



Appeal Decisions

Inquiry opened on 15 September 2020

Site visit made on 21 October 2020

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th December 2020

Appeal A: APP/X5210/W/20/3248002

Appeal B: APP/X5210/Y/20/3248003

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

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission and under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against refusal of listed building consent.
 - The appeals are made by DfE on behalf of CfBT Schools Trust against the decisions of the Council of the London Borough of Camden.
 - The applications Ref 2019/2375/P & 2019/2491/L, dated 3 May 2019, were refused by notices dated 23 December 2019.
 - The development proposed is 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 to the rear and associated works.
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Preliminary matters

1. The Inquiry, which was held in virtual format, opened on 15 September and sat for 4 days before resuming on 19 October for 2 further days. Closing submissions were heard on 29 October. A pre-inquiry site visit including the interior of the appeal premises took place on 11 September and a further site visit was carried out on 21 October which included alternative school sites and the temporary school premises off Camley Street.

Decisions

2. The appeals are dismissed.

Main Issues

3. The main issues are as follows:

Appeal A:

- Whether the proposed development would be sustainable development in terms of transport, having regard to the effect of trips by private motor vehicles, traffic congestion and air pollution;
 - The effect on the living conditions of local occupiers in terms of noise; and
 - Whether the location would be appropriate for a school, having regard to air quality.
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Appeal B:

- The effect of the proposed development on the architectural quality and historic interest of the former police station and magistrate's court, which is listed at Grade II.

Reasons

The site and its surroundings

4. The former Hampstead Police Station and Magistrates Court was designed by J Dixon Butler, architect to the Metropolitan Police, and dates from 1912/13. It is one of several police stations by the same architect in a similar style constructed around the same time. It is a 4 storey mainly red brick building with stone dressings and a slate roof, combining a mix of classical and Arts and Crafts styles. It lies on a corner at the southern edge of Hampstead Village and is a prominent civic building locally. It is referred to in the Hampstead Conservation Area Statement (HCAS) as an imposing feature of the Rossllyn Hill and Downshire Hill streetscape character. The building has been vacant since 2013.
5. The site includes a car park at the rear, accessed from Downshire Hill, in which there is a 2 storey former stable block. The car park, which would become the school playground in the proposed scheme, adjoins the back gardens of dwellings in Rossllyn Hill, Downshire Hill and Hampstead Hill Gardens. Adjoining the police station building is a Victorian house, 26 Rossllyn Hill, formerly used as living accommodation by the police. It does not form part of the appeal site.
6. The character of the area can be described as mainly residential and dominated by 2 and 3 storey Victorian dwellings with pleasant rear garden areas.

Planning policy

7. The development plan includes The London Plan (consolidated with alterations since 2011) of March 2016 (LonP), the Camden Local Plan of 2017 (LP) and the Hampstead Neighbourhood Plan 2018-2033, adopted in 2018 (NP). The LonP is to be replaced by The London Plan (intend to publish- clean version) Spatial Development Strategy for Greater London (RLonP) which was published in December 2019 following examination in public, consideration by a panel of Inspectors and subsequent changes. The Secretary of State has since directed changes with respect to housing delivery. Insofar as policies of the RLonP concern the matters at issue in these appeals, the RLonP carries very significant weight.
8. Various supplementary planning documents have been recently adopted as Camden Planning Guidance. The most relevant are referred to throughout these decisions.

Whether the proposed development would be sustainable development in terms of transport

9. Abacus Belsize Primary School is a mixed single form entry (210 pupils) primary school that opened in September 2013 under the Free Schools Programme to serve the children of Belsize Park NW3. The school is now in its second temporary premises behind St Pancras Station at the Jubilee Waterside Centre. This location is about 2.7 kilometres (km) from the centre of the

school's catchment, which encompasses the area known as Belsize Park. Currently the pupils are taken to and from school by bus from collection points at Belsize Park Library and close to Swiss Cottage Leisure Centre.

10. Use of the police station varied according to different policing methods over 100 years, declining in more recent times. The magistrate's court remained in use until 1998. I do not give weight to the lately expressed idea that assessment of the baseline should be based on abandonment of the former use. The evidence of local residents, which I have no reason to quibble with, and which could not be refuted by the appellant, is that vehicle movements to and from the site have declined gradually over the last 35 years. That is commensurate with what is known about police activity in the building. It is highly unlikely that the police might now change strategy, re-purchase and use the building again for police activity of any sort. Nevertheless, should they choose to, and that could be done without any planning permission being necessary, a hypothetical case arises in which it would be reasonable to look at trip generation at other comparable police stations. This strategy was agreed with the Council.
11. The Kentish Town Police Station has a similar floor area. The car park at the appeal site had 14 operational spaces being used in 2006 for various police activities, without including the courthouse function. The survey data is not definitive or conclusive, because policing changes regularly and the metropolitan force has had to rationalise services due to financial pressures. However, it is not unreasonable to conclude that police use could potentially generate significant vehicle traffic every day, in the region of 53 total vehicle trips at morning and afternoon school times and 169 during the whole day from 07.00 to 19.00.
12. Residential and office use are potentially feasible alternatives for this civic building but even if car-free occupation could be agreed in any planning consent, taxis, deliveries, car club cars and commercial transport trips would still be generated, of an uncertain quantum.

