



Appeal Decision

Site visit made on 8 September 2025

by **A Parkin BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7th October 2025

Appeal Ref: **APP/X5210/W/25/3359493**

Former stables building to the rear of 26 Rosslyn Hill, London NW3 1PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Todd Berman against the decision of the Council of the London Borough of Camden.
 - The application Ref is 2024/4338/P.
 - The development proposed is described as ‘change of use and refurbishment of the Stables building including demolition of the existing annex and construction of new two storey building with front windows, bin store and PV panels to provide residential accommodation (C3)’.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council refused planning permission and listed building consent for the proposal and the appellant appealed against both decisions. However, a copy of the listed building consent application form for the proposal is not in the evidence before me. I raised this with both the Council and the appellant and remarkably, neither of them were able to provide me with a copy of the submitted listed building consent application form.
3. Regulation 3(1) of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (as amended) (the Regulations) states that ‘An application for ... listed building consent shall—(a) ...be made in writing to a local planning authority on a form published by the Secretary of State (or a form to substantially the same effect);(b) include the particulars specified or referred to in the form’.
4. Regulation 6(1) of the Regulations states that ‘A local planning authority shall not entertain any application under regulation 3 or 4 unless it is accompanied by one of the following certificates signed by or on behalf of the applicant...’ The relevant certificate is to show that any person with a landownership interest in the appeal site at a specified point in time has been notified of the application.
5. Regulation 8(2)(ii) of the Regulations states ‘Such a person [who desires to make an appeal] shall also furnish to the Secretary of State a copy of each of the following documents— (ii) all relevant plans, drawings, particulars and documents submitted with the application, including a copy of the certificate given in accordance with regulation 6’.
6. The appellant has provided various pieces of information to support their position that a listed building consent application was made for the proposal and in

- response to the points I raised, including emails, a previous listed building consent application form for works at the site and a retrospectively completed listed building consent application form for the proposal.
7. The Council refused listed building consent for the proposal and so should be able to provide a copy of the submitted application form. It is not clear how the Council was able to determine the application without having a copy of the application form.
 8. However, it is the responsibility of the applicant to provide this document, and the associated certificate. Furthermore, the Appeal Form is signed as being complete and correct, despite the Appeal Documents listed at Section O not including the listed building consent application form, including the ownership certificate.
 9. This situation is very unusual and it is not clear to me what has happened. However, with reference to the submitted evidence and relevant legislation, I am not satisfied that a listed building consent application was made for the proposal. There is, therefore, no basis under s20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) for an appeal to be made.
 10. Furthermore, only the applicant has the right of appeal under s20 of the Act, and the absence of the listed building consent application form means the applicant is not identified.
 11. Consequently, I have not determined the linked listed building consent appeal that was submitted for the proposal, and given the provisional reference number APP/X5210/Y/25/3359497 by the Planning Inspectorate.
 12. The appeal site forms part of a Grade II listed building¹ and is located in the vicinity of a number of other listed buildings within the Hampstead Conservation Area (HCA). Consequently I have had regard to sections 16(2), 66(1) and 72(1) of the Act in determining this appeal.
 13. There is considerable confusion regarding the stated address of the appeal site. The postcode of the address given on the application form is different to the postcode of the address given on the appeal form, and according to Royal Mail, neither postcode relates to the stated street address. This is despite both the application form and appeal form being signed by or on behalf of the appellant as being true, accurate and correct.
 14. Furthermore, the street address on the application form and appeal form, 53-54 Downshire Hill, which is said to be the address given by the Council's Street Naming Department, is not recognised by Royal Mail's Address Finder website.
 15. The Council has used the following address on its decision notice: *Stables Building in the land to the rear of Hampstead Police Station, 26 Rosslyn Hill NW3 1PD*. I have amended this address in the banner heading above in the interests of clarity and accuracy; the actual location of the appeal site is not disputed by the parties.
 16. On the application form and the appeal form the appellant describes the development as the 'addition of a small mansard roof on the approved annex', and references what is said to be the Council's planning permission reference number – 20240222P.

