

THE INSTITUTE AND SCHOOL SITE

Background

The Institute was set up by Henrietta Barnett, when the Suburb was established, for the education of those in the area aged from 'four to four-score'. The Institute and the school have occupied the site for many years, the Institute being, as it were, the body 'supporting' the school.

Following a reduction in its grant, the recession and other factors, the Institute became increasingly concerned about its financial viability. In 1991 a joint working party with the school was established. LB Barnet was approached.

In 1993, on advice from its lawyers, the Institute served notice to quit on the school in order to be able to charge rent for the space the school occupies. The school contested this, backed by LB Barnet (as the education authority), and the DfEE contested this. The High Court action that followed, in 1995, established that in principle the Institute was entitled to give notice (and, when it expired, to charge a rent) but that the length of notice given had been inadequate.

A further notice to quit was then served. This expires on 31

August 1997. By March this year, nothing had been agreed and LB Barnet felt that in order to safeguard the interests of the school it had to apply for a Compulsory Purchase Order. This meant that a Public Inquiry had to be held, which took place in September.

Negotiations between the parties have continued during recent months but are complicated because of the importance of the site (any new building will involve English Heritage, Barnet Planning Department and the HGS Trust) the shortage of funds (due no doubt to Treasury restrictions) and the Voluntary Aided status of the school.

Apart from this tangled web, there is a practical problem: the school has a very pressing need for more space so that it can fulfil the requirements of the National Curriculum. This the Institute cannot supply as it already has to resort to temporary buildings and to occupy and pay rent on other premises) such as Fellowship House.

New plans for more modest buildings have replaced those which were presented to various groups earlier in the year. **HH**

Outrageous says Institute Chairman

parties and hoped that negotiations would continue. His report can recommend only that the Compulsory Purchase Order be confirmed or refused. There is, however, some hope that the Secretary of State (who has to make the final decision) will take some time before coming in turn to her decision to allow more time for negotiation.

Tremendous effort
Speaking to the Residents Association representative after the Inquiry Douglas Blausten, a member of the Institute Council, emphasised the tremendous effort that Malcolm Davis had made and the time he had spent in discussions with LB Barnet, John Marshall MP and Robin Squire MP, the minister responsible at the DfEE.

No move by school
'So far as the Institute is concerned, said Malcolm Davis later, it has always been our intention that the two bodies should stay on the site. The notices to quit were the only way to terminate the rent free occupation by the school. Letters accompanying them clearly stated this. If we could have served the notice on the DfEE, we would have done so.'

Short of funds
'The Institute is very short of funds, it is understaffed and it has not been able to buy any new equipment. It has had to sell assets to pay for the Court case, the Inquiry and for the preparation of all the plans. The outline settlement envisages the Institute receiving some money, but this will have to cover the expense of the new buildings; however,

there has not been time, to prepare full plans of the buildings now proposed and nothing has been costed. We cannot simply forgo the rent and hope that somehow we will survive.'

No education campus
Questioned about the possible increase in the numbers attending the Institute (which among other things local residents fear would increase traffic), Malcolm Davis replied: There is no intention whatever to set up an educational campus. The main objectives are to bring all the Institute's activities on the Suburb on to one site and for the classes to be run more cost-effectively. Better-sized rooms could mean one class of 15 rather than two of 10. The Institute is there to provide a public service not as a profit-making concern.'

'I don't anticipate any significant increase in numbers,' he said, 'I would be surprised if it were more than 10 percent. That is not one of our objectives.'

Residents Association meeting
The situation was discussed at the RA council meeting on 1 October. It was agreed that the dispute was not any longer simply a dispute between the school and the Institute. Those bodies, it was felt, had always worked well together in practical terms and the reduced scheme of building would enable them to continue to do so. It was felt that every effort should be made to bring pressure on the DfEE in the hope that a solution could be found, at the eleventh hour, while the Secretary of State was still considering the results of the Inquiry.

Hugh Hamilton

The RA is approaching John Marshall with a view to arranging an urgent meeting with the Minister responsible at the DfEE with a view to resolving the issue in a positive manner.

If you would like to make your views known write to our MP or to the Secretary of State:

John L Marshall MP

House of Commons, Westminster, London SW1
(Marking your envelope Hendon South)

Rt Hon Mrs Gillian Shepherd MP

The Secretary of State, Dept for Education and Employment, Great Smith Street, London SW1P 3BT



THE PUBLIC INQUIRY

is this really English justice?