Private motor vehicles

13. The former police station is just over 220 metres (m) along the A502 Rosslyn Hill from the north eastern corner of the Belsize Park catchment area, about 1.73 kilometres (km) from the south east corner along Haverstock Hill and around 700m from the approximate centre of the catchment.
14. Objectors' main concerns relate to the effectiveness of the travel plan that the school would put in place discouraging use of private cars for the school run; the likelihood that time pressures in the morning and weather would often mean parents choosing to use their own transport; the availability of kerb space outside the school before 9.00 am when restrictions come into force; the prospect that parents may move away from the area after succeeding in getting a place at the school, and the likelihood that children and parents would be disinclined to walk up the hill to the appeal site location.
15. Only the northern part of the catchment is within easy walking distance of the appeal site, bearing in mind the lower walking speed of young children. The southern part of the catchment is within a reasonable walking distance of the pick-up points used by the buses going to the present temporary site. A school on the appeal site reverses that situation. Pupils in the northern part of the

- catchment would be more likely to walk, but those to the south, say beyond Nutley Terrace and Belsize Avenue might be tempted to use private transport.
16. However, there are plenty of bus stops throughout the catchment that provide regular services, generally 4-6 per hour, which would be convenient for pupils travelling to the proposed school location, with a walk of varying length at either end of the journey. The appeal site lies in PTAL¹ zone 4 and zone 5 is a short distance to the south east. Services C11 and 168 serve the southern and eastern parts of the catchment, providing 5/6 buses an hour to stops near the junction with Pond St and at Pilgrims Lane. These routes could provide a realistic alternative for many of the families that live in the southern part of the catchment that would otherwise have to contemplate walking up Haverstock Hill. In considering this matter, the limited bus lane on Haverstock Hill would do little to relieve congestion for passengers on public transport and there remains the question of ensuring children remain safe on the journey and getting to and from bus stops- choices that parents make every day with their children's well-being in mind.
 17. Surveys show that only a small proportion of parents currently drive their children to the school or to the bus pick-up points. This is consistent with surveys undertaken at other primary schools in Camden. The school's travel plan would seek to encourage walking, cycling and public transport. I heard from several parents at the Inquiry who asserted that they would walk their children to the new school site or use the parent-led 'walking bus' through quiet suburban roads in Belsize Park. I give little weight to the concern that a snapshot 'hands-up' survey of how children arrived at school on any particular day does not provide a reasonably reliable indication of private car use- this method is standard practice in Transport for London's STARS² accreditation programme and has not been questioned by the Council's highway officers. The Council accepted that the STARS programme is bearing fruit. I accept that selective use of statistics can be misleading when comparing one school with another because of differences in school ethos, parent background, accessibility of public transport, location and historical factors, all affecting the modes used. Moreover, although car ownership in Belsize park is above the average for Camden (reflecting the size and type of housing) around 53% of families do not own a car.
 18. Having said that, notwithstanding the strong 'ethos' of the school, there is no means of preventing parents from making the judgement on the day that they feel is best for their children. In making that choice, public transport may well prove less attractive than the current bespoke and supervised service. A greater proportion of school trips are therefore likely to be made by private car, probably in the region of between 5% and 17%³. The Council's suggested figure of 22% derives largely from New End and Christchurch schools which have quite different circumstances including nursery children, a wider catchment and lower PTAL scores. The proportion of drop-offs and pick-ups there may be reduced in the future by local road closures⁴.
 19. When the school was temporarily situated at Haverstock Hill, 500m south of the proposed location, 96% of pupils walked, scooted or cycled to school or

¹ Public Transport Accessibility Level

² Sustainable Travel: Active, Responsible, Safe

³ The average mode share by car across all Camden primary schools is 17% (Burke rebuttal proof para 2.6)

⁴ The Healthy School Street initiative

used public transport. The proposed site at Rosslyn Hill is further away from the catchment and up a gradient. The HCRD's assessment of a mode share of 8-10% is probably nearer the average proportion of private car school trips that could be expected over a year at Rosslyn Hill. That would equate to in the region of 75 movements a day on the 'school run' during term time. To that should be added staff vehicles, trips generated by visitors to the offices, occasional community use and deliveries. Even if the 8-10% estimate is an underestimate, and it might be on wet days, the total figure is unlikely to approach the daily potential total for police station use. A greater number of trips during school drop-off and collection times may occur from time to time but that would not mean that in the overall picture, the sustainable transport aims of policies C2 and T1 of the LP would not be met.

20. Use of the building as a school would lead to removal of some car parking spaces to create a 'School Keep Clear' area for safety reasons. This is likely to tempt some parents to stop at the kerb to drop off children, but such activity would be against the law as well as the ethos of the school, and would conflict with the aims of the Travel Plan, which would be subject to regular monitoring. The only situation in which parents might continue to send children to the school after moving away from the area is when a sibling obtains a place because of an older brother or sister already at the school. The numbers are unlikely to be great, however; all schools operate similar policies in this respect.
21. The overriding consideration is that the Abacus school exists and the pupil journeys already take place. Some parents from the northern part of the catchment are likely to be driving to the existing pick-up points in the south, especially in the evenings when children would otherwise need to walk uphill when they are tired. These will be replaced by some who choose to drive to the new school site from the southern part from time to time. Taking all the evidence into account, the opportunity for choice provided by withdrawing the bespoke bus service is likely to lead to additional private car use, but it has not been shown that this would necessarily amount to a significant increase, compared with the existing or likely alternative uses for the building- especially bearing in mind that the school will only be open part of the year. I conclude that the proportion of parents likely to use private cars for trips to the new school site is unlikely to exceed the level of use experienced on the site when it was a fully functioning police station, but is likely to be more than has been generated at any time during the last 30 years of police activity. Overall, the premises would be easily accessible by sustainable modes of travel and there would be no conflict with the relevant aims of LP policies T1 and C2.

Congestion

22. In this respect the main concern is the level of traffic experienced in Hampstead, Belsize Park and particularly on Rosslyn Hill due to school trips and the likelihood that the appeal scheme would be a traffic-generating use. There is no disagreement that Rosslyn Hill is a busy road, but it is not one of the most heavily trafficked roads in Camden. It does suffer distinct peaks in flow in the morning and evening rush hours. There is no doubt that much of this traffic is school related. Given the conclusions above on the actual anticipated number of journeys compared to the potential of the existing police station use, there is likely to be some additional pressure on traffic congestion, limited to drop-off

and collection times. That would be a noticeable increase compared to use of the premises in more recent years.

