



Ministry of Housing,  
Communities &  
Local Government

Miss Jennifer Watson  
JLL  
30 Warwick Street  
LONDON  
W1B 5NH

Our ref: APP/L5240/W/17/3182092

28<sup>th</sup> June 2018

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY PAXTON ACADEMY LIMITED  
LAND AT 843 LONDON ROAD, THORNTON HEATH, CR7 6AW  
APPLICATION REF: 16/05872/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Phillip J G Ware BSc(Hons) DipTP MRTPI, who held a hearing on 10 January 2018 into your client's appeal against the decision of The London Borough of Croydon to refuse your client's application for planning permission for the erection of a non-residential institution (Use Class D1) for use as a 630 place primary school for pupils aged 4-11 years, with an associated rooftop play deck, the formation of vehicular access and the provision of vehicular access and the provision of car/cycle parking areas and landscaping, in accordance with application ref: 16/05872/FUL, dated 18 November 2016.
2. On 9 January 2018, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed, and planning permission granted subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with his recommendation. He has decided to allow the appeal and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

**Procedural matters**

5. The Secretary of State has considered carefully the suggested amendments to the scheme put to the Inspector at the start of the Hearing (IR2-3), and he is satisfied that

Ministry of Housing, Communities & Local Government  
Jean Nowak, Decision Officer  
Planning Casework Unit  
3rd Floor Fry Building  
2 Marsham Street  
London SW1P 4DF

Tel: 0303 444 1626  
Email: PCC@communities.gsi.gov.uk

these changes are acceptable and do not raise any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal. He is satisfied that no interests have thereby been prejudiced.

### **Policy and statutory considerations**

6. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan comprises the London Plan 2015 (including minor alterations 2016) and the Croydon Local Plan (2018) (CLP) which was adopted by the Council in February 2018 (IR5). The Secretary of State notes that this was after the close of the hearing, but he has taken account of the comments made by both parties to the Inspector (IR12). The Secretary of State considers that the development plan policies of most relevance to this case are CLP policies DM48.3 and SP5.2.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').

### **Main considerations**

9. The Secretary of State agrees with the Inspector that the main issues are those set out at IR41.

### *Overdevelopment, play and sports facilities, forecourt space and landscaping.*

10. For the reasons given at IR42-50, the Secretary of State agrees with Inspector that, overall, the scale, height and massing of the proposal would be in accordance with much of the surrounding development and that the proposal complies with CLP policy DM10. In particular, the Secretary of State agrees with the Inspector (IR43) that the problem of providing a sufficient amount and quality of play space has been resolved by designing into the scheme a rooftop play deck and a second floor Multi Use Games Area which would provide all-year facilities; and that this, along with the off-site provision for sports days, athletics and swimming - which the Academy already uses in conjunction with other institutions - means that an inadequate provision of play space would not be an obstacle for the proposal.

### *The design of the proposal*

11. The Secretary of State agrees with the Inspector that, for the reasons given at IR51-55, the overall scheme would create a high quality modern building which would not harm the area and complies with CLP policy DM10.

### *The loss of trees and the lack of replacement planting*

12. The Secretary of State agrees with the Inspector at IR56-59 that the site includes a number of trees which have largely grown up since the previous buildings were demolished, and that their removal would result in very little harm to the area. The Secretary of State also agrees with the Inspector that the overall loss of planting and the lack of its replacement would not harm the character and appearance of the area; and

that the proposal complies with the CLP policies DM27 and DM28 dealing with biodiversity and nature.

#### *Air Pollution*

13. The Secretary of State agrees with the Inspector that, for the reasons given at IR60-IR64, the conclusive evidence is that the levels of air pollution would not make the external environment unsuitable for outdoor play and other outdoor school activities; and that the proposal would not conflict with CLP policy DM25 regarding air pollution.

#### *Other matters*

14. The Secretary of State agrees with the Inspector at IR66 that the additional objections relating to disturbance to local residents have not been supported by substantial evidence and he therefore gives them no weight against the proposal.

#### **Planning conditions**

15. The Secretary of State has given consideration to the Inspector's analysis at IR67-IR81, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework and that the conditions set out at Annex A should form part of his decision.

