Policy E1 Economic Development states that the Council will... create the conditions for economic growth and harnessing the benefits for local residents and businesses, we will:

- a. support businesses of all sizes, in particular start-ups, small and medium-sized enterprises;
- b. maintain a stock of premises that are suitable for a variety of business activities, for firms of differing sizes, and available on a range of terms and conditions for firms with differing resources;
- c. support local enterprise development, employment and training schemes for Camden residents...
- e support the development of Camden's health and education sectors and promote the development of the Knowledge Quarter around Euston and King's Cross while ensuring that any new facilities meet the other strategic objectives of this Local Plan;
- f. direct new office development to the growth areas, Central London, and the town centres in order to meet the forecast demand of 695,000sqm of office floorspace between 2014 and 2031...
- i. recognise the importance of other employment generating uses, including retail, education, health, markets, leisure and tourism.

5.57 In addition to this, Policies E1 (Economic development), E2 (Employment premises and sites) and CPG5 (Town Centres, Retail and Employment) encourage the provision of employment uses such as offices (Class B1). The Employment Sites and Premises CPG draft update July 2020 states (para. 14) that the Council expects the supply of offices to meet the projected demand over the plan period but that a substantial proportion of the projected supply is likely to consist of larger floorplate, corporate office space in the Kings Cross and Euston areas which are generally out of reach of smaller companies.

- 5.58 I shall now carry out a qualitative appraisal of the weight to be given to the benefits I have identified above. As I have only identified benefits in this stand, I will conclude this section by setting out how much weight the benefits in this strand should be given in the assessment of overall planning balance.
- 5.59 Within the former Magistrates' Court and the ground floor below, 231sqm of Class B1 business use would be provided. No operator has been identified for this space. The provision of this space is a benefit and given its size it would be appropriate for small and medium-sized enterprises (SMEs) which are encouraged by Policy E1.
- 5.60 As this element of the proposal appears to be speculative, the occupier of the employment space is not known, nor the terms under which a lease would be offered. There is no mention of the space being secured as affordable workspace nor that it would provide training, apprenticeships or qualification opportunities, although the proposed floorspace of 231sqm would not trigger a requirement for these measures under adopted policies. The site is located outside a Town Centre or a Growth Area where new office development would ideally be directed in accordance with Policy E1 and the NPPF. Nevertheless, the creation of additional office space, the employment that would be generated as part of the construction phase and the long term retention of the school and its staff in the borough are undoubtedly benefits of the scheme in this strand.
- 5.61 It is also recognised that a school with B1 space would be likely to bring activity to nearby high streets. It is probable that both Hampstead High Street and Haverstock Hill would see an increase in activity given the site is half way between Hampstead and Belsize Underground stations.
- 5.62 While I have only outlined benefits within this strand, in my view the scale of the benefits is relatively modest. This is due to the following factors.
- the proposed B1 element would appear to be speculative in nature and there is no mention of it being secured as affordable workspace. There is no evidence of it meeting a particular identified need nor does it provide

commitments on areas such as driving innovation, training, apprenticeships or qualification opportunities which would go beyond than the measures required by local plan policy and increase the scale of the benefits;

- the location is not a town centre or a growth area where new office uses would ideally be directed;
- construction wages could be generated by a proposal that is less harmful in social and environmental terms (as will be discussed later);
- the increased high street activity could be generated by a proposal that is less harmful in social and environment terms;
- staff jobs are not in imminent danger as the temporary permission for the school has been extended to 2024.

Economic Strand conclusion

5.63 Based on the table and assessment above the balance in the economic strand is on the side of the benefits. However, while the building would be brought back into beneficial use, construction jobs would be provided and the school use would be retained in the borough, the benefits would not go beyond the requirements of local plan policies, in particular there is no mention of opportunities for professional training and apprenticeships nor any innovation characteristics associated with the B1 use which would represent a benefit of significant weight. In addition, the economic benefits could be secured by a proposal that results in less harm in social and environmental terms. As a result, in terms of economic sustainability in my view the proposal represents an overall benefit, but of a relatively low scale.