23. The HCRD evidenced photographs of congestion at the junction between Rosslyn Hill and Downshire Hill but the circumstances at the time were unclear and similar difficulties can occur at any time in urban areas for no clear reason.
24. Even with the loss of some spaces around the school following change of use, there would be spare parking capacity in local streets. It has not been shown that if a small number of parents used these to drop off or pick up children, any increase in local congestion would occur, let alone an unacceptable level.
25. Even if the Council's prediction (assuming a 22% modal split) of 184 trips actually took place, that would be less than the daily fluctuation of traffic levels normally experienced on Rosslyn Hill. The more likely increase of around 67-84 movements (17-21 to and from the school in the morning and afternoon peaks) would be negligible in the context of the existing flow on this road and well below the overall daily number of movements likely in police station use- and comparable with police use in peak times.
26. Moreover, traffic monitoring shows a consistent downward trend in total vehicle numbers on Rosslyn Hill over the last 10 years. The reasons for this are not entirely clear and future trends are difficult to predict, the professional witnesses disagreeing on this point at the Inquiry. Vehicle ownership continues to rise in the London area. The extent of the annual drop greatly exceeds any small increase that might occur locally in morning and afternoon peaks due to the appeal proposal, but the longer term uncertainty means that this is a matter that can only carry limited weight.
27. In conclusion, the Council accepts that there would no unacceptable effect on highway safety or road networks. There is nothing persuasive to indicate that traffic congestion in the area would increase at drop-off and collection times to an unacceptable level as a result of the change of use or that the proposal would conflict with any traffic congestion aims of development plan policy. Moreover, no persuasive evidence has been produced to show that the proposal would seriously undermine the stated intention to *'...refuse applications for new schools... in (Belsize Park) unless it can be demonstrated that the number of traffic movements will not increase'*, as stated in the explanatory text of policy C2.

Air pollution

28. The Council's overall concerns on air quality are expressed in different but related reasons for refusal. The first concerns the potential increase in trips to and from the school affecting the local population and the second relates to the location of the school on a main road and the consequences for future pupils. I deal first with the effect of any additional traffic on pollution levels around the site.
29. The effect on air pollution goes hand in hand with the potential for an increase in the number of trips by private motor car, visitors and deliveries. Given that the school exists, most of these trips already exist but in a different modal distribution. Most children are currently taken to school by private bus. The move to Rosslyn Hill will lead to a change for some children, those from the northern part of the catchment largely walking or cycling to school and those

living in the south and west more likely to use a walking bus, public transport, or private vehicle. The loss of the bespoke bus service is likely to lead to a higher level of private car trips on some mornings or evenings or both, depending on the season, notwithstanding the ethos of the school and the STARS programme. The mode change is impossible to predict accurately but as discussed above, on the balance of probabilities it may be in the region of 8-10% of the total trips, compared with 4-5% currently. Against that, the amount of pollution caused by the existing school buses going back and forward to Camley Street is not an insignificant matter.

30. It is concluded that any increase in local air pollution would be negligible and would occur only at limited times. There would be a reduction in overall levels compared to the former police station use. The Council acknowledged that there would be no breach of relevant local limit values or national objectives for pollutants. There is no dispute that levels of air pollution on main roads are elevated compared to residential streets, as demonstrated by readings taken by the Hampstead Neighbourhood Forum, but it is a step further to claim that the proposed change of use would unacceptably raise pollution levels, to the extent that permission should be refused. World Health Organisation (WHO) guideline levels are not adopted as legal limits. There would be no obvious conflict with the aims set out in the local Air Quality Management Plan (AQMP).
31. That is not to say that areas of elevated air pollution are desirable for nearby occupants, particularly children. It is not desirable to encourage school trips using private cars or to increase levels of congestion along with the resulting pollution. The concerns strongly expressed by the Council and HCRD regarding the numbers of vehicles carrying out school trips in the area are understood, but the increased levels associated with this existing school relocating to the appeal site have not been shown to be unacceptable or to exceed those that were associated with the existing use. The school has a strong ethos of encouraging sustainable transport modes. Any small increase in car transport at school times would be negligible in the overall context of existing traffic levels on Rosslyn Hill, which have been falling for 10 years. No conflict has been identified with the relevant sustainability aims of LP policies T1 and C2, or NP policies TT1 and TT2; or with NPPF paragraphs 170 and 181.

The effect on the living conditions of local occupiers in terms of noise

32. The introduction of the school use would bring about a new noise environment at the rear of the former police station amounting to a total of 2 hours of play activity during the school day. There would also be comings and goings between classes and assembling to go to the heath, which would occur between 08.50 and 15.30. There would also be some disturbance associated with children arriving and going home using the Downshire Hill entrance. There would also be some noise emitted by children in the reception class near to the back of the building where they have access to the outside most of the day. The area would be used by children in term time and for 4 weekends during the year, or for about 183 days.
33. Nos 50, 51 and 52 Downshire Hill lie very close to the rear car park of the former police station. No. 52 also lies adjacent to the vehicle access. A self-contained apartment occupies the semi-basement level and the upper 4 floors are in use as one dwelling. The ground floor is used as consulting rooms by the occupant and his colleague who work as psychoanalysts. Nos. 51 and 50

are self-contained 4 storey dwellings with similar small rear yard areas. There is no dispute that noise due to police operations in the past was fairly muted and generally limited to vehicles and conversations between small numbers of people. The noise environment at the rear of the appeal building was and is relatively quiet.