#### **Planning obligations**

16. Having had regard to the Inspector's analysis at IR82, the planning obligation dated 7 March 2018, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR82 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework.

#### **Planning balance and overall conclusion**

17. For the reasons given above, the Secretary of State considers that the appeal scheme is in accordance with CLP policies SP5.2, D48.3, DM10, DM25, DM 27 and DM28; and is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan, but he has not identified any such matters.

18. The Secretary of State therefore concludes that, in accordance with the requirements of section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be allowed and planning permission granted subject to conditions.

#### **Formal decision**

19. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex A of this decision letter for the erection of a non-residential institution (Use Class D1) for use as a 630 place primary school for pupils aged 4-11 years, with an associated rooftop play deck, the formation of

vehicular access and the provision of vehicular access and the provision of car/cycle parking areas and landscaping.

20. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990

**Right to challenge the decision**

21. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

22. A copy of this letter has been sent to London Borough of Croydon.

Yours faithfully

*Jean Nowak*

Authorised by the Secretary of State to sign in that behalf

**List of conditions**

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 10067-04-P650; 10067-04-P651; 10067-04-P652 Rev C; 10067-04-P653 Rev C; 10067-04-P654 Rev A; 10067-04-P655 Rev A; 10067-04-P656 Rev A; 10067-04-P657 Rev A; 10067-04-P700 Rev B; 10067-04-P701 Rev B; 10067-04-P702 Rev A; 10067-04-P750; 10067-04-P751; 10067-04-P752 Rev A; 10067-04-P001; 10067-04-P101; 10067-04-P201; 10067-04-P301; 10067-04-P401; 10067-04-P600; QDS/350/732/TOP Rev A; 7126 E01 P2.
3. Notwithstanding anything contained in Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any amendment or replacement thereof), prior to the commencement of any building or engineering operations, a Construction Logistics Plan shall be submitted to the Local Planning Authority for approval. The Statement shall include amongst other things the following information for all phases of the development, which shall only be implemented as approved:
  - (a) Hours of deliveries.
  - (b) Parking of vehicles associated with deliveries, site personnel, operatives and visitors.
  - (c) Facilities for the loading and unloading of plant and materials,
  - (d) Details of the precautions to guard against the deposit of mud and substances on the public highway, to include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances prior to entering the highway.
  - (e) Access arrangement to the site during the demolition and construction periods.
  - (f) Details of the routes commercial vehicles would use within the borough to gain access to the site.
4. Prior to commencement of any works on site, a Highways Agreement shall be agreed with TfL as Highways Authority for the works on the A23 London Road. The agreed works shall be completed prior to occupation and retained for as long as the development remains in existence.
5. Prior to commencement of any works on site, a Highways Agreement shall be entered into with the London Borough of Croydon as Highways Authority for the proposed works to Grove Road. The agreed works shall be completed prior to occupation and retained for as long as the development remains in existence.
6. The signalised pedestrian crossing, the closing up of the existing vehicular entrance and its reinstatement to footway on the A23 and the provision of the new vehicular entrance and 'School Keep Clear' and zig zag road markings on Grove Road shall be provided prior to occupation of the building and retained for as long as the development remains in existence.
7. Prior to commencement of any works on site, in accordance with the submitted Flood Risk Assessment, incorporating the proposed Drainage Strategy (Jacobs, July 2015), and additional details submitted to the Local Planning Authority (February 2017), detailed designs of a surface water drainage scheme incorporating the following measures shall be submitted to and agreed with the Local Planning

Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:

- (a) Detailed plans, drawings and specifications for all SuDS features, including the proposed rainwater harvesting and attenuation scheme.
- (b) Evidence of agreement from Thames Water to connect to the existing sewer and the agreed discharge rate.
- (c) A detailed SuDS maintenance plan, including details on who will be maintaining the proposed drainage network and how it will be accessed.

8. No demolition or development shall take place until a stage 1 Written Scheme of Investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works. If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

- (a) The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- (b) The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

9. Tree protection shall be put in place prior to any on-site works commencing, including demolition, site preparation works and excavation. All the trees to be retained shall be protected by strong fencing, the location and type to be previously approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be undertaken.

10. Before the development is begun an intrusive site investigation and assessment into the possibility of soil, water and gaseous contamination must be carried out to the approval of the Local Planning Authority. The investigation report shall include a risk assessment and details of remediation if required. Remedial works which are shown to be required must be approved by the Local Planning Authority before any such works are carried out and completed prior to the occupation of any building. A validation report detailing evidence of all remedial work carried out must be submitted to and approved in writing by the Local Planning Authority at the conclusion of the work and before any occupation of the properties. The developer shall notify the Local Planning Authority immediately of any on-site contamination not initially identified by the site investigation so that an officer of the Council may attend the site and agree any appropriate remedial action.

11. No above ground works shall commence on site until full details of the external facing materials have been submitted to and approved by the Local Planning

Authority in writing. Details that should be provided as part of this condition include: material samples of all external facing materials; details of the timber fins; appearance of the roof top safety balustrade; details (including sections) of the roof top parapets and solar PV panels; a set of drawings showing the appearance and materials for the cycle and scooter stores; elevations and layout of plant on the first and third floor external plant decks. The development shall be implemented in accordance with the approved details.

12. Prior to occupation, an updated full Travel Plan shall be submitted to the Local Planning Authority for approval in writing. The measures in the Travel Plan shall be implemented as approved for the life of the development. A monitoring report of the effectiveness of the Travel Plan shall be submitted to and approved in writing within 12 months and 36 months of occupation.
13. Prior to occupation, full details of both hard and soft landscape works shall be submitted to, and approved in writing by, the Local Planning Authority. Such details shall include:
  - (a) Existing planting to be retained
  - (b) Species (including indicative full height/spread) of proposed new planting.
  - (c) Hard landscaping materials.
  - (d) All boundary treatment within and around the development.

The approved details shall be provided before any part of the development is occupied. All planting shall be maintained for a period of five years from the date of planting; any planting which dies or is severely damaged or becomes seriously diseased or is removed within that period shall be replaced by planting of similar size and species to that originally provided.

14. The development shall achieve a reduction of carbon dioxide emissions of at least 24.69% beyond Building Regulations 2013. Prior to first occupation, a report showing how the target has been met together with EPC certificates, BRUKL/SBEM certificates and evidence of the PA panels/renewables installed (such as MCS certification) shall be submitted to the Council for approval in writing.
15. Unless otherwise agreed in writing with the Council, the development shall achieve a BREEAM 'Excellent' rating. A certificated BREEAM Post Construction Review, or other verification process agreed with the Local Planning Authority, shall be provided, confirming that the agreed standards have been met, prior to the first occupation of the development.
16. The noise level from any air handling units, mechanical plant, or other fixed external machinery shall be at least 10dB below existing background noise levels.
17. No food shall be cooked on the premises, other than the warming or heating up of pre-prepared food, until a scheme for the control of odours, smoke and grease has been submitted to and approved by the Local Planning Authority in writing and any required ducting or other equipment has been satisfactorily installed on the site. Any such ducting and equipment shall be retained for so long as the use remains in existence.
18. The MUGA and rooftop play deck shall only be used by the school between the hours of 0800 to 1930 Monday to Friday and 0900 to 1300 on Saturday.
19. No amplified music shall be used outside the building or on the rooftop playdeck.
20. The school shall not be used for any after-school community use until a community use plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall apply to the out-of-hours community use of the school

facilities and shall include details of access by non-educational establishment users, hours of use, the type of activities/use, frequency of uses, the school's facilities which would be used, maximum numbers of users for the proposed activities/uses, management responsibilities and a mechanism for review, and anything else which the Local Planning Authority considers necessary in order to secure the effective community use of the facilities. The development shall not be used for after-school community uses at any time other than in strict compliance with the approved plan.

21. The recommendations of the environmental noise survey by SRL Technical Services Limited dated 15th November 2016 (ref: C/42208A/T01v2/RM) shall be complied with.
22. The details and recommendations in the Delivery and Servicing Plan (titled 'Delivery and Servicing Plan' on behalf of McAvoy Group, dated November 2016) shall be complied with.
23. Details shall be submitted to and approved by the local planning authority prior to the first occupation of the development of the installation of Ultra-Low NOX boilers with a maximum NOX emission less than 40 mg/kWh of dry NOX (at 0% O2) should a gas connection be installed. The details as approved shall be implemented prior to the first occupation of the development and shall be retained thereafter.
24. Notwithstanding anything contained in Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 as amended, or any amendment or replacement thereof, no enlargement of the building (including the erection or enlargement of any other building or enclosure within the curtilage of the school building) shall be carried out.