Social Strand

5.64 Section 8 of the NPPF entitled Promoting Healthy and Safe Communities sets out the key elements to be considered in social sustainability.

- 5.65 Paragraph 91 states that planning policies should achieve healthy, inclusive and safe places. Policies should promote social interaction, create places that are safe and accessible and should enable and support healthy lifestyles.
- 5.66 In relation to schools, paragraph 94 states that it is important that sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:
- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
 - b) work with schools promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted
- 5.67 Section 9 Promoting Sustainable Transport also sits within the Social Sustainability Strand of the NPPF.
- 5.68 Paragraph 102 states that development should:
- d) identify, assess and take into account the environmental impacts of traffic including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
 - e) consider patterns of movement, streets, parking and other transport issues integral to the design of schemes.
- 5.69 Paragraph 103 states: Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health.
- 5.70 The following are the principal benefits and disbenefits of the scheme in this strand:

Benefits	Disbenefits
<ul style="list-style-type: none"> • Permanent home for school; • Retention of non-faith school alongside faith and independent schools ensuring wide choice of primary education in catchment area; • Use of playground for events such as summer fair or winter festival; • School facilities will be available for community use after work and at the weekend; • Proposed community use will keep parts of building accessible to public; • School will attract young families to the area; • Location of school would be closer to catchment area than current location at Jubilee Waterside Centre Camley Street. More parents would have the option to walk their children to school than to the current location; 	<ul style="list-style-type: none"> • Harmful impact on amenity of neighbouring occupiers by introduction of high frequency noise from playground into hitherto quiet rear area; • No effective mitigation of noise and no planning controls to limit impact of volumes/ high frequencies of childrens voices; • Geometry and surface treatments at rear of the site will result in reverberation and significant noise impact on neighbours; • Harmful impact on health of children attending school because of its location in area of poor air quality. This impact pronounced due to the status of children as vulnerable part of population; • Appeal site is in Hampstead ward which Local Plan identifies as particularly stressed due to “school run” issues so is not ideal location in principle for a school to relocate to; • Proposal likely to result in increased private vehicle usage;

<ul style="list-style-type: none"> • Walk-to school ethos - pupils, staff and parents encouraged to use sustainable modes of travel. • Car free development; • Construction Management Plan; • 28 staff and pupil cycle spaces; • 4 secure and sheltered cycle spaces for the business/enterprise space; • 4 Sheffield stand spaces on Rosslyn Hill; • Contribution of £51,478.65 for Pedestrian, Cycling and Environmental Improvement; • Servicing Plan; • A School Travel Plan, annually reviewed • A condition limiting number of pupils to 210. 	<ul style="list-style-type: none"> • Enforcement of School Travel Plan challenging as it relies on personal behaviour; • Very limited parking available in the area so potential for double parking with resultant congestion and fumes.
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Social Strand – Assessment

5.71 Camden Local Plan policy C2 (Community facilities) seeks to ensure that community facilities and services are developed and modernised to meet the changing needs of our community and reflect new approaches to the delivery of services. Paragraph e states that the Council will:

support the investment plans of educational, health, scientific and research bodies to expand and enhance their operations, taking into account the social and economic benefits they generate for Camden, London and the UK. In assessing proposals, the Council will also balance

the impact proposals may have on residential amenity and transport infrastructure

5.72 The supporting text to policy C2 recognises the particular challenges of locating schools in Hampstead or Belsize wards. Paragraph 4.33 states:

Hampstead and Belsize Park have a very high concentration of schools where significant issues exist concerning the 'school run'. We will refuse applications for new schools or the expansion of schools in these areas, unless it can be demonstrated the number of traffic movements will not increase.

5.73 Local Plan Policy A1 (managing the Impact of Development) states that the Council will seek to protect the quality of life of occupiers and neighbours and that it will grant planning permission for development unless this causes unacceptable harm to amenity.