34. The relevant reason for refusal refers to LP policy A1 which seeks to protect standards of amenity and the quality of life of occupiers and neighbours, by considering many factors including noise levels. Policy A4 refers specifically to noise and vibration and resists development likely to generate unacceptable noise and vibration impacts. Appendix 3 to the LP sets out Camden's noise and vibration thresholds, which expand upon the methodology in National Planning Policy Guidance (NPPG) but does not specifically address noise produced by children at play. Table D is referred to by the Council and the appellant and sets out noise limits applicable to proposed entertainment premises (customer noise, music, plant and vehicles).
35. The thresholds relate to methodology in the Noise Policy for England (NPS) and NPPG⁵ which indicate 3 levels of noise exposure. The dispute at the Inquiry concerned whether and where the particular noise of children playing would fall between the Lowest Observed Adverse Effect Level (LOAEL) and a Significant Observed Adverse Effect Level (SOAEL), or above this level, at which a significant adverse effect on health and quality of life could occur.
36. The NPS states that it is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times.
37. The Appellant's Noise Assessment provides computer modelling of anticipated noise levels in the gardens of neighbouring dwellings. The modelling takes account of the effects of existing boundary walls and proposed acoustic screens around the playground, as well as the levelling of the playground areas. Whilst the results⁶ indicate that the predicted noise levels would just fall within acceptable parameters for customers in entertainment premises (60dB LAeq,T (at AP1 and AP5), reducing to 55dB(A) over the 9.5 hours the school is occupied), the noise produced by children has distinct characteristics in terms of tonality and frequency. The 'dB LAeq' measure flattens out the peaks and troughs and does not reflect the peculiar characteristics of children at play. Figure 19/0084/TH03 in the Noise Assessment shows peak levels of up to 97dB LAmax at the temporary Camley Street site and frequent peaks of over 90dB LAmax with levels of over 80dB LAeq during the most intense period of play. Camley Street is a relatively quiet residential area. By contrast, Figure 19/0084/TH01 shows only 2 occasions when 70dB LAmax was breached (about 71 and 75 dB LAmax) in the police station car park during what would be the whole school day.
38. The conclusion to be drawn from this is that local residents are likely to notice frequent very loud and distracting peaks due to children playing when they are in the rear play area and that when it occurs, it would represent a completely different environment to that which exists now. This corresponds to my own observation of children playing outside normally in the playground at Camley

⁵ Reference ID: 30-001-20190722 and following

⁶ Table 8 referring to Figure 19/0084/F2

Street during the afternoon of 21 October 2020. The noise level would be what most people would expect in close proximity to an external play area after children are let out of the classroom environment. It is not conversational speech and very different to the noise generated by customers at an entertainment venue. It is also very different in character to the noise made by people in the street at night who have over-indulged, which could be associated with 'entertainment'.

39. The appellant agreed not specifically taking account of the annoyance factor of children shouting, only pointing out that noise in itself is intrusive above a certain fixed level. The appellant went on to suggest that people affected might wish to change their lifestyle to adapt to the changed environment when children were in the rear play area. In response to questions from HCRD, the appellant did not disagree that there would be a degree of intrusion.
40. In terms of mitigation, the Downshire Hill houses mostly affected are only around 1-5 m away from the play area, which limits the potential effectiveness of the proposed acoustic screen. The appellant acknowledged that it would not benefit any of the rooms above ground level. Local occupiers value the south east orientation of the rear elevations of their dwellings, which receive most sunlight. It is unsurprising that the suggestion of a 4m acoustic screen was rejected following a mock-up, particularly in respect of the self-contained semi-basement flat at No. 52, as that would have prevented any meaningful sunlight entering the rear terrace and living/dining area and would have seriously affected outlook.
41. The occupiers of No. 52 use the ground floor as consulting rooms where quiet conversations are a necessary part of day to day procedure. The first, second and third floors are used as living accommodation. A simple and quite old secondary glazing system has been added to the sash windows of the ground floor consulting room. The Noise Assessment indicates that internal first floor noise levels would be in the region of Leq NR41⁷ worst case and Leq NR37 over the 9.5 hour school day with windows closed, with noise levels at the façade of 76dB(A)eq,T, reducing to 71dB(A) over the 9.5 hours the school is occupied. At second floor level and above calculations indicate Leq NR40 worst case and Leq NR35 over the school day internally with windows closed. The figures indicate that there would be a level of intrusive noise sufficient to require windows to be shut when the play area is in use and that some noise is likely to be noticeable even when windows are shut.
42. It is accepted that the building fabric is more likely to insulate occupants from the highest frequency noise characteristics of children playing, but the overall noise levels speak for themselves. Even with windows closed, the internal noise levels on the first and second floors of No. 52 would be 1dB above a level recognised as representing a significant adverse noise impact⁸. The peaky and intrusive nature of noise from children means that a technical observation that differences of less than 3dB are not readily perceived is of limited relevance.
43. It would be unreasonable to expect people to need to have to shut windows during play times, especially on warm days when it would be desirable to keep windows fully open. That would be the case particularly in the middle of the

⁷ NR-Noise Rating Curve - developed by the International Organization for Standardization to determine the acceptable indoor environment for hearing preservation, speech communication and annoyance

⁸ Areas used as main living accommodation without any secondary or anticipated double glazing.

- day, which would coincide with the longest period of occupation of the play area. It would also be the case that the occupiers would wish to open their windows on the warm sunny side of their houses for reasons of ventilation.
44. The levels of noise experienced in most of the only rear outside areas available to the Downshire Hill properties would be in the region of 55dB(A) or lower over the 9.5 hours the school is occupied with a worst case of 59dB(A) when the playground is fully utilised. Whilst this falls just within the 'amber' level set out in Camden's Table D for entertainment premises, the noise characteristics of children playing would significantly increase the annoyance factor during playtimes. The worst noise level predicted in the garden of No. 52 (location AP1) from the playground (when fully occupied) is higher at 64dB(Aeq,T), reducing to 60dB(A) over the 9.5 hours the school is occupied. This equates to a 'red' level in Camden's Table D and takes into account the 2-2.25m high solid brick wall separating the properties, without the screening that was offered. NPPG advises that such standards should not be applied as rigid thresholds, but all the evidence suggests that the actual level of annoyance and intrusion would be very significant when the play area is being used. The appellant does not disagree that it equates to a SOAEL for the occupants. There is nothing to suggest that this dwelling would necessarily be unoccupied during the day or that it would not be occupied by a retired couple or anyone who needs to stay or work, or indeed sleep at home.
45. The 2 hour overall limit on use of the outdoor play area proposed in a suggested condition would include part or full occupation (60-120 children) of the area at morning break time from 10.15 to 11.00 and part occupation (90 children) at lunchtime from 12.15 to 13.00. The appellant acknowledges that arrival and going home time disturbance is not allowed for, nor is any assembly of children prior to walking to the heath, where most PE classes are proposed to be held. Children in the process of passing between classrooms would not be included. The 2 hour limit gives some leeway for the school, but the practical difficulties in controlling exuberant children between periods of learning and at the beginning and end of play times indicate a practical problem in enforcing the limit from day to day. Short periods of disturbance outside the permitted 2 hours maximum would occur, and some noise, though much less significant, would be generated by the reception children who would have unrestricted access to the area under the canopy.
46. The need to open or close windows several times a day to allow continued reasonable use of living and working accommodation would be significantly intrusive. There would be no alternative means of ventilation in the living areas of these dwellings. Quality of life for the occupants would be noticeably and significantly diminished. It is notable that apart from the former stable block, no part of the proposed school buildings would be as close to the main part of the playground as the dwellings on Downshire Hill.
47. The appellant's Noise Assessment acknowledges '*a significant adverse noise impact is assessed for some periods of the daytime for some Downshire Hill residences where the relevant residents have indicated they would prefer no new acoustic screening be erected to their relevant section of the site boundary*'. As explored at the Inquiry, the benefits of the screening, if otherwise acceptable, would be marginally perceptible and then only in the rear gardens and at semi-basement and ground floor level. All of the living accommodation above ground floor level would be exposed to the unmitigated