¹ Former Police Station and Courthouse, including stable and harness room, railings and lamps (List Entry Number 1130397)

17. The application form states that neither building work nor change of use have started and when I visited the site, I noted that to be the case. Consequently the description of development on the application form and appeal form is not accurate; the proposal is for more than just the addition of the 'mansard roof', it is for the construction of the annex upon which it would be positioned.
18. On its decision notice the Council has described the proposal as 'Change of use and refurbishment of the Stables building including demolition of the existing annex and construction of new two storey building with front windows, bin store and PV panels to provide residential accommodation (C3)'. This is similar to the description for the single storey annex approval², and I have used this description in the banner heading above.
19. In any event, the changed description does not alter what is physically proposed at the appeal site, as shown on the submitted drawings and referenced in the submitted evidence.
20. In addition to visiting the appeal site, I also observed the site from the rear of 50 – 51 Downshire Hill, with the occupier's consent.

Main Issues

21. The main issues are the effect of the proposal on:
 - the significance of designated heritage assets;
 - affordable housing provision in the area; and,
 - car parking provision in the area.

Reasons

Significance of designated heritage assets

22. The appeal concerns part of a Grade II listed building, the *Former Police Station and Courthouse, including stable and harness room, railings and lamps*³. Designed by John Dixon Butler and dating from 1913, this is a substantial building that occupies a prominent position at the corner of Rosslyn Hill and Downshire Hill. The building is said to be listed for its architectural and historic interest, including as an early example of a combined police station and courthouse.
23. To the rear of the main police station and courthouse building is a sloping tarmac yard area. The yard is accessed from Downshire Hill and contains the separate former police stable and harness room building, at its northeasternmost extent.
24. This is a two-storey red brick building with a dual pitched slate roof, which faces northwestwards, towards the rear of the buildings on Downshire Hill. The stable building has been converted into a dwelling and the front elevation has an asymmetrical appearance with three mansard windows at first floor level, extending through the eaves.
25. At ground floor level, around one third of the front elevation is hidden behind a functional, late 20th century, single storey 'outbuilding' extension, which projects forward towards the boundary wall with Nos 50 and 51 Downshire Hill. This

² LPA Ref. 2024/0222/P

³ List Entry Number: 1130397

- outbuilding has several distinct elements, including a partly open space, all of which are covered by two contiguous flat roofs.
26. The significance of the listed building, insofar as it relates to this appeal, stems from the historical development and function of the 2-storey stable and harness room building, as part of the police station and courthouse, together with its design and materials.
 27. The yard containing the former police stable is at a somewhat lower elevation than the surrounding buildings on Downshire Hill, Rosslyn Hill and Hampstead Hill Gardens, many of which are listed. Nos 50 and 51 Downshire Hill⁴ are Grade II listed with three storeys plus attic and basement, and with a small rear garden, which backs onto the yard by the former police stable. Whilst the front elevation is the principal elevation of this building, there are some interesting details to the rear, including some of the fenestration.
 28. Other listed buildings in the area include Nos 3 and 3A Hampstead Hill Gardens⁵, a substantial late 19th century building to the southeast of the former stable, and separated from it by its large rear garden. A similar arrangement exists for Nos 22 and 24 Rosslyn Hill⁶, where the side and rear garden of No 24 backs onto the yard and the rear garden of 3/3A Hampstead Hill Gardens.
 29. Insofar as they relate to this appeal, the significance of these listed buildings stems from their historical development and architectural features, together with their visual relationship with other nearby buildings and spaces.
 30. All of these buildings are located within the HCA and make positive contributions to its character and appearance. The HCA covers a large and diverse area near to Hampstead Heath, and was divided into eight sub-areas by the Council, to reflect this diversity.
 31. Hampstead is located on a hill above much of the surrounding parts of London and has developed in distinct phases over time. The urban grain of the HCA relates to the topography of the area and there are many substantial houses, set within generous maturely landscaped gardens, to be found here. Furthermore there are elegant streets, many of which contain or are bounded by mature trees and hedges.
 32. Insofar as it relates to this appeal, the significance of the HCA stems from its historical development and the urban grain of the streets and properties, and from the design and materials of many of the buildings to be found here.
 33. Planning permission and listed building consent has previously been granted for the demolition of the late 20th century outbuilding at the front of the former stables, together with the construction of a single storey residential annex to the two-storey stables building⁷.
 34. However, these approvals have not been implemented, and the appellant is now seeking to construct a two storey residential annex in place of the approved single storey annex. The proposed annex would occupy a similar footprint to the approved annex, and would have some design similarities, including angled solar