Those attending the Public Inquiry held at Barnet Town Hall from 17 to 26 September 1996 may well have felt that they were witnessing the slow, inevitable and contemplative steps of English Justice. Here were the freedoms and rights that ordinary subjects had won by popular acclaim (if not historical fact) at Runnymede and by the Glorious Revolution of 1688. In fact one must question whether the rights of the Institute to the ownership of the site in Central Square may not have been usurped if the Compulsory Purchase Order (CPO) is confirmed. This is not through any act of the Inspector holding the Inquiry but because of the particular facts of the case.

We were treated to some excellent advocacy by counsel for both the Institute and the Borough of Barnet. On the one hand, the Inspector was asked to confirm the CPO of the whole site and consider, as it very much hoped would be so, how the Institute could be accommodated. The Institute also stressed the advantages of both organisations remaining where they were. Many witnesses testified to the excellence of the school and the Institute, their importance to the community and the vision of Henrietta Barnett. The Residents Association stressed that the problems should be sorted out by negotiation and objected to the fact that, if the CPO were confirmed, the most important site on the Suburb would no longer be owned by a Suburb organisation.

The Inspector explained that his task was to find out if the CPO was necessary and whether it involved the minimum area of land required for the school's needs. If so, he would recommend to the Secretary of State for Education and Employment that the CPO be confirmed.

It became clear that the parties had very much reduced the matters in dispute. The needs of both bodies had at last been properly identified, and some rough plans prepared to accommodate them were acceptable to the planners and to English Heritage. Given time, and subject to payment of rent to the Institute and funding for the buildings, it seemed that the dispute could be settled and the Inquiry adjourned. But as the Institute could obtain no assurance about the payment of rent (which could amount to a total of over £1m), it would not withdraw the notice to quit and LB Barnet, to protect the school, had to proceed with the CPO.

At last more definite figures were available, as revealed by LB Barnet's counsel, on the Suburb's involvement. The school has some 68 out of 656 pupils who live on the Suburb,

and of the 5,746 students attending the Institute in 1996, some 1400 also live on the Suburb. The Institute also runs courses of 15 hours or more a week. Of 305 students in this category 32 live on the Suburb.

Anyone unfamiliar with our education system could ponder how it is possible that it could be called well organised when the funds for the school in these circumstances are provided by the school governors, central government and the local authority, particularly when the bulk of the money spent by the last comes from the second. If the task of a Public Inquiry is to put the actions of those that govern us before the public so that we can be sure that the compulsory purchase from a charity of a valuable property in the centre of the Suburb is indeed necessary, then it was a signal failure.

A single education body responsible for all the finances and activities of the school would be unable to establish that the CPO in its present form was necessary. It could pay the agreed rent and save itself the cost of purchasing the property. If that single body wished to own the land then occupied by the school) it would also need to acquire only a portion of the site. That is all the school needs. As matters stand, only Barnet is responsible for the continuation of the education of the children, but not for the cost of building and payment of rent; to secure the first, it must proceed with the CPO.

The Inspector will by mid-October have reported to Mrs Gillian Shephard, the Secretary of State. His recommendations, with the vast amount of papers and other documents from the Inquiry, will no doubt be studied by her advisers at the DfEE, the same Department which opposed the Institute in the High Court litigation and has refused to finance the rent which, if paid, would satisfy the Institute and render the CPO unnecessary.

Hugh Hamilton

VOLUNTARY AIDED SCHOOLS

Legislators Score Only Half Marks

'Perhaps the rules need changing,' said Eileen Whelan when giving evidence at the Public Inquiry. As well as being a former chairman of the Residents Association, Eileen has spent much of her working life involved with education, and she should know.

The 1944 Education Act set up the idea of Voluntary Aided Schools. Considering the revolution in the education system the Act established, including the principle of free education for all and the vast number of differing bodies (of which the Institute was one) involved in running schools up and down the country, the net result was a series of British compromises. These are splendid if they work, but can become a bureaucratic nightmare if they do not.

In a case in 1992, the judge described Voluntary Aided Schools as 'a kind of partnership. The premises are provided and to an extent kept up by the religious or other body which established them, whilst the cost of running the school is borne by the public purse.' In addition, the governors of the school may decide on the selection of its pupils and, as they have control of the buildings, they can open them outside school hours.