effects of noise from the play area. All the evidence indicates that the acknowledged significant noise impact would be substantially worsened by the unique noise characteristic of children letting off steam and interacting as they should be able to do without hindrance. The sudden, 'peaky' characteristic of noise from children playing also has an emotional content that is disturbing. Tonality lowers the threshold where SOAEL occurs and this factor has not been appropriately allowed for. Whilst intermittent, the resulting behaviour change would be permanent. Occurring for half the year, it would be unacceptably intrusive in the small outdoor areas and the south east facing rooms of houses at 50, 51 and 52 Downshire Hill. The effect would be less at other nearby adjoining properties but still noticeable and capable of bringing about a change in behaviour by the occupiers.

48. The use of the police station car park as a play area would represent a significant and adverse, intrusive impact for local occupiers that would lead to considerable annoyance and a reduction in their quality of life with a material change in behaviour. It would be equivalent to a SOAEL in the garden of the semi-basement flat at No. 52, as set out in NPPG. Whilst not meeting the threshold guidance for SOAEL in NPPG that occupiers would be 'having to keep windows closed most of the time because of the noise', the need to open or close windows inside dwellings at least 4 times a day would be annoying. Noise pollution depends not just on the physical aspects of the sound itself, but also the human reaction to it, and noise from children playing tips the effect here forward towards meeting the threshold of SOAEL if not surpassing it. The effect would not be capable of effective mitigation and is undesirable. It would conflict with national guidance at paragraph 180 of the NPPF and with the aims of LP policy A1 concerning protecting quality of life. The harm caused has to be seen in the context of the need to seek sustainable development and the overall benefits of the proposal.
49. The appellant draws attention to 20 schools where residential windows lie within 5m distance of a playground area. That relationship may be tolerated for many reasons but does not take away from the consequences of introducing such a use in very close proximity to existing dwellings where it has not existed before and where the occupiers have no means of avoiding or effectively mitigating the annoyance caused.

Whether the location would be appropriate for a school, having regard to air quality

50. There is no dispute that the proposed development has the potential to expose future users to elevated pollution levels from traffic. This was established through dispersion modelling in the appellant's Air Quality Assessment (AQA). There is no argument that the site lies next to a busy road.
51. There is no safe level of air pollution and pollution from motor vehicles in particular is a matter of great public concern. The policy background is consistent in being firmly in favour of avoiding locating schools in areas unacceptably exposed to pollution and locally, to reduce pupil's exposure to poor air quality. The whole Borough is in an Air Quality Management Area. Camden's Clean Air Action Plan (CAAP) 2019-2022 notes that the Borough has been in breach of the national air quality objectives for NO₂. NO₂ is a reliable marker for levels of other pollutants.
52. There has been an improvement in NO₂ levels across London in recent years and this is expected to continue. The appellant states that on current trends,

- within 4 years of the school opening, it is unlikely that, even on an annual mean basis, the roadside in Rosslyn Hill would be a place where “unacceptable levels” of air pollution would be expected. However there is a degree of uncertainty as to how air quality is affected by local factors such as building profiles and urban geometry and actual pollution levels can vary significantly.
53. Children travelling to the school are likely to walk for only a few minutes on the Rosslyn Hill trunk road or on the adjoining Downshire Hill. Some would travel on main roads to reach the school, increasing their exposure, and some would pass through suburban residential streets perhaps following a safe route established through Camden’s consultation on clean routes to school, set out in the CAAP. That situation would be similar to children attending many other schools.
54. Levels of NO₂ in the playground area are likely to be elevated due mainly to traffic on Rosslyn Hill, ranging from 34-37 µg/m³⁹. Air quality monitoring from February – May 2019 indicated annualised bias-corrected levels ranging from 19.6-28.7 µg/m³¹⁰ for the playground but measurement was only carried out for a limited period. Measurement over a whole year would have inspired greater confidence, as the appellant acknowledged. These levels would be below the 40 µg/m³ annual mean air quality objective, even without considering the ‘impeding’ effect of the building.
55. Air quality inside the school would be controlled by providing mechanical ventilation to all the main classrooms and internal areas where there is a risk of exceeding Air Pollution Exposure Criteria A¹¹ (APEC-A), using air taken in through vents at the rear. The main parties agreed that children would not experience short term exposure to ground level concentrations above the hourly limit value¹². I agree. The evidence indicates that the air quality in the building and on the site overall would not breach acceptable limits¹³.
56. Having said that, young children are an especially vulnerable group. There would still be a degree of exposure that might be avoided if the school was not on a busy road. The predicted NO₂ concentrations in the play area are not expected to exceed acceptable limits in terms of policy but would still be elevated compared with a location away from a busy thoroughfare, even taking account of the shielding effect of the existing building. Importantly, air would be taken from this area to be circulated around the building to avoid breaching an accepted risk of exceedance in classrooms. I observed traffic queueing from time to time in Downshire Hill to join Rosslyn Hill which would add to pollution levels at times when children are arriving in the morning. The levels of NO₂ and particulates on Rosslyn Hill are documented.
57. The explanatory text to LonP policy 7.14 says at paragraph 7.51 that *‘Increased exposure to existing poor air quality should be minimised by avoiding introduction of potentially new sensitive receptors in locations where they will be affected by existing sources of air pollution (such as road traffic)* Particular attention should be paid to development proposals such