⁴ List Entry Number: 1078269

⁵ List Entry number: 1378699

⁶ List Entry Number: 1330383

⁷ LPA Refs. 2024/0222/P and 2024/1090/L

- panels on the flat roof and with the ground floor level set lower than that of the existing outbuilding. However, its scale and massing would be significantly greater due to the additional storey.
35. The 'mansard' roof would be set back from the ground floor elevations to varying degrees, and particularly towards the southeast, near to the stable building and the northwest, towards the rear of Nos 50 and 51 Downshire Hill.
 36. The materials proposed for the two-storey annex are not dissimilar to those for the approved single storey annex, and are said to respond to the materials to be used in the latest proposal for the main police station and courthouse.
 37. The proposed 'mansard' roof would be some 1.118metres higher than the approved single storey annex roof, although the rooftop solar panels would be positioned on top of the 'mansard' and are not included in this measurement.
 38. However, whilst I note that the height of the appeal 'mansard' roof would be lower than the roof originally proposed, it would be significantly higher than the existing outbuilding and the approved single storey annex, and would be visually obtrusive. In addition, angled solar panels would cover a large part of the proposed roof, and would, therefore, further increase the scale and massing of the proposal.
 39. Whilst the existing outbuilding is an unsympathetic addition to the main stable building, I consider the design, scale and massing of the proposal, would worsen this effect, which would be visible from the rear of the buildings surrounding the yard. The design and the materials of the proposed solar panels would also be visually incongruous, and would further detract from the character and appearance of the host listed building.
 40. Consequently, the proposal would detract from the historic character and appearance of the police station and courthouse, causing a low level of less than substantial harm to its significance. It would also detract from the setting of Nos 50 and 51 Downshire Hill to a lesser extent, causing a very low level of less than substantial harm to their significance.
 41. Given the location of the appeal site I do not consider it would affect the setting of other nearby listed buildings to any meaningful extent, and so would preserve their significance.
 42. However, the harm that would be caused to the host listed building, and the setting of Nos 50 and 51 Downshire Hill would also detract from the historic character of the HCA, again causing a low level of less than substantial harm and regardless of whether they would be visible from the public realm.
 43. Any harm to a designated heritage asset attracts considerable weight⁸. Where less than substantial harm is proposed to a designated heritage asset, this harm should be weighed against the public benefits of the proposal⁹.
 44. There would be some social and economic benefits associated with construction, but the limited scale and duration of such works means they carry very limited weight.

⁸ Paragraph 212 of the National Planning Policy Framework December 2024 (the Framework)

⁹ Paragraph 215 of the Framework

45. The proposal would be constructed to high environmental standards, and would add further space and two bedrooms in an annex to the Stable building. However, the creation of an annex would not numerically increase the housing stock of the London Borough of Camden.
46. I note the previous approvals and appeal decisions, and the assessments of the host listed building and the HCA, referenced by the appellant. The various assessments and decisions show the planning judgement of the decision-maker in those cases and at that time. I have assessed the current proposal myself and reached my own planning judgement of its effects on the significance of designated heritage assets.
47. Reference is also made to how the proposal has responded positively to much of the pre-application advice provided by the Council. However, the pre-application advice, which in any event is not binding upon the local planning authority, clearly states that the first floor / roof extension is not acceptable and should be removed. Reference is also made to the lack of objections from local community groups. I have considered this in determining this appeal.
48. I am not satisfied that the public benefits would outweigh the less than substantial harm to the significance of the host listed building, nearby listed buildings and the HCA. For these reasons, the proposal would adversely affect the significance of designated heritage assets. It would, therefore, and insofar as relevant, conflict with Policies D1 (design) and D2 (heritage) of the Camden Local Plan 2017 (CLP) and Policies DH1 (design), and DH2 (conservation areas and listed buildings) of the Hampstead Neighbourhood Plan 2018 (HNP), and with the Framework. I find no conflict with Policy DH3 (the urban realm) of the HNP.