- Clause A1 a states that the Council will seek to ensure that the amenity of communities, occupiers and neighbours is protected.
- Clause b states the Council will seek to balance the needs to development with the needs and characteristics of local areas and communities.
- Clause c states that the Council will resist development that fails to adequately assess and address transport impacts affecting communities, occupiers, neighbours and the existing transport network. Paragraphs 6.8 - 6.10 of the supporting text relate to Transport Impacts. These highlight the particular importance of pedestrian safety and that of vulnerable road users.
 - The factors we will consider are:
 - e. visual privacy, outlook
 - f. sunlight, daylight and overshadowing

- h. transport impacts including Transport Assessments and Travel Plans
- j. noise and vibration levels.

5.74 The London Plan Policy 3.16 requires local planning authorities to protect existing resources and facilitate the provision of additional social infrastructure, such as schools, with a particular focus and priority where there is a defined need for the facilities.

5.75 Policy 3.18 highlights that the Mayor will support the provision of new education facilities especially where they address a projected shortfall.

5.76 Part D of Policy 3.18 states that proposals for new schools, including free schools, should be given positive consideration and should only be refused where there are demonstrable negative local impacts which substantially outweigh the desirability of establishing a new school and which cannot be addressed through the appropriate use of planning conditions or obligations.

5.77 Policy CC4 (Air Quality) states that the Council will ensure that the impact of development on air quality is mitigated and ensure that exposure to poor air quality is reduced in the borough and that developments that introduce sensitive receptors (i.e. housing, schools) in locations of poor air quality will not be acceptable unless designed to mitigate the impact.

5.78 In the introductory text to Local Plan Policy T1 (Prioritising Walking Cycling and public transport) setting out the importance of prioritising walking, cycling and public transport paragraph 10.4 states that “Camden has failed the Government’s air quality objectives since 2000 and has been declared an Air Quality Management Area (AQMA). Improving the borough’s air quality is therefore an urgent issue and reducing the use of motor vehicles will significantly help in achieving this goal”

- 5.79 I have set out below a qualitative appraisal of the weight I believe should be given to the benefits and disbenefits I have identified in the planning balance.
- 5.80 The nature of the land use, being a school use, and the location of the site in a residential area are the key factors in the assessment of its acceptability in terms of social sustainability.
- 5.81 The proposal would serve the needs of parents and children within the Belsize ward, however it would have significant adverse impacts on the residents immediately adjoining the site, principally in terms of noise impact and traffic and upon the listed building (which is discussed under the environmental strand).
- 5.82 For parents residing in Belsize Ward the proposal would provide a permanent home for the school, a non-faith school in a location closer to, but not in, the catchment area. As the school is already in existence and available for students living in the ward, it is difficult to argue that its relocation would widen educational choice for residents of the ward.
- 5.83 It is important to note that paragraph 94 of the NPPF, while stressing the need for sufficient choice of school places, advises Local Authorities to “give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications”. In the case of this proposal, it would not create a new school nor extend an existing one as the number of pupils would stay the same as existing (210).
- 5.84 As noted above, there are 49 primary schools in a two-mile radius of the catchment area. Of these schools, 21 are independent, 15 are faith state schools and 13 are secular state schools (see para 2.10 of Planning Statement submitted with the application).
- 5.85 Policy C2 seeks to support provision of community facilities and states that this should be balanced against the impact of the proposals on residential amenity and transport infrastructure.

- 5.86 Given that permission has been granted for its continued operation at the Jubilee Waterside Centre until 2024 (application ref. 2020/1814/P, dated 9/07/2020) I consider that providing a permanent home for the school at the proposed location and its retention as a secular school, while benefits, carry at a relatively low level of weight.
- 5.87 For similar reasons, even though the school may attract young families to the area, which would be a benefit, I would submit that it carries low weight in the planning balance. Given that there is a school bus, parents who move to the catchment area would be able to send their children to the school even if it does not move to the appeal site.
- 5.88 The Council's policies support schools and choice and while the proposal broadly aligns with these it does not provide an additional school or additional school places. As a result, low weight is given to the benefit of the school having a permanent home in 2020.
- 5.89 The availability of the school facilities for community use in the evenings and at the weekend would be secured by planning legal agreement (this could include use of the playground for a summer fair and a winter festival). Such use would keep the building accessible to the public and it could, for example, host evening classes, exercise and social events. The availability of buildings for community use is encouraged by the NPPF, in particular in relation to promoting social interaction (para. 91a) and in Local Plan Policy A1 in improving the quality of life of residents by contributing to strong and successful communities. In addition, this benefit would be enjoyed by a wide spectrum of the community including people from all age groups as well as a diverse ethnic and minority groups. Within the social sustainability strand community use and access to the building should, in my view, be given a moderate degree of weight as a benefit of the proposal.
- 5.90 Finally, in terms of the benefits in this strand, the walk to school ethos and encouragement of sustainable modes of transport would be a benefit although of low weight given the concerns raised by the Council concerning the transport implications of the proposed development, as set out below.

- 5.91 The disbenefits of the scheme relate to the impact on the amenity of residents who live near the appeal site, and to children attending the school whose health may be affected by poor air quality.
- 5.92 The appeal site is in a residential area and the neighbouring buildings are located close to the site boundary, particularly the Downshire Hill properties. The use of the rear of the site as a school playground would result in a loss of amenity for neighbouring residents from noise generated in this enclosed rear area where the surface treatments would provide little, if any, attenuation. Neighbouring residents whose peaceful rear gardens and rear rooms overlook the proposed playground area would experience a noise impact and a resultant impact on quality of life which would last for two hours in the middle of the day. While some residents may be out at work at this time, many residents would normally be at home, in particular those who work from home, which is an increasingly likely scenario post-Covid. The impact would affect all neighbouring residents and would detract from the quiet enjoyment of their homes contrary to Policy A1. This disbenefit carries substantial weight in my view given the magnitude of the harm and the wide spectrum of those that would be impacted.
- 5.93 The risk of poor air quality to human health is recognised by policy at national, regional and local level. Within the Local Plan, these concerns are set in Sustainability and Climate Change (Chapter 8) and Transport (Chapter 10). As noted above the borough already suffers from poor air quality and the location of the proposed school on a main road with inadequate mitigation would have a potentially harmful impact on health. The impact would be particularly strong in relation to children, who are more vulnerable to air pollution for developmental reasons. As a result, substantial weight should be given to this issue in the balance.
- 5.94 Transport falls within the social strand given its health and air pollution implications. Some of the identified benefits such as School Travel Plan, Servicing Plan and Car Free Development are standard requirements which are important for development in relatively dense urban environments. They are clearly benefits however in my view they carry low weight in the overall balance

as they do not go beyond the standard policy requirements. The proposal would, in the Council's view, result in increased private vehicle usage to and from the site with limited powers to control or mitigate the volumes, leading to an increase in congestion and air pollution. Providing community facilities, including schools, while encouraged by Policy C2, needs to proceed by taking transport issues into consideration, particularly in relation to schools in Belsize and Hampstead as stated in the supporting text to policy C2 (paragraph 4.33). For a school proposal in these wards to be acceptable it needs to be demonstrated that the number of traffic movements will not increase. The School's Walk-to-School ethos and encouragement of parents to use sustainable modes of transport is clearly a benefit, however in my view it carries at best medium weight because of the difficulty in policing it. The limited parking availability in the area gives rise to the potential for double parking and fumes and congestion during pick-up and drop-off. Officers consider that, given the predicted increase in traffic movements, the resultant health implications and the stated aim of paragraph 4.33 of the Local Plan to control traffic movement to school in Belsize and Hampstead, that there is potential for harm via traffic generation, and this issue should be given substantial weight.

Conclusion

- 5.95 The most sizeable social benefit of the proposal is, in my view, community access to the facilities in the evening and at weekends, which would also keep the listed building accessible to the public. In my view, this should be given moderate weight in the balance. The proposed move of the school to a new location would not result in creation of a new school or expansion of the existing school numbers. As the proposal would not lead to greater educational choice, the relocation of the school is therefore a benefit of low, or at best, moderate weight in my view. As regards disbenefits, the noise impact would, in my view, cause a harmful loss of amenity to neighbouring residents. The air quality impacts of the development would be likely to affect the health of a vulnerable group, children, contrary to spatial planning policy at all levels for schools, and there would not be adequate mitigation at the site. The transport impacts, which are linked to air quality, would

be significant with limited possibility of being controlled or mitigated. As a result, in terms of social sustainability in my view the proposal would cause substantial harm.

Environmental Strand

- 5.96 Within this strand the principal issue is the impact on the historic environment. This relates to chapter 16 of the NPPF.
- 5.97 In this chapter, the importance of sustaining and enhancing the significance of heritage assets is highlighted (para 185a). Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be.
- 5.98 Paragraph 194 states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
- 5.99 Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use.
- 5.100 The following are the principal benefits and disbenefits of the scheme in this - strand:

Benefits	Disbenefits
<ul style="list-style-type: none">• Disused building would be brought back to use;• In terms of listed building, exterior of the building would remain discernible;• Refuse Strategy and Management Plan;	<ul style="list-style-type: none">• Impact of physical works to listed building with loss of fabric and floorplan, in particular to:<ul style="list-style-type: none">○ Courtroom○ Juvenile Offenders area○ Cell block

<ul style="list-style-type: none"> • Contributions towards the provision of local infrastructure and facilities are proposed through CIL, financial contributions in the S106 and public realm improvements • BREEAM “very good” would be rating would be secured by Section 106. 	<ul style="list-style-type: none"> • Inappropriate new works, in particular: <ul style="list-style-type: none"> ○ Range of lavatories in front rooms of principal floors, ○ Ramp to front elevation. • Loss of legibility and important social history recognised in listing.
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5.101 Policy D2 (Heritage) seeks to protect heritage assets such as Listed Buildings from inappropriate alterations, in particular by works that compromise the elements that contribute to their architectural and historic significance. Paragraph (j) states that the Council will resist proposals for a change of use or alterations and extension to a listed building where this would cause harm to the special architectural and historic interest of the building.

5.102 I recognise that NPPF Chapter 16 now sets out the overall approach decision makers need to take when dealing with heritage policy.

5.103 A qualitative appraisal follows of the weight to be given to the benefits and disbenefits in this strand.

5.104 In terms of the benefits of the proposal, some of these such as environmental sustainability measures and CIL contributions are policy requirements for Major Applications under Local Plan policies and they are therefore given low weight in the balance. To merit greater weight the benefits would need to go well beyond policy requirements in these areas.

5.105 Retaining the exterior of the building is, in my view, a benefit that carries low weight. This would be likely to be secured in the case of almost any redevelopment/ change of use proposal so it is difficult to argue that it should

carry anything other than low weight in the overall balance.

5.106 Bringing this otherwise unused building back into use is, on the other hand, clearly a more important benefit. That it would be brought into public use is, in my view, one of the biggest overall benefits of the proposal and should be given moderate weight in the balance.

5.107 With regard to the harm to the listed building as a result of the proposal, this would be at the upper end of “less than substantial”. In my view, the magnitude the harm to the significance of the listed building outweighs the benefit of bringing the underused building into public use, together with the other identified benefits. As a matter of law, “considerable importance and weight” should be given to harm to a designated heritage asset.

5.108 The harm relates to the elements which are most important in terms of the building’s architectural and historic significance, namely the Courtroom, the Juvenile Offenders Facilities and the Cell Block. Apart from these specific elements, the internal floorplans would be comprehensively replanned so that the building would lose legibility and a large amount of historic fabric. There is limited justification of these works and the NPPF is clear that great weight should be given to a heritage asset’s conservation and the more important the asset, the greater the weight should be. The Hampstead Police Station is considered to be a heritage asset of very high quality and the harm to the elements that contribute to its significance is, in my view, one of the greatest disbenefits of the scheme as a whole.

Conclusion

5.109 Some of the benefits of the proposal in this strand are, in my view, low in scale such as the retention of the exterior in a discernible form, which would be likely to be secured in the case of almost any redevelopment/ change of use scheme. Also meeting policy requirements in terms of environmental sustainability and regulation of impacts is a benefit of low weight in my view. Bringing this otherwise unused building into public use should, in my view, be given moderate weight. However

there is an absence of positive measures to refurbish parts of the listed building that contribute to its significance or special interest, which could be of significant weight in the balance. While re-use would be a benefit, given the harm that is proposed to the listed building, people who visit the interior would not be able to get a real sense of why the building is significant. This is matter to which considerable importance should be given in accordance with law, the local plan and national policy. Within the environmental strand the magnitude of the harm to the listed building is substantial and in my view this outweighs the scale of the benefits.

Planning balance - Overall conclusion

- 5.110 In the economic strand the proposal provides an overall benefit by proposing employment space and investment in the building. However there are no additional community benefits or innovation features which would represent a benefit of significant weight. In addition, many of the identified benefits could be secured by a proposal that results in less harm in social and environmental terms.
- 5.111 In the social strand the provision of the school facilities for community use in the evenings is a clear benefit, as is maintaining public access to the listed building. However the benefits in this strand are, in my view, outweighed by harm of quite considerable magnitude, namely noise pollution from the playground to neighbouring occupiers to the detriment of their amenity, and the health impact on children due to poor air quality. As I result my view is that in the social strand the disbenefits significantly outweigh the benefits.
- 5.112 In terms of the environmental strand, the biggest benefit of the scheme is the public reuse of an underused Listed Building, to which I would give moderate weight in the balance. Other than that, the benefits merit a relatively low degree of weight in the balance as they would be likely to be secured in the case of almost any redevelopment/ change of use proposal. The Council is of the view that the magnitude of the harm to the listed building is at the upper end of the spectrum of less-than-substantial. The NPPF public benefit test (paragraph 196) is not, in my view, satisfied by the proposal due to the level of harm being at the upper end of less than substantial and the counterbalancing benefits being of low

and moderate weight. As a result, within the environmental strand, the magnitude of the harm far outweighs the scale of the benefits.

5.113 In my view the key overall benefits of the proposal are: its economic impact to which I would give low weight; public reuse of an underused listed building, to which I would give moderate weight; and community use of the building to which I would also give moderate weight.

5.114 In terms of the key overall disbenefits, I would give substantial weight to the impact on neighbour amenity; I would give impact on air quality/ health substantial weight; and I would give harm to heritage substantial weight.

5.115 Of the three sustainability strands I consider that in one of them, the economic strand, the scheme provides a modest overall benefit. In the other two strands, the disbenefits outweigh the benefits, quite clearly in my view. On the whole, I conclude that the proposal does not represent sustainable development in accordance with National and Regional Policy, the Camden Local Plan and Camden Planning Guidance.

5.116 In reaching this conclusion I have been guided by section 38(6) of the Planning and Compulsory Purchase Act 2004 which states that determination must be made in accordance with the plan unless material considerations indicate otherwise.

5.117 In terms of the listed building appeal I have been guided by the need to pay special regard to the desirability of preserving the building, its setting or any features of special architectural or historic interest which it possesses in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, in particular the statutory obligation under s.16(2).

5.118 For the above reasons I concur with the Council's the view that the appeals should be dismissed.

6.0 CONDITIONS

- 6.1 The proposed conditions, should the appeal be allowed, are still being discussed by the main parties and will be submitted in advance of the Inquiry.