⁹ CD01.01 AQA Figure 6 (predicted annual mean). Levels of 34.34 – 40.03µg/m³ are predicted in the play area on p30 of the AQA

¹⁰ CD01.02 Air Quality Monitoring Report Rev 1 June 2019

¹¹ London Councils Air Quality and Planning Guidance

¹² 200 µg/m³ 1-hour mean; not to be exceeded more than 18 times a year

¹³ Objectives set out in The Air Quality Strategy for England, Scotland, Wales and Northern Ireland, DEFRA, 2007 and CD08.04 Defra- “Local Air Quality Management, Technical Guidance, TG16

as.....schools'. The policy itself advises that 'development proposals should minimise increased exposure to existing poor air quality and make provision to address local problems of air quality (particularly within AQMAs) and where development is likely to be used by large numbers of those particularly vulnerable to poor air quality, such as children...'. It is the Mayor's stated aim to reduce the exposure of Londoners to harmful pollution, especially at priority locations like schools.

58. Emerging policy S3 of the RLonP advises at paragraph B(3) that development proposals for education and childcare facilities should locate entrances and playgrounds away from busy roads. The explanatory text indicates that this is to benefit from reduced levels of air pollution as well as noise and road danger. The text also includes aspirational goals for natural features in playgrounds such as trees, greenery and spaces for food growing, which it acknowledges can sometimes be difficult to achieve in London. The selected site for this new school signally fails the policy objective and largely fails the aspirational goals. There would still be a degree of pollution experienced by children that would be avoided had the site not been on a busy road. The measures that need to be put in place to avoid unacceptable pollution inside the building in terms of artificial ventilation and sealing the openings facing Rosslyn Hill are self-evident. Considerable weight attaches to this policy conflict. The temporary site at the Jubilee Centre is away from busy roads.
59. Taking account of the appellant's closing arguments, the Downshire Hill entrance, about 40m from Rosslyn Hill, could not be considered to be 'away from a busy road' having regard to the AQA figures produced for the appellant. The conflict with S3 arises from the site's location on a corner on a busy road, where there are greater risks to a vulnerable group. Pollution levels fall significantly away from busy roads. The aim is not inconsistent with the avoidance of pollution objectives of national policy in paragraph 180 of the NPPF and emerging policy S3 is not the subject of any proposed revision. To reach the temporary school site, children have to walk to, wait for and travel on buses along main roads. However, no information is provided on the conditions that children actually experience. The situation is temporary.
60. The proposed development would not conflict with the air quality aims of paragraphs 170(e) and 181 of the NPPF or LP policies A1 or CC4, or policy TT1 of the HNP, but the building's location cannot be changed. It will always be next to a main road where there is an increased risk and the potential for harm due to increased levels of air-borne pollutants. The conflict with emerging RLonP policy S3 remains.

The effect of the proposed development on the architectural quality and historic interest of the former police station and magistrate's court, which is listed at Grade II

61. The building has been adapted, extended and the internal layout altered on several occasions, most recently in the late 20th century, to suit evolving police operations. These have affected many of the original internal finishes and removed or added room dividing walls. The appellant provides a 'summary of significance' at paragraphs 4.51-4 of the appellant's Heritage Statement. Amongst other things, it says '*The Police Station is also illustrative of the emerging ideas concerning accommodation within the Metropolitan Police during the early C20. It was the first time a Police Station in Hampstead also*

incorporated a Magistrates' court and was also the first court to have additional rooms specifically for dealing with juvenile cases and as such was seen as the forerunner of the juvenile justice system'.

62. This accords with the enhanced list entry, which was updated at the request of the Department for Education in February 2018. This further advises that *'the hierarchy of spaces is expressed in the internal detailing, and the stairs, in particular, reflect the status and character of the different areas'* and *'The Police Station is plainly detailed internally, but has architectural features, such as the rounded angles of the walls, and its plan form, which reflect its function'*.
63. Historic England Advice Note 2 *Making Changes to Heritage Assets* advises at paragraph 45 that the plan form of a building is frequently one of its most important characteristics. Despite changes in the arrangement of rooms and means of access throughout the building, the original layout of Hampstead Police Station is still plain to see including the disposition of the police station function including cells, public areas, living accommodation (to a lesser extent), and most clearly the court area. The need for police officers to live in the premises diminished greatly over time and the space was adapted later for use as offices. Nevertheless, original chimney breasts remain, albeit now without hearths or fire surrounds. The original cells and medical room are still extant with interesting detailing and finishes. Finishes and detailing were essentially functional from the start and many cornices and skirtings remain along with tiled walls to dado height.
64. The creation of a new ground floor school hall and new wide span classrooms within a building originally comprising mainly small scale spaces would involve demolition of much of the existing interior walls and partitions and new structural works with new mass concrete foundations¹⁴. Heavy transfer and long span steel beams and column supports would be necessary where existing load bearing walls are removed, especially over the new hall and under the magistrate's court. New cranked beams are proposed to support the roof at second floor. Internal flue stacks are all proposed to be removed in the interests of saving dead weight that would otherwise bear down on new beams. New structure would be added to support masonry stacks remaining above the top floor. All of these works would transform the original structural integrity of the building.
65. For convenience, I considering the impact in the order set out in the Heritage Statement.
- Change to educational use*
66. The building is surplus to police requirements and has been sold. Whilst the best use for a listed building is usually its original use, there is no prospect of this building ever being needed to function in the same way that it did in 1913 or even 1998. In principle, the proposed school use with community use fulfils a civic function and could be appropriate given the visual prominence and status of the building in the local area.
67. Having said that, alternative uses that might involve less intrusive internal alterations, such as residential or office use, have not been explored. Whether

¹⁴ Referring to CD01.38 Structural Report

the building can be adapted for use as a school without unacceptable impact on its heritage significance depends on the nature of the works proposed.

The effect of physical external works on significance

68. The external envelope was originally constructed to a very high level of finish and quality. New roof-mounted heat pumps are unlikely to be prominent seen from the street and could be subject to conditions requiring details of mounting and connections. Other adaptations involving ducts and pipework would be at the rear and would not seriously compromise the architectural or heritage interest of the building. The proposed changes would preserve the fabric for the future.
69. Changes to the rear involve removing later additions and steel staircases used for escape and to facilitate access from the cells and holding areas to the court. The stairs are of simple utilitarian construction. Although of some historic interest, they would have limited practical value in any potential re-use of the building. Their removal would not seriously affect the ability to understand its original concept and function.
70. Providing that construction details are sympathetic to the character of the existing building, the proposal to install a ramp providing disabled access to the front entrance within the lightwell, supported on new steel sections and existing buttresses, and move the entrance steps forward in matching materials would not significantly diminish the architectural quality or historic interest of the listed building. Likewise adapting the old section house side entrance for disabled access would not compromise the ability to understand the buildings architectural or historic quality. The construction details could be subject to appropriate conditions requiring the prior approval of the Council. The contribution that the building makes to the character and appearance of the Hampstead Conservation Area would be preserved.

The effect of physical internal works on significance

71. Adapting a building that was originally designed to contain three very separate functions for modern school use would inevitably involve substantial alterations to accommodate the education and circulation of pupils and staff in a reasonably safe and efficient way. The alterations carried out by the police had already brought about greater flexibility throughout the building by making various openings, but the degree of change now proposed is of an entirely different order. It can only be assumed that the enhanced list entry had only limited bearing on the design solution adopted, which appears to follow mainly from the requirements of the brief for a state-funded school.
72. The ground floor of the main building would essentially be gutted, no part of the cell wing or residential accommodation remaining. The new layout would not resemble the old except in the retention of the central stair, the significance of this greatly reduced by the balustrade being boxed in. The retention of 2 cell doors (late 20th century) elsewhere on the lower ground floor would be of significantly less interest than a complete cell in its original position. Likewise, limited areas of restored dado tiling would be little more than a gesture towards the original function and purpose of the central part of the plan. The insertion of a new secondary stair at the rear of the formal rooms with large bay windows at lower ground, ground and first floor levels would

- significantly change the proportions of the rooms and their pre-eminence in the layout.
73. The insertion of a service function (lavatories) behind 4 of the 7 prominent large sash windows at ground floor level in the main façade would appear distinctly odd given the large size of these windows and their portland stone surrounds emphasising these openings in the original design. The need for privacy adjacent to the new ramped access would involve measures that would look very different.
74. The adaptation of this building for school use would involve very significant demolition and creation of new classrooms and circulation areas, quite different to its use throughout 100 years as a police station. All traces of the former use would be erased except for minor remnants. It has not been demonstrated that alterations have only been proposed where absolutely necessary. The proposed plan form imposes a largely clean sweep of the room arrangement and completely subsumes most of the original layout and subsequent alterations (a key element, according to the revised list entry). Even small details have been erased, such as the rounded angles, which were intended to reduce the risk of injury and allow some vision round corners, ideas which could be useful in schools. It is unclear why the balustrade to the main stair needs to be completely encased in plywood, preventing any appreciation of its original simple robust design. The original chimney pieces are proposed to be completely removed, for no persuasive reason beyond creating a clean horizontal wall surface.
75. The court complex is described as 'the most intact and important internal space within the building, making a high contribution to its significance'. The removal of most of the fixtures in the former magistrate's court and ancillary accommodation, would amount to harm to architectural and historic interest. These features are as designed and constructed in 1913 and are specifically referred to in the listing entry. The space does not obviously lend itself to use for other purposes, apart from occasional roles in historical crime dramas by film and tv companies. The most elaborate detailing in the public entrance lobby, staircase and balustrade, wood panelling and dentil detailing would be repaired, re-finished and retained and the remaining fittings (except the magistrates' bench, which it is understood is to be kept) could be recorded for posterity by imposing a suitable condition. The room would still be understood to be a former courtroom. The important natural daylight from the lantern roof would be retained. I do not find that the proposed use of the courtroom and the ancillary space below as business/enterprise space contravenes Historic England advice or national guidance on optimum viable use. The proposed relocation of the magistrate's timber screen to the Rosslyn Hill entrance would enhance the public perception of this area.
76. Having said that, overall, I conclude that the scheme is designed not on the basis of causing the least impact to heritage significance, as advised in NPPG, but on the basis of ensuring that the requirements of a modern school are most efficiently met within a 107 year old building. It has not been shown that retaining historic fabric or plan form has been given sufficient attention in the balance required. The very limited enhancements that are offered pale into insignificance compared with the extent of loss of original fabric and layout. In the new incarnation as a school, so much would be removed that it would not be possible for a visitor to easily appreciate the original layout or the evolution

of police operations over time. Whilst serious, given the retained impressive fabric of the elevations and the extent of alterations and removal of features already brought about by the police over many years, the harm would not reach the threshold of 'substantial', in the terms set out in paragraph 195 of the NPPF and in NPPG. The original layout, expressly mentioned in the enhanced listing, is currently straightforward to understand. The more or less complete obliteration of the ground floor room arrangement indicates that the level of harm would be at the upper end of the scale of 'less than substantial'.

77. The building is in good condition and is not 'at risk'. There is no suggestion that other uses may not provide a viable future for the building, that could be less harmful. No alternative schemes have been prepared for alternative uses but residential or office use would not necessarily require the insertion of the wide spans necessary for classrooms and the school assembly hall. The arguments put forward only justify the extent of the losses proposed, which would be permanent, in connection with use as a school. It is not accepted that the proposed use as a school would be the optimum viable future use for the building, which would retain its public presence and visual impact in the area.
78. The heritage benefits, which in themselves are welcome, include the retention and re-use of the stable block, the separation of the court area from the rest of the building, the removal of certain 20th century internal elements such as the partition wall alongside the stair from the magistrates' court entrance to the public waiting room and associated restoration of the original ceiling in this area, the removal of new build elements and other accretions at the rear, the removal of servicing elements on the south eastern elevation, the removal of the bin store, a double cell lock-up and a metal tower in the central yard; and the overall repair and restoration of the external envelope.
79. The extent of the harm caused by the internal alterations to structure and layout significantly outweigh the benefits. The NPPF indicates 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, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The proposed scheme would conflict with the heritage protection aims of LP policy D2 and NP policy DH2. In accordance with paragraph 196 of the NPPF, this harm has to be considered in the balance in the light of the public benefits.

Other matters

80. A signed and dated S106 Agreement has been submitted which would facilitate, amongst other things, car free development for the school and the office B1 use, the School Travel Plan and associated monitoring, the appointment of a local resident representative as a Community Governor, a Servicing Management Plan, a Construction Management Plan, a financial contribution for highways works and Traffic Management Order changes, and the provision of off-site cycle parking. If I was otherwise minded to allow the appeals, the Agreement would carry significant weight.

Conclusion

81. The NPPF advises at paragraph 94 that local planning authorities should take a proactive, positive and collaborative approach to meeting the requirement to provide a sufficient choice of school places to meet the needs of existing and

new communities. Great weight attaches to the need to create, expand or alter schools through the preparation of plans and decisions on applications. This follows from the Secretary of State's August 2011 policy statement which advises that creating free schools is one of the Government's flagship policies.

82. The HCRD and local objectors draw attention to the number of schools in the area but this is of limited relevance when, as in this case, demand is apparent because of the limited availability of non-faith or non-fee paying schools. Accordingly great weight must be given to the prospect of a permanent local site for the Abacus School which is rated 'outstanding' by OFSTED, is popular and is well-supported by parents. However, the objective of sustainable development includes interdependent economic, social and environmental aims which include taking into account the likely effects of pollution, and avoiding noise giving rise to significant adverse impacts on health and the quality of life. Another aim encompassed in the objective of sustainable development is that development should contribute to protecting and enhancing the historic environment.
83. The benefits of a local school site for local children are very significant and attract great weight. The disbenefits arise from 1) the need to adapt a building not designed for school use with distinct architectural and heritage value, necessitating very significant intrusive alteration with limited heritage benefits, amounting to a high level of 'less than substantial' harm; 2) the siting of the school close to a busy road, inevitably exposing children for the foreseeable future to higher relative levels of pollution, more serious at certain times of day, contrary to emerging policy in the RLoNP which attracts significant weight; and 3) the substantial level of annoyance and reduction in the quality of life for neighbouring occupiers in Downshire Hill due to noise. The latter is a consequence of the limited area available for play which is too close to existing dwellings and the ineffectiveness and unintended effects of the proposed mitigation measures. The need for a condition limiting play and requiring constant supervision and control of children to ensure the limit is not breached indicates the gravity of the fundamental issue of noise. Cumulatively, these matters considerably outweigh the benefits of utilising this building. The scheme should not proceed.
84. For all the above reasons, the appeals should be dismissed.

Paul Jackson

INSPECTOR

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Vicki Briody	Head Teacher
John Joseph MBE	Local Resident
Andy Yarrow	Anthem Trust
Emily McCarron	Local resident
Mandy Simpson	Local resident
Zela Kendall	Local resident
Farman Lalji	Local resident
Vadim Sobolevski	Local resident
Cllr Louisa Pottitt	Local Councillor
Cllr Tom Simon	Local Councillor
Annette Ross	Letting Manager
Cllr Maria Higson	Local Councillor
Kimberly Turner	Local resident
Linda and Michael Grove	Local residents
Darla Hocking	Local resident
Jenny Kananov	Local resident
Ari Pattanayak	Local resident
Dr Kim Issroff	Chair of Governors, Fleet primary School
David Castle	Heath and Hampstead Society
Muna Levan-Harris	Local resident

DOCUMENTS

- 1 HCRD list of witnesses
- 2 Gov.uk: Guidance for full opening: schools, Sep 2020
- 3 Camden and Islington Department of Public Health: Children Returning to Primary School and Nurseries, May 2020, provided by HCRD
- 4 TfL STARS accreditation criteria and a list of activities that count towards accreditation, provided by HCRD
- 5 Appellant's Gold STAR Accreditation Website
- 6 Evidence of Stephen Burke –clarifications following re-examination

- 7 Relative heights above OD of bus pick-up points and appeal site
- 8 Camden bus lane plan on Rosslyn Hill and Haverstock Hill
- 9 Camden Abacus School Bus – Webpage
- 10 Email dated 21 October 2019 relating to the future of 26 Rosslyn Hill
- 11 Email chain regarding continuing police presence on the site
- 12 Email chain regarding traffic survey of West Hampstead Police Station and resilience of traffic during Covid
- 13 A G Shinder statement regarding burst water main closure of Rosslyn Hill, provided by HCRD
- 14 London’s Register of Roadworks- Transport for London Rosslyn Hill 8 August 2020, provided by the appellant
- 15 London Borough of Camden Air Quality Annual Status Report for 2019, published July 2020
- 16 DEFRA Emissions Factors Toolkit- website
- 17 The Guardian extract- ‘Air pollution more harmful to children in cars than outside, warns top scientist’ dated June 2017
- 18 Photos indicating the height of the acoustic barrier suggested for 52 and 50 Downshire Hill, taken on July 2019
- 19 Draft S106 Agreement 19 October 2020
- 20 Draft planning conditions October 2020
- 21 Historic England: Good Practice Advice in Planning: 2 - Managing Significance in Decision Taking
- 22 Plans of Dixon Butler lower ground floor, ground floor and rear elevation compared with existing lower ground floor, ground floor and rear elevation, provided by the appellant
- 23 Comparison of noise elements of NPPG 2014 with 2019 equivalent, provided by the Council
- 24 Historic England: Advice Note 2: Making Changes to Heritage Assets
- 25 Proposed External Kitchen Extract Ductwork Elevation, provided by the appellant
- 26 Paul Crisp Speaking Notes from round table discussion
- 27 Abacus Newsletter January 2015
- 28 Details of M&E (Kitchen Extract and Boilers) requested by the Inspector, September 2020
- 29 Appellant’s response to Doc 27
- 30 Council closing remarks
- 31 HCRD closing remarks
- 32 Appellant closing remarks