Affordable housing provision

49. The appellant disputes that a s106 planning obligation is necessary. The approval of the conversion of the Stables building and the subsequent grant of planning permission for the single storey annex were each accompanied by s106 planning obligations to ensure, amongst other things, that a policy compliant affordable housing contribution was provided.
50. Policy H4 (maximising the supply of affordable housing) of the CLP sets out the Council's approach to affordable housing provision from developments that provide one or more additional homes, and involve a total addition to residential floorspace of 100sqm GIA or more.
51. Consequently, the Council considers that an affordable housing contribution is needed, despite the annex not being a separate and additional home. This is because a new home was created by the Council's approval of the conversion of the stables to residential use in 2022¹⁰. An affordable housing contribution of £31,200 is said to have been provided by the appellant at that time, controlled through a s106 planning obligation.
52. I note that for the approved single storey annex at the appeal site, the appellant was asked to provide a further affordable housing contribution of £15,600, again controlled by a s106 planning obligation that was signed by the appellant. This was due to the approved single storey annex increasing the residential floorspace

¹⁰ LPA Ref. 2022/0329/P and 2022/0624/L

- of the stables dwelling by some 78sqm, which was not considered in the original 2022 approval.
53. The appeal proposal would increase the residential floorspace of the stables dwelling by some 121.9sqm more than the original 2022 approval, and so the Council is seeking an affordable housing contribution of £24,300, to accord with the greater size of the 'new' dwelling, to be secured by way of a planning obligation.
54. I note the Council's comments as to why this approach is considered acceptable, so as to ensure that developments do not circumvent the Council's affordable housing policies by a 'piecemeal' approach. I have considered the wording of Policy H4 of the CLP: '... where development sites are split or separate proposals are brought forward for closely related sites, the appropriate affordable housing contribution is comprehensively assessed for all the sites together. The Council will seek to use planning obligations to ensure that all parts or phases of split or related sites make an appropriate affordable housing contribution.'
55. I also note the approach of an Inspector who determined a different appeal in Camden¹¹ in September 2023, where a similar issue arose. The Inspector in that case had regard to relevant caselaw, and in particular, the tripartite test from *Westminster City Council v First Secretary of State and Brandford Limited [2003] J.P.L 1066*.
56. The three parts of such a test are (1) Whether the sites are in a single ownership; (2) Whether they should be considered a single site for planning purposes; and (3) Whether the proposals should be treated as a single development. Whilst not determinative, I have used this approach to help inform my own planning judgement on this matter.
57. I am satisfied that the stables and the existing 'outbuilding' are owned by the appellant. Together with the tarmac space between them, and from the evidence, including the location plan for the proposal, they constitute a single site for planning purposes.
58. I have considered the comments of the appellant as to why the proposal should not be treated as a single development, but I do not find them compelling. The annex would be manifestly linked to the converted stables dwelling and would be physically connected to it, as the 'outbuilding' is currently.
59. The 'outbuilding' has a poor visual relationship to the converted stables building and would not seem to relate to the residential use at all. To leave it in its current state would significantly detract from the appearance of the stables and its residential use and I think it is very unlikely the appellant intended to leave it in its current state. Consequently, I am satisfied the completed stables conversion and the proposed annex are a single development.
60. On balance, I consider that an affordable housing contribution would be necessary for the proposal to accord with the requirements of Policy H4 of the CLP. No s106 obligation concerning the appeal proposal is before me, and so there is no mechanism through which an affordable housing contribution could be secured, were the development otherwise acceptable.

¹¹ Ref. APP/X5210/W/23/3320798

61. However, and as the Council has acknowledged, Policy H4 conflicts with the Framework, which states that the provision of affordable housing should not be sought for residential developments that are not major developments.
62. The Council states that the Inspector who examined the CLP accepted that this conflict was justified, given Camden's particularly acute need for affordable housing. However, neither the report of that Inspector, nor the evidence upon which such a conclusion was derived are before me.
63. Nevertheless, from the evidence I am satisfied that affordable housing remains a significant issue in Camden. The emerging findings from the proposed modifications to the HNP from 2024 are that affordable housing is still promoted and I note the appellant's comments that the Council has not been delivering sufficient new affordable housing units. I also note the previous s106 planning obligations signed by the appellant and which included an affordable housing contribution, linked to housing development at the appeal site.
64. Paragraph 232 of the Framework states that due weight should be given to development plan policies according to their degree of consistency with the Framework.
65. The Framework recognises the importance of affordable housing and its delivery. Whilst there is a conflict between Policy H4 and the Framework in terms of affordable housing contributions for non-major developments, I am not satisfied that Policy H4 is out of date and so I give this conflict some weight.
66. Even if I were to conclude that Policy H4 was out of date, the harm that would be caused to designated heritage assets provides a strong reason for refusing the proposed development and so with reference to paragraph 11)d)i) and footnote 7 of the Framework, the presumption in favour of sustainable development would not be engaged in this case.
67. The appellant makes reference to the absence of a vacant building credit from the Council's calculations and I note that this is something referenced at paragraph 65 of the Framework. However, in signing the s106 planning obligation for the approved single storey annex which, amongst other things, committed to providing an affordable housing contribution, the appellant accepted the Council's calculations at that time. Whether a vacant building credit is applicable is something to be addressed by the Council and the appellant, along with previously made affordable housing contributions for the development. However, no s106 planning obligation has been provided for the appeal proposal and so there is no affordable housing contribution in this case.
68. I also note the appellant's comments that this is a tax on much needed housing development, that the Council does not use money collected for affordable housing appropriately and that the affordable housing contribution was not requested during the application process. As set out above, the appellant would have been aware of the need for an affordable housing contribution from previous approvals at the appeal site. I have found that an affordable housing contribution is required in this case and I am satisfied that a suitably worded s106 planning obligation would control how this is spent.
69. The appellant also states that the Community Infrastructure Levy (CIL) should be used for affordable housing on small sites as an alternative to a s106 planning

obligation. However, I can find no such reference to this approach in the Framework and I find the appellant's position somewhat confused given they have previously committed to an affordable housing contribution through planning obligations for previous housing approvals at the appeal site.

70. The wording of the planning obligation dated 9 October 2024, linked to the approval for the single storey annex, manifestly concerns a different development to the appeal proposal and so cannot be used to secure an affordable housing contribution for it, unless formally varied by a deed. No such deed of variation, or a separate s106 planning obligation linked to the appeal proposal has been submitted.
71. For these reasons, the proposal would adversely affect affordable housing provision in the area and would conflict with Policy H4 of the CLP in this regard.

Car parking provision

72. The appellant disputes that a s106 planning obligation is necessary in this regard. As previously mentioned, the approval of the conversion of the Stables building and the subsequent grant of planning permission for the single storey annex were each accompanied by a s106 planning obligation. Amongst other things, the obligations were to ensure that the approved developments were car-free.
73. A signed copy of the s106 planning obligation dated 9 October 2024 has been submitted as evidence. This obligation is clearly linked to the planning permission for the single storey annex extension approval (LPA Ref. 2024/0222/P) and ensures it would be 'car-free', to address existing on-street car parking stress and associated transport issues.
74. However, that is not the development that is the subject of this appeal, which is manifestly different in design, scale and massing and has, amongst other things, a different description, a different LPA reference number, and is based upon different drawings. Consequently, the aforementioned planning obligation dated 9 October 2024 has no bearing on the appeal proposal and cannot be used to ensure that the appeal development would be car-free.
75. The Council should have raised this matter as part of the application process, but even if they did not, based on the wording of the submitted s106 planning obligation linked to the single storey annex, the appellant should have known it could not control a separate development, unless it was formally varied through a deed.
76. No new planning obligation, or deed of variation for the 9 October 2024 planning obligation has been submitted. There is, therefore, no means of securing the appeal proposal as car-free, were it otherwise acceptable.
77. For these reasons, the development would adversely affect car parking provision in the area. It would, therefore, conflict with policies T2 (parking and car-free development) and DM1 (delivery and monitoring) of the CLP.

Conclusion

78. For the reasons given above, I conclude the appeal is dismissed.

Andrew Parkin

INSPECTOR