---

# Report to the Secretary of State for Communities and Local Government

by Phillip J G Ware BSc(Hons) DipTP MRTPI

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

Date 14 May 2018

---

**TOWN AND COUNTRY PLANNING ACT 1990**

**THE LONDON BOROUGH OF CROYDON**

**843 LONDON ROAD, THORNTON HEATH**

**APPEAL BY PAXTON ACADEMY LIMITED**

**ON BEHALF OF THE EDUCATION FUNDING AGENCY**

**AND THE MCAVOY GROUP LIMITED**

Hearing Held on 10 January 2018, site visit 11 January 2018

843 London Road, Thornton Heath CR7 6AW

File Ref: APP/L5240/W/17/3182092

**File Ref: APP/L5240/W/17/3182092**

**843 London Road, Thornton Heath CR7 6AW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Paxton Academy Limited on behalf of The Education Funding Agency and the McAvoy Group Limited against the decision of the Council of the London Borough of Croydon.
- The application Ref 16/05872/FUL, dated 18 November 2016, was refused by notice dated 24 April 2017.
- The development proposed is the erection of a non-residential institution (Use Class D1) for use as a 630 place primary school for pupils aged 4-11 years, with an associated rooftop play deck, the formation of vehicular access and the provision of vehicular access and the provision of car/cycle parking areas and landscaping.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.**

### Procedural matters

1. On 9 January 2018 the Secretary of State recovered jurisdiction in respect of this appeal. The reason was that the appeal related to a proposal for development of major importance having more than local significance<sup>1</sup>.
2. At start of Hearing the appellants' suggested amendments to the scheme were considered in the light of the 'Wheatcroft principles'. The appellants had submitted a legal opinion<sup>2</sup> supporting the inclusion of the proposed changes. The changes are summarised in table form in the appellants' Updated Statement of Case<sup>3</sup>. The main change is the reduction in the estimated numbers of staff from 90 to 66. This was explained by the appellants to be brought about by unforeseen changes in circumstances and a reduction from the 'worst case scenario'. In addition there was the adoption of a 'no-car' policy for new staff, the removal of off-site parking, and updated travel planning commitments.
3. These amendments have the general effect of reducing the impact of the development, although the loss of off-site parking could place more reliance on parking on surrounding roads. These changes were known to all parties well before the Hearing and do not have the effect of materially changing the scheme or the main issues between the parties. It is not considered that there would be any prejudice to any party by accepting the amendments and the Hearing therefore proceeded on that basis. However it was stressed that the Secretary of State would finally determine whether to accept the amendments<sup>4</sup>.
4. Due to the fact that the appeal was only recovered on the day before the Hearing, a revised s106 Obligation, taking account of the changed jurisdiction (in particular Clause 8.2) was necessary, and has been received<sup>5</sup>. The Council has

---

<sup>1</sup> Recovery letters on file

<sup>2</sup> Document 2

<sup>3</sup> On case file

<sup>4</sup> The conditions deal with the revised scheme, with alternative plan numbers if the original scheme were to be determined.

<sup>5</sup> Document 7

also confirmed that the submitted Obligation has resolved the issue of carbon dioxide emissions, which had formed a reason for refusing permission<sup>6</sup>.

5. The Croydon Local Plan (2018) (CLP) was adopted by the Council in February 2018, and both parties have made comments on this change to the development plan.
6. The draft proposed changes to the National Planning Policy Framework were published after the Hearing. Both parties agreed in correspondence that this draft could be accorded very little weight at this stage<sup>7</sup>.

### **The site and surroundings**

7. The site is around 0.22 hectares in extent and is located adjacent to the A23 in Thornton Heath, some 2.5 kms north of Croydon town centre. It is a broadly rectangular area of overgrown land, with patches of rubble and bare ground. It was formerly occupied by a day hospital which was demolished some time after its closure in 2008. It is enclosed by hoarding and a high brick wall.
8. The surrounding area includes a wide variety of land uses, reflecting the site's urban character. Opposite the site across London Road are a church and a terrace of buildings with ground floor retail and residential uses above. To the north is a supermarket and associated car park, whilst to the west and south are residential developments – two storey terraces to the west fronting Malvern Road and a five storey residential development (Silchester Court) to the south. Beyond the immediate vicinity of the site are out of centre retail developments, a hospital, further residential development and the main shopping centre.

### **Planning history**

9. There are a number of historic planning decisions related to the above site which have no bearing on the current appeal<sup>8</sup>.
10. The current scheme was submitted to the Council in November 2016. Officers recommended the application for approval but it was refused by the Council in April 2017. In summary, the reasons for refusal were:
  - Overdevelopment – especially in relation to insufficient outdoor play facilities, inadequate forecourt area, inadequate landscaping
  - Poor design, especially in relation to scale, mass, materials, boundary treatment, relationship with surrounding area, landscaping
  - Loss of prominent trees and insufficient mitigation
  - External environment unsuitable for outdoor play and other activity due to air pollution
  - (Lack of a planning obligation dealing with carbon offsetting. This has since been resolved.)

---

<sup>6</sup> Document 5

<sup>7</sup> On file

<sup>8</sup> Set out at Appendix 5 of the appellants' original statement of case

## Planning policy

11. The Croydon Local Plan (2018) (CLP) was adopted by the Council in February 2018 and replaced the Croydon Local Plan – Strategic Policies (2013) and the Croydon Replacement Unitary Development Plan Saved Policies (2013). Along with the London Plan 2015 (including minor alterations 2016) the CLP now forms the development plan as it affects the appeal site.
12. Both parties have commented on the new plan as it affects the proposal<sup>9</sup>, and all references in this report are to the development plan as it now exists. In particular the appellant stresses that CLP policy DM48.3 sets out allocated sites for development within Thornton Heath, and specifically allocates the appeal site as a primary school.

## The proposal

13. Paxton Academy was established in 2014 and currently occupies temporary premises at the Streatham-Croydon Rugby Club around 400 metres away from the appeal site, but the appellants' uncontested statement is that there is no potential for expansion at that location. The school will eventually provide education for around 630 children aged 4 to 11. The school will provide teaching and specialist activity rooms, learning resource centres, small group areas, halls and a studio, and support facilities.
14. The main teaching block would be rectangular at ground level, with the upper floors set back into a C-shape in consideration of the amenity effect on adjoining residents. The building would be four storeys in height with an additional storey comprising a rooftop play deck<sup>10</sup>.

## The case for the appellants

15. The appeal site has been identified for educational use in the CLP and the proposal is therefore fully in accord with the land use allocation in the recently adopted development plan. The proposal would facilitate the vision of the Academy of creating a school with a stimulating, challenging and flexible curriculum. It would deliver positive outcomes for the area and provide a safe, engaging and innovative learning environment. It would be wholly in line with CLP policy SP5.2 which supports the improvement of education and skills training.
16. The educational case is uncontested<sup>11</sup>. The proposal accords with the approach of the Education Funding Agency and would facilitate the clear vision of the school. The school would go some way towards addressing the serious challenge of meeting demand for schooling in London. It would accord with the Council's Infrastructure Delivery Plan which recognises the need for additional primary school places – especially in the area within which the appeal site lies. In addition the Academy is committed to encouraging community use of the school facilities outside school hours.

---

<sup>9</sup> Documents 5 and 6

<sup>10</sup> Section 6 of the appellants' Planning Statement

<sup>11</sup> Set out particularly at Section 3 of the appellants' Planning Statement

17. The Council's first reason for refusal deals with alleged overdevelopment in a number of respects. The context for this is that buildings in the area vary in terms of massing and detailing, and the proposal is for a contemporary building which would not conflict with the general massing of properties in the area.
18. Whilst the proposal would fall short of the advisory play space standards in Building Bulletin 103, this ignores the quality of the on-site provision and the availability of off-site facilities<sup>12</sup>. The Academy already has and would continue to have a range of off-site play and recreational provision, such as the use of the Streatham and Croydon RFC grounds<sup>13</sup>.
19. The Council also alleges that the development, due to the alleged overdevelopment, would have insufficient forecourt space for dropping off and collections at either end of the day. The Council suggested that a smaller school with fewer pupils would ameliorate this issue. However this suggestion would be to thwart the objectives of the Academy. In any event, those parents who use cars for collection and delivery – and many do no/would not – would do so during staggered hours and the well-designed forecourt which is large enough to accommodate this activity<sup>14</sup>. Cycle parking is also provided and a Travel Plan would be in place. The Academy will operate a 'no-car' policy in relation to new staff. The Council also stated that the proposal fails to provide minibus parking, but the authority subsequently accepted that this is unnecessary as the school does not operate a minibus.
20. Finally, the Council alleged in this reason for refusal that the proposal incorporates insufficient landscaping. Whilst accepting that the development would include limited landscaping, aside from the retention of two trees, it is an unashamedly urban development in a densely developed area, and it would not be reasonable to seek extensive planting.
21. The Council's second reason for refusal alleges that the proposal would fail to provide an exemplar design approach required for this prominent site. Particular reference is made to scale, materials, boundary treatments, landscaping and lack of detail.
22. The scale of the proposal is entirely in line with the scale and mass of many other buildings along the main road frontage, and with Silchester Court<sup>15</sup>. The proposal would have the significant benefit of bringing a derelict site back into use. The detailing and materials to be used are high quality and the overall effect would be a fine contemporary building.
23. The Council's third reason for refusal relates to the loss of "prominent trees" and the lack of space available for mitigation planting. However the majority of the trees on the site are of moderate quality at best and certainly could not be described as prominent. It is notable that only one group of three trees is protected by a Tree Preservation Order. Of that group, one tree has failed and the others would be retained and would be protected by tree protection measures

---

<sup>12</sup> Table 4.1 of the appellants' Statement of Case sets out the standards and provision

<sup>13</sup> Appellants' Statement of Case paragraphs 4.16 – 4.22

<sup>14</sup> Appellants' Statement of Case paragraphs 4.16 - 4.22

<sup>15</sup> Document 3

during construction<sup>16</sup>. Even if the loss of the other unprotected trees on the site were considered harmful to the area, the planning benefits of the scheme far outweigh the very limited consequences of their removal. The Council's landscape officer agreed that, in the light of the limited amenity space and given the retention of the two remaining protected trees, no further tree planting was required, and the Council's formal position is unreasonable.

24. The fourth reason for refusal alleged that the levels of air pollution on the site would make the external environment unsuitable for outdoor play and other outdoor activities. The appellant submitted an Air Quality Assessment and a Monitoring Report, which the Council clearly misunderstood, as there was alleged to be a contradiction – which there was not. In any event, in response to the Council's queries, an additional Technical Note was submitted.
25. The appellant has assessed the concentrations at four key locations within the development<sup>17</sup>, and demonstrated there would be no risk to health<sup>18</sup>. There is therefore no need for any further mitigation by way of a green screen or otherwise. This clear evidence should be contrasted with the fact that the Council did not submit any air quality assessment on its own behalf, but restricted itself to repeatedly criticising the appellants' evidence.
26. The final reason for refusal related to the absence, at time of a planning obligation dealing with financial offsetting related to carbon dioxide emissions. This has been provided and the Council no longer contests this matter.
27. Overall, the proposal is in line with the site allocation in the recently adopted CLP and policy supports the expansion of an established educational institution. The proposal was recommended for approval by Council officers and none of the detailed objections by the Council stand up to scrutiny.

### **The case for the Council**

28. The site is allocated as a primary school in the recently adopted CLP, and policy also supports the improvement of education and skills training<sup>19</sup>. However this is not a blanket acceptance of any particular form of educational development.
29. The proposal represents a considerable overdevelopment of the site and this has a number of adverse consequences. In particular, as accepted by the appellant, the amount of on-site play space is inevitably limited by the size of the proposed school and the consequent extent of site coverage. The proposal falls significantly short of the recommended standards in Building Bulletin 103 and would provide substandard play and recreational facilities. It would conflict with CLP policy DM10 which seeks high quality development.
30. The extent of site coverage also means that there would be an insufficient forecourt area for dropping off and collection of pupils at either end of the school day. A smaller school with fewer pupils would result in lower traffic generation and more space on the site. The proposal would conflict with CLP policy DM29 as it would have a detrimental impact on highway safety as a result of parents

---

<sup>16</sup> Arboricultural Impact Assessment and Tree Survey

<sup>17</sup> Most easily seen at Document 6, table 1

<sup>18</sup> Document 4

<sup>19</sup> CLP policies DM48.3 and SP5.2

having to park on the surrounding streets at times when the forecourt was congested.

31. The site coverage would mean that there would be only a token area for landscaping to soften the impact of the scheme. Landscaping should be an integral part of a development, but in this case it would be a token gesture and the proposal conflicts with CLP policy DM10 which seeks high quality development respecting local character and distinctiveness.
32. The proposal would be of an excessive scale, would not feature high quality materials, and would not provide an exemplar design approach for this prominent site. Whilst the appellants' block plan sets out the height of surrounding buildings it does not accurately provide information on their elevational treatment. The design approach and the materials to be used would not relate to the surrounding townscape context, and it would therefore conflict in particular with CLP policy DM10.
33. The site includes around 23 individual trees and groups. The proposal would result in a loss of these prominent trees and, due to the intensity of the development, there is insufficient space for mitigation planting. Only two trees, which are protected by a Tree Preservation Order, would remain. This significant loss of trees would conflict with CLP policies DM27 and DM28, which deal with biodiversity and the quality of green space.
34. The site is directly adjacent to a main road leading out of Croydon towards central London and is within an Air Quality Management Area. The appellants' original monitoring report showed the potential for users to be exposed to elevated pollutant concentrations, although the appellants' assessment contradicted that finding. The levels of air pollution at the site makes the external environment unsuitable for outdoor play and other outdoor school activities, and therefore the proposal would conflict with CLP policy DM23, which provides that future development which may be affected by pollution will not be detrimental to the health of users of the site. The appellants' additional details still show high levels of pollution, and omit reference to some ground floor areas.

### **The case for others who attended the Hearing and written representations**

35. The application attracted 24 individual responses and one from the Grove Road Residents Association<sup>20</sup>. Of the individual representations 6 raised objections and 18 were in support. The objections dealt with matters raised by the Council – overdevelopment (and its consequences including traffic/parking issues) and air quality. In addition concerns were raised regarding disturbance to local residents, litter and overlooking.
36. Those who spoke at the Hearing, as listed below, were parents and a governor of the school. They spoke eloquently of the quality of education currently provided by the school and the pressing need for new purpose built accommodation.

### **Conditions and Planning Obligation**

37. A range of planning conditions was discussed and agreed (without prejudice) at the Hearing. These are discussed below.

---

<sup>20</sup> On file and summarised in the Council officers' report

38. The Planning Obligation was discussed at the Hearing. The subsequent amendments do not affect the principles of the Obligation. It deals with a carbon offset contribution and the provision of a local employment and training strategy

## Inspector's conclusions

[Numbers in square brackets denote source paragraphs]

### *Background and main considerations*

39. There are a number of initial matters which underlie the main considerations in this case:
- The Croydon Local Plan (2018) (CLP) was adopted by the Council in February 2018 and replaced the former Croydon Local Plan – Strategic Policies (2013) [5, 11]. Along with the London Plan 2015 (including minor alterations 2016) the CLP now forms the development plan as it affects the appeal site.
  - The appeal site is allocated in the Thornton Heath part of the CLP for development as a primary school. The proposal therefore clearly complies with this very recent allocation, and this is not contested by the parties [15, 28].
  - The proposal is also in accordance with CLP policy SP5.2, which supports the improvement of education and skills training [15, 28]. Again, this is uncontested.
  - The appellants' educational case supports the proposal and is uncontested [16].
40. The Council's concerns about the proposal therefore relate to some of the details of this particular scheme [28], rather than the principle of a school on this site.
41. The main considerations in this case are therefore:
- Whether the proposed quantum of development on the site represents an overdevelopment, leading to insufficient recreation and sports facilities, inadequate forecourt space and inadequate space for landscaping.
  - Whether the proposal, in the light of its detailing, would fail to produce an exemplar design and would harm the character and appearance of the area.
  - Whether the loss of trees, and the lack of replacement planting, would harm the character and appearance of the area.
  - Whether the levels of air pollution would make the external environment unsuitable for outdoor play and other outdoor school activities.

### *Overdevelopment, play and sports facilities, forecourt space and landscaping*

42. The Council's overall position is that the size of the building and its site coverage is too large, and they have suggested (especially in relation to traffic generation) that a smaller school would be more appropriate [30]. However the objectives of Paxton Academy have been clearly set out [16], and any suggestion that the school should be smaller would not fulfil those objectives. In any event, the appeal must be decided on the basis of the submitted scheme, not a theoretical alternative.
43. One consequence of the size of the development and the number of pupils relates to the amount and quality of play space. This has been designed into the scheme in the form of a rooftop play deck and a second floor Multi Use Games Area

- (MUGA) which would provide all-year facilities. Given the location of the site it would be unrealistic to expect more conventional open play spaces at ground level, and the development would provide very useful facilities within and on top of the building.
44. The quantum of the proposed playspace on the site falls short of the guidance in Building Bulletin 103, as acknowledged by the appellant [18]. However this is non-statutory guidance only and is intended to be used in a flexible manner.
  45. In addition a focus on on-site provision ignores the off-site provision which the Academy already has in conjunction with other institutions [18]. This was persuasively explained at the Hearing in relation to sports days, athletics and swimming amongst other recreations. The detail of this provision will vary over time, and for this reason it is not considered reasonable or necessary to expect this to be enshrined in a Planning Obligation or controlled by conditions. Given the fact that the Academy has a proven track record in this respect, this is not considered to be an obstacle – and was not raised as such by the Council. There has not been an objection from Sport England.
  46. The extent of the footprint of the building leads, in the view of the authority, to an insufficient forecourt/reception area for parents dropping children off and collecting them at the end of the day. Were this to be an accepted criticism, it would lead to parking pressure on the surrounding streets. However, as described in some detail at the Hearing, the forecourt is large enough to accommodate drop off and pick up, and includes cycle parking. Whilst not extensive, the start and finish times of the Academy are and would be staggered, and the arrivals plaza, though limited, is sufficient for this purpose.
  47. There would be no general parking provision on the site, and the Academy would have a Travel Plan to promote sustainable means of transport and a ‘no-car’ policy for new staff [2, 19]. In an urban area, this is an entirely appropriate approach. In addition, the surrounding residential streets are not affected by parking restrictions, although London Road is marked by double red lines. The Council did not persuasively demonstrate what harm would be caused if there were overspill onto surrounding streets from the arrivals plaza. For these reasons the proposal would not conflict with CLP policies DM29 dealing with highway safety and DM29 dealing with travel plans.
  48. The footprint of the building would be such that there would be limited opportunity for planting and landscaping, aside from the retention of existing trees (dealt with below). This has been the subject of criticism by the Council, who consider that landscaping should be an integral part of a development, rather than a later addition. Whilst the principle of this approach is accepted, it is not a requirement of every scheme in an urban area that extensive landscaping should necessarily be required. This proposal has been designed in the context of the surrounding area, and there is no reason to expect substantial landscaping in that context.
  49. Overall, the scale, height and massing of the proposal would be in accordance with much of the surrounding development [17, 32]. The Council accepts that the appellants’ block plan sets out the heights of surrounding buildings but notes that it does not accurately provide information on their elevational treatment. This is self-evident, and the design approach is dealt with below.

50. The proposal would comply with CLP policy DM10 which seeks high quality development respecting local character and distinctiveness. The quantum of built form on the site does not represent an overdevelopment.

*The design of the proposal*

51. Leaving aside the mass of the proposed building, which is considered to be in keeping with the general character of the area, the authority has criticised the proposed detailing and materials. The site in its present condition serves only to detract from the character and appearance of the area, and does not include any features to guide the design. The buildings in the vicinity vary widely in style and materials, and it is not the role of the planning system to impose particular architectural styles.
52. The authority refers to the site as being prominent, and states that this increases the importance of the quality of the design and materials [21, 22, 32]. However, although it is located on a main road frontage, there is nothing to suggest that the site is in a particularly prominent location.
53. The proposal features rustic red brickwork, laminate rainscreen panels, timber fins and good quality glazing, all as set out by the appellants [22]. Aside from detailed criticisms of some elements of the design, the Council has not expