

Town and Country Planning Act 1990, s.78
Planning (Listed Buildings and Conservation Areas) Act 1990, s.20
Town and Country Planning (Inquiries Procedure) (England) Rules 2000 SI 2000 No 1624

Former Hampstead Police Station, 26 Rosslyn Hill NW3 1PD
Appeal by the Department for Education against the refusal of planning permission and listed building consent

PINS References: APP/X5210/W/20/3428002 and APP/X5210/Y/20/3248003
Council References: 2019/2375/P and 2019/2491/L

Hampstead Community for Responsible Development's Statement of Case

1. INTRODUCTION

1.1 This is the Statement of Case on behalf of Hampstead Community for Responsible Development (“**the HCRD**”) in an appeal by the Department for Education and Anthem Schools Trust (“**the Appellant**”) against the decisions by the London Borough of Camden (“**the LPA**”) of 19 and 23 December 2019 to refuse planning permission and listed building consent for change of use of a site at the Former Hampstead Police Station, 26 Rosslyn Hill, London NW3 1PD (“**the Site**”) to a one-form entry school and business/enterprise space and associated internal and external works (“**the Proposed Development**”). The appeal is made under section 78 of the Town and Country Planning Act 1990 and section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“**the Listed Buildings Act**”).

1.2 The HCRD is an unincorporated organisation which was formed in 2016 to represent the interests of local residents and community groups when it was first proposed to redevelop the Site to the significant detriment of the local community. Its object is to encourage high quality, well-considered, fully-consulted developments, to oversee significant planning applications affecting the character and heritage of the Hampstead community, and to liaise with and assist other local heritage and conservation groups to deliver that object. HCRD participants have longstanding experience of the local area,

going back in excess of 30 years, and individuals members have been involved in numerous planning issues of public concern. The HCRD's principal members include:

- 1.2.1 Andrew Neale, Co-Chair of HCRD, Chair of Downshire Hill Residents Association, Architect
 - 1.2.2 Todd Berman, Co-Chair of HCRD, Chair of Hampstead Hill Gardens Residents' Association, Independent Private Equity Investor
 - 1.2.3 Alex Shinder, Secretary of HCRD, Property Services Manager
 - 1.2.4 Stephen Ainger, Non Executive Director
 - 1.2.5 Linda Chung, former Camden Councillor for Hampstead Town Ward
 - 1.2.6 Stephen Grosz, Psychoanalyst
 - 1.2.7 John Joseph MBE, Chair of JBD Sheltered Home Charity
 - 1.2.8 Nigel Steward, Chair of Keats Grove Residents Association, former Secretary and Trustee of The Heath & Hampstead Society, Solicitor
- 1.3 The HCRD is supported as a rule 6 party in this inquiry by a number of local organisations, including:
- 1.3.1 The Hampstead Neighbourhood Forum
 - 1.3.2 The Heath & Hampstead Society (the conservation charity for Hampstead and Hampstead Heath)
 - 1.3.3 Camden Residents Association Action Committee

1.3.4 Church Row Residents Association

1.3.5 Downshire Hill Residents Association

1.3.6 Flask Walk Residents Association

1.3.7 Hampstead Hill Gardens Residents Association

1.3.8 Keats Grove Residents Association

1.3.9 South End Green Residents Association

1.3.10 Thurlow Road Residents Association

1.3.11 Arkwright Road Residents Association

1.3.12 Gayton Road Residents

1.3.13 Maryon Mews Residents Association

1.4 The HCRD will demonstrate that the Proposed Development does not comply with the adopted development plan and that there are no material considerations which outweigh this conflict such that planning permission and listed building consent should be granted. It will also show that the Proposed Development fails to preserve the features of special architectural and heritage interest for which Hampstead Police Station is listed. Overall, the HCRD considers that the Site is fundamentally unsuitable for a school use, as evident in the unacceptable negative impacts on the heritage significance of the Site, traffic and congestion in the local area, the amenity of neighbouring residents and the health and wellbeing of the children who will attend the school.

1.5 The Proposed Development has generated a significant level of local interest and concern. The majority of supporters were parents, pupils and teachers who supported the proposals on the basis of the quality of teaching which Abacus Belsize Primary School (“**the School**”) currently provides. Most of the supporting responses were received from residents of Belsize Park or further afield. By contrast, respondees from Hampstead were almost unanimous in objecting, for the planning grounds set out in this Statement of Case. Objections were received from all over Hampstead and included a number of residents associations, local community groups and schools.

1.6 The HCRD agrees with and supports the LPA’s case as set out in the reasons for refusal and will supplement the LPA’s case by providing local experience of the Site and surrounding area and further technical evidence where necessary. The HCRD does not wish to repeat the LPA’s evidence or unnecessarily add to inquiry time and therefore may not consider it necessary to call its own expert witnesses. However, it continues to rely on the technical reports submitted as part of its objection to the planning application, and reserves the right to call witnesses (in particular after having reviewed the LPA’s Statement of Case).

2. BACKGROUND TO THE APPEAL SITE AND PROPOSED DEVELOPMENT

2.1 The Site is in Hampstead, within the area covered by the Hampstead Neighbourhood Plan and the Hampstead Conservation Area. It is sited on the corner of Rosslyn Hill (the A502) and Downshire Hill which are both busy roads. The existing buildings on the Site were purpose built to house Hampstead Police Station, which closed in 2013 and was in very limited use for a number of years before that date. The Site has been completely vacant since 2013. It comprises a police station, Magistrates’ Court and stable block.

2.2 The former police station is a Grade II listed building designed in the Arts and Crafts style by John Dixon Butler and built in 1913. Historic England’s List Entry 1130397 ‘Former Police Station and Courthouse, including stable and harness room, railings and lamps’

notes its architectural and historic interest in the reasons for listing, which include both its external appearance and internal form and detailing.

- 2.3 The area houses a significant number of schools and is known for problems with traffic congestion at peak times as a result of the “school run”. Data from 2018 indicates a school population of 12,659 pupils in Hampstead (one of the highest densities in Europe) as opposed to a school age population of 2186. The wider area of Hampstead town, Belsize, Frognal and Fitzjohns had 7289 children of school age.
- 2.4 Traffic movements in 2016-2018 on Haverstock Hill/Rosslyn Hill generally exceeded 1200 traffic movements per hour at school run times.¹ The experience of the HCRD is that at these times traffic is generally queued up all the way from the Pond Street traffic lights up to Hampstead Underground Station and beyond, with idling engines contributing to pollution. In the evening the tailbacks generally extend all the way from Belsize Park Station to Hampstead Station travelling north. Downshire Hill also experiences a corresponding tailback as far as St Johns Church and beyond.
- 2.5 The surrounding roads adjacent to the Police Station are populated by predominantly elderly residents, many retired and/or working from home. The average age, for example, of homeowners immediately surrounding the Police Station is greater than 70 years old. The location is particularly well suited to the elderly with the immediate accessibility of doctor surgeries, pharmacies, the Royal Free Hospital, as well as the proximity of shops and restaurants
 - 2.5.1 Immediate neighbours to the Site, at 24 Rosslyn Hill, are a retired couple. Both are highly dependent on the use of their garden as critical outdoor space and several of their bedroom windows overlook the proposed playground. Next door at 22 Rosslyn Hill is another retired couple who are also dependent on the use of their garden. 22 and 24 Rosslyn Hill are Grade II listed buildings.

¹ Comments on the Proposed Development from the LPA’s transport officer, 30 September 2019, p.3.

2.5.2 On Hampstead Hill Gardens, the immediate neighbours include a range of properties from single family dwellings to multi-family homes. At 3 Hampstead Hill Gardens, one resident works full time from a home office which overlooks the playground and the Police Station. Neighbours at 5 Hampstead Hill Gardens work from home on a regular basis as do several others immediately adjacent to the Police Station location. Residents at 7 and 9 Hampstead Hill Gardens also currently rely on active use of home offices, something for which these properties were designed and intended. The resident at 52 Downshire Hill uses a room on the ground floor for consultations with his psychotherapy clients

2.6 The HCRD firmly believe that the Site is inappropriate for a school and as such have sought to engage with and assist the Appellant in finding a more suitable site for the Proposed Development, which is within the school's catchment area and has less impact on neighbouring amenity. The Appellant's site search to date has for the most part concentrated on finding a site capable of housing a two form entry (420 pupil) school, a proposal which is no longer being pursued. The HCRD consider that potential alternative sites have been given only cursory consideration and that the Appellant cannot rely on an argument that this is the only possible permanent home for the School.

3. THE HCRD'S CASE

3.1 The HCRD agree with the LPA that planning permission and listed building consent should be refused for the reasons given in the reasons for refusal in the Decision Notices of 19 and 23 December 2019 respectively. The following section sets out the HCRD's case on each of the reasons for refusal as well as the overarching planning balance.

Transport and traffic

3.2 The Proposed Development fails to comply with development plan policies A1, T1 and C2 of the Camden Local Plan 2017 and DH1, TT1 and TT2 of the Hampstead Neighbourhood Plan and policy S3 of the emerging draft London Plan and causes significant harm to local amenity by increasing traffic congestion and exacerbating air pollution and failing to

sufficiently prioritise sustainable modes of transport. Para.4.33 of the Camden Local Plan indicates that in the context of proposals for new or expanded schools in Hampstead or Belsize Park, policies C2 and A1 require planning permission to be refused unless it can be demonstrate that the number of traffic movements will not increase.

3.3 The Site is outside the school’s catchment area and is located on a significant hill on a road which is already busy and congested in peak hours. This is not safe or well suited for bicycle rides or lengthy walks by young children and fails to promote healthy footpaths and cycle networks. According to an informal “hands up” survey of parents conducted by the school, a small number of parents already drive their children to the two drop off points for the private bus which takes pupils to the school’s temporary location on Camley Street. The Site is further from the centre of the catchment area than these drop off points and travel distances in most instances are likely to be greater than those currently covered by parents within the catchment area taking their children to bus pick up points. There is no evidence that parents would change this behaviour. The youngest children and those living furthest from the school are least likely to undertake an uphill walk of 20-25 minutes carrying school bags, especially in adverse weather.

3.4 The Appellant accepts that the Proposed Development would result in an increase in traffic in absolute terms in the vicinity of the Site but seeks to justify the proposals by reference to traffic movements at another police station in Camden and the fact that any redevelopment of a Site which has lain vacant for a number of years will result in some additional traffic movements. The HCRD considers that the choice of comparator on the basis of similar site area is inappropriate and that the Kentish Town Police Station operates on a fundamentally different model to the former Hampstead Police Station. Evidence demonstrates that only nominal car trips were generated by Hampstead Police Station from 2000-2013 and from 2013 to the present date the station has been completely closed.² Although it is the current lawful use, there is no prospect that the

² See supporting “Comments on the Abacus Statement of Case” and email chain from the Property Services of the Metropolitan Police submitted with this Statement of Case.

police station use will resume and (as a sui generis use) any alternative use would require the grant of planning permission.

- 3.5 A school use, especially in the present case where located outside its own catchment area, is particularly aggravating for local traffic congestion issues as the increases in traffic which it generates occur at peak times when roads are busiest. Controlled parking zones do not prevent these impacts due to the drop off and pick up nature of these traffic movements. Other uses of the Site would be likely to generate fewer traffic movements at peak times due to the policy emphasis on car free development and the fact that for community, residential and business uses a drop off and pick up approach is unlikely to apply.

Noise

- 3.6 The Proposed Development would fail to comply with Policy A1 and A4 of the Camden Local Plan and Policy DH1 of the Hampstead Neighbourhood Plan as it would generate an unacceptable noise impact for neighbouring local residents. The playground for the Proposed Development would be in close proximity to a number of neighbouring properties, the building line of which is in some cases just a few metres away. Measurements taken at the school's current temporary location indicate an average figure of 60dB and maximum peaks of 64dB for playground noise, well above the WHO recommended levels of 55dB. On the Appellant's own analysis, without mitigation significant adverse noise levels will be experienced by these properties.
- 3.7 The nature and demographic of those residing in the immediate vicinity of the Site is such that they would be particularly affected by noise generated by the Proposed Development. A number of those residents are retired and at home for most of the day; they rely on their garden as critical outdoor space. For the resident at 3 Hampstead Hill, the impact of the Proposed Development would make it impossible to continue to work from home despite 20 years of continuous usage. When the School did a "test run" of the playground to assess noise levels, the noise was so disruptive indoors as to halt work

despite all windows being closed. The ground floor consultation room at 52 Downshire Hill would be wholly unusable when the playground is in use.

3.8 The Appellant's response to concerns raised by the LPA and local residents has been twofold. First, for residents at 50-52 Downshire Hill it has offered a 4m high acoustic wall as noise mitigation. However, this would have a significant negative impact on daylight and sunlight levels of rear gardens and windows facing the Proposed Development. If the Proposed Development in its current design goes ahead, residents face an invidious choice between very limited daylight and sunlight to one side of their properties or significant noise and disruption throughout the day. A 3m high acoustic wall would have a lesser but still deleterious impact on daylight and sunlight and would be less effective in reducing the noise impact. It appears that the Appellant has been unable to design an appropriate solution given site constraints.

3.9 The other response of the Appellant has been to propose limitations on the use of the playground. However, what is proposed does not prevent an unacceptable impact on neighbouring amenity. Significant loud and intermittent noise at various times of day can be seriously disruptive for those who run businesses at home or otherwise sensitive neighbouring uses even if it does not go on for long periods. Furthermore, any condition limiting playground use could not control use of pavements (public highway and outside the Site) or prevent noise and disturbance being suffered by surrounding residents – in particular 52 Downshire Hill – at the start and end of the school day at the school entrance (likely exacerbated by staggered opening and closing times for different years). It is unlikely that any alternative use of the Site would generate such noise disturbance outdoors, in such close proximity to neighbouring residents. It is noted that children would attend for the Breakfast Club (open from 8am), other children would then gather in the playground for “outdoors teaching” and for playtimes throughout the day and external activity in the playground is proposed to finish with post-school clubs which “would not normally take place after 6pm”.

3.10 The HCRD takes issue with the way in which quantitative noise impacts have been measured by the Appellant. In addition, no account having been taken of the qualitative impact of introducing new noises, for example unwanted sound of an erratic and particularly disturbing nature, into an existing valued and relatively tranquil soundscape.

Air quality / location

3.11 The Proposed Development would fail to comply with Policies A1 and CC4 of the Camden Local Plan 2017, Policy DH1 of the Hampstead Neighbourhood Plan and Policies S1 and S3 of the emerging Draft London Plan by virtue of its location on a main road with poor air quality.

3.12 Measured levels of NO₂ on Rosslyn Hill are well above the levels mandated in EU law. In 2016, the Hampstead Neighbourhood Forum conducted a survey of air quality in the Plan area and measured the NO₂ levels on Rosslyn Hill nearby the site of the Police Station to be 56.07 i.e. 40% above the legal limit. Surveys and measurements conducted by a member of Hampstead Neighbourhood Forum during the morning school runs in April and May 2019, also show significant amount of particulates 2.5 and 10 along the pavement in front of the Site.³ The Review of Air Quality undertaken on behalf of the HCRD by Southwest Environmental Limited in response to the Proposed Development concludes that considering the sensitivity of the receptors and likely underrepresentation of source concentrations, to grant planning permission for a school in this location would be to expose children to significant harm.

3.13 Locating a school on the Site would have a significant negative impact on the health and wellbeing of pupils attending the school, as recognised in the objection to the planning application made by the local NHS Keats Group GP surgery on Downshire Hill. Children are being encouraged to walk, cycle or scoot to a school which would be situated in one of

³ Supporting evidence included with Hampstead Neighbourhood Forum's and CRAAC's written submissions to PINS sent 1 June 2020.

the most polluted locations in the borough of Camden, and would be travelling to and from that school at the times of greatest traffic congestion and corresponding emissions.

- 3.14 It is no answer to say that one of the school entrances would be on Downshire Hill as this is also a busy road which sees congestion and idling adjacent to the junction at peak times. Furthermore, the school itself would contribute to emissions in its immediate vicinity as it has to rely on mechanical ventilation for classrooms and will result in increased traffic emissions as a result of parents driving their children to school.

Heritage

- 3.15 The HCRD consider that the Proposed Development fails to comply with Policy D2 of the Camden Local Plan and Policy DH2 of the Hampstead Neighbourhood Plan by reason of the loss of plan form and original fabric of the existing buildings on the Site and in particular the loss of fixtures and fittings of the Magistrates Court which would fail to preserve the special architectural and historic interest of the host building. In addition to the reasons given in the Decision Notice refusing listed building consent the HCRD will also demonstrate that the proposal fails to comply with heritage policy and law by reason of the alterations to the external front elevation of the existing building, and that planning permission should be refused as well as Listed Building Consent.

- 3.16 The Proposed Development would result in the removal of a number of the features of historic and architectural interest for which the Site is listed, including the hierarchy of spaces, the internal detailing and plan form and the panelling and furniture of the Magistrates Courts. It would clearly cause harm to the significance of the listed building, the conservation of which must be given great weight pursuant to sections 16 and 66 of the Listed Buildings Act and para.193 NPPF. Many of the internal walls marked on the original plans for the building would have to be removed to make way for classrooms, an irreversible loss of fabric which would undermine the ability to appreciate the original purpose of the building. The significance of the front external elevation would also be harmed by the impact on the Proposed Development of the front steps and entranceway

which contribute to the “bold and assured composition of considerable civic importance” in order to introduce an access ramp. While the Appellant proposes that details of this alteration can be dealt with by condition, it is HCRD’s position that this likely irreversible intervention in one of the principal elements of the front elevation is too important to leave to a condition. The HCRD considers that the Appellant has provided insufficient evidence that it has considered other, less harmful design responses to accessibility requirements.

3.17 The optimum viable use for a heritage asset is the one that causes the least harm to the significance of an asset. The HCRD will demonstrate that there are other viable uses both for the police station and the Magistrates Courtroom which would have a lesser impact on the original fabric and plan form of the existing buildings.

3.18 The HCRD considers that there is a significant degree of harm to those internal and external features which are recognised in the list description as contributing to the significance of the asset. The harm to significance must be given great weight and weighed against the public benefits of the scheme. Those benefits are not sufficient to justify the level of alterations proposed.

3.19 Any proper restoration of the building for any future use would result in the renovation of the exterior and interior of the building and the removal of unsympathetic additions and alterations put in place by the former police use. The Proposed Development is not the only or least harmful way that these heritage benefits could be delivered and the heritage benefits of the scheme should therefore be given lesser weight in the light of significant alterations to the fabric that a school use requires.

3.20 The HCRD will demonstrate that the other public benefits likewise do not outweigh the harm to the significance of the asset. While the Proposed Development would provide a permanent home for the School, the weight to be given to this benefit is limited due to its unacceptable impact on neighbouring amenity, traffic congestion and the health and

wellbeing of its pupils. The benefit of the School permanently relocating to the Site is further undermined by the restrictions on playground use which would be required as a result of its noise impact, as well as unresolved concerns around safeguarding of children and means of escape in the event of a fire.

- 3.21 The HCRD accepts that the Proposed Development would bring a vacant public building back into use. However, the main beneficiaries of that use will not be the local community of Hampstead, who would bear the brunt of the harmful impact of the proposed development, but neighbouring families residing in the Belsize catchment area. The community use elements of the scheme are tokenistic: a small and inefficient office element with compromised location and circulation and partial shared use of halls which are already well provided for in Hampstead.

Planning

- 3.22 The HCRD will demonstrate that there are no other material considerations which outweigh the conflicts with the development plan identified above, and that therefore planning permission should be refused in accordance with the statutory presumption in section 38(6) of the Planning and Compulsory Purchase Act 2004. In particular, as explained above in relation to the heritage balance, the weight to be given to the benefit of providing a permanent home for the school is limited by the unsuitability of the Site for a school use. In addition to the matters dealt with under the reasons for refusal above, the HCRD consider a number of factors demonstrate that the Site and the Proposed Development are simply not fit for use as a school and would result in an unsatisfactory environment for the pupils and staff.

- 3.22.1 In the absence of an appropriate location for a playground or effective mitigation measures the Appellant's mooted two hour "restriction" on use of the playground does not offer any reassurance. Review of the Appellant's proposals shows that it envisages children being in the playground area throughout the day.

3.22.2 There are safeguarding issues concerning the overlooking of the playground by neighbouring properties and the lift access shared between the school and business space. It is not clear whether, in the event of a breakdown of the key card management system, there would be potential for school and business space users to be present in the lift at the same time.

3.22.3 Insufficient detail has been provided in the plans for the Proposed Development regarding means of escape and refuges for individuals with accessibility issues. While the HCRD accepts that these matters are usually dealt with as a building control rather than a planning matter, in the present case these issues should be determined at the planning application stage, given the vulnerability of the users of the Proposed Development and the need for clarity on the required interventions to a heritage asset.

3.23 The HCRD will also demonstrate at the inquiry both that there are feasible alternative sites for the Proposed Development which have not been given proper consideration by the Appellant and that there are a number of possible alternative uses for the Site which would be viable and bring it back into use for the public benefit.

3.24 There is no clear evidence in the Appellant's case to support the qualitative or quantitative need for a school in this location and the HCRD's own research as submitted in support of its objection to the planning application reinforces this position. This is a further reason why the weight to be given to the benefits of delivering a school in this location are to be reduced and why those benefits are incapable of outweighing the harm that will be generated in terms of heritage impacts, transport, air quality and impact on residential amenity.

4. PROPOSED CONDITIONS AND S.106 OBLIGATIONS IN THE EVENT THAT PERMISSION IS GRANTED

4.1 The HCRD reserves the right to comment on or suggest further planning conditions and s.106 obligations.

5. CONCLUSION

5.1 The Proposed Development seeks to provide a permanent home for a school that has been housed in temporary accommodation since its inception. As such, it is crucial that the School is in an appropriate location that protects both the amenity of its immediate neighbours and the health and wellbeing of its pupils and staff in years to come. Reconfiguring the Site as a school results in a proposal which protects neither of these two things but results in unacceptable harmful impacts on the local area, a designated heritage asset and those who would be using the Proposed Development. It would irreversibly diminish the significance of a Grade II listed building and result in curtailed outdoor playground use, a worsening in air quality and traffic congestion and serious noise impacts for neighbouring residents. It clearly conflicts with the development plan and the benefits it offers are not sufficient to outweigh this conflict.

5.2 For all the reasons set out above, the Inspector is invited to dismiss the appeals and uphold the LPA's refusal of planning permission and listed building consent.

6. LIST OF DOCUMENTS

6.1 HCRD may refer to the following documents at the Inquiry:

6.1.1 National Planning Policy Framework 2019

6.1.2 London Plan 2016 and emerging draft New London Plan

6.1.3 Camden Local Plan 2017

6.1.4 Hampstead Neighbourhood Plan 2018

6.1.5 Camden Planning Guidance

6.1.6 Original and historic building plans for the Site submitted with the planning application

- 6.1.7 Planning and listed building consent application documentation submitted to the LPA by the Appellant
 - 6.1.8 Documentation produced by the LPA in respect of the planning and listed building consent applications
 - 6.1.9 Relevant consultation responses, technical reports and correspondence submitted by HCRD and other local residents and groups in response to the planning and listed building consent applications
 - 6.1.10 Comments on the Abacus Statement of Case” and email chain from the Property Services of the Metropolitan Police (as attached with this Statement of Case)
- 6.2 The HCRD reserves the right to alter, amend or supplement its arguments at inquiry and to refer to any additional documentation that may become relevant in the lead up to and during the progress of the inquiry.