In 1944, the potential cost to the governors of the school was 50 per cent of the cost of repair to the buildings and any alterations to them so that they were up to the correct standard. This share is now 15 per cent.

The Act also required the body (usually a charity) which had established the school to set up a separate governing body for the school. The Institute and the school therefore became separate bodies. This legal separation had important consequences not envisaged at the time. The judgment in the action brought by the Institute in 1995 decided that the Institute was not compelled under trust law to support the school by giving it free accommodation. It could charge rent.

Not surprisingly, the Department for Education and employment (DfEE) was represented in the action brought by the Institute, for the logical results if the case was lost on that point (as was the case) could be very costly to the Department. Wealthy benefactors have established trusts to benefit the needy for hundreds of years. Some trusts may be narrow and limit the trustees to running a particular type of school. In these cases, while under the Education Acts the trustees of the trust and the governors of the Voluntary Aided School are separate bodies, the trustees as owners of the land can do nothing but support the school by giving it rent-free accommodation. The powers they have limit what they can do.

On the other hand, if the trustees have wider powers, they may be tempted to follow in the footsteps of the Institute and try to raise money by giving the school notice to quit. They may be fairly sure

that the school will survive and remain voluntary aided but, at the same time, they will receive money for their other potential or existing activities, such as helping the homeless or running a Sunday school. If they have this in mind, they will come across the stumbling block that currently faces the Institute. Who will pay the rent. LB Barnet, as the local education authority, says that certainly the agreed rent of £300,000 p.a. is due to the Institute from 1 September next year, when the notice to quit expires, but that it has no power under the Education Acts to pay it. The governors of the school do not have any money and cannot pay it and the DfEE, which has the power to pay refuses to do so.

There is little doubt that the Department is desperately anxious to stay within Treasury limits and to keep expenditure to the minimum. No doubt also it has rules as to what should, and should not, be included in its budget. It must be said, however, that the rental of £300,000 is not an excessive amount to find, either in the short term, while all planning matters are dealt with and the new buildings are constructed, or in the long term. Certainly it must be less expensive than the cost of purchasing the site and paying compensation for disturbance, should the Institute have to move. That expense, which some estimate to be over £7,000,000 would, however, initially be paid by LB Barnet, not by the Department. LB Barnet would then transfer the site to the school governors and ask for payment from them. They, in turn would apply to the DfEE for 85 per cent of the cost and to Barnet for assistance in the payment of the governors' share of 15 per cent.

It seems very likely that the rental of £300,000 is not within the DfEE budget, and is not being paid by that Department because of Treasury pressure what one could describe as an immediate 'saving'. Is it also likely that the larger sum of £7,000,000 required for the compulsory purchase is, at the moment, not included in any budget? Is the Department saving £300,000 now, to spend a larger, but as yet unbudgeted, sum later - and by another government?

The Secretary of State, the Minister and the officials of the DfEE must surely face the fact that they cannot avoid the issue. On the point of the rent, the Institute won the case. There is legislative confusion which must be sorted out and important decisions have to be made unless we, on the Suburb, are to lose the Institute and unless we and all those that are involved in Voluntary Aided Schools are to be saddled with further buck-passing and bureaucracy. **Hugh Hamilton**

THE CENTRAL SQUARE SITE

FACTS AND FIGURES

Present accommodation

If the temporary huts are removed, the space available on site is in the region of 6400 sq m. The school's requirements are about 5900 sq m.

If therefore no new buildings were to be constructed and the school were to stay on site, fulfil its requirements under the National Curriculum and remain the same size, the Institute would have to leave the site or drastically reduce its activities.

The proposals

Both the school and the Institute have defined the space each requires. Services such as catering, a hall for drama, etc. will be shared.

The plans that were prepared earlier this year for 6,754 sq m (including two pavilions) have been scrapped, and further sketch

plans agreed. The planners at LB Barnet are agreeable to them in principle, as is, it seems, English Heritage.

The new plans involve the creation of 3,755 sq m. The school would occupy the Bigwood site, the development particularly using the full potential of the roof-space. The Institute would occupy the Institute Buildings fronting on to Central Square, and new buildings on the centre of the site for shared use, which are to be built after some excavation. This will reduce their apparent height, and so will, it is hoped take into account the view from the houses nearby.

Unfortunately, the reduction of the space available to the Institute may well mean that it might need to continue to use one of the properties it presently rents, thus increasing its expenses. **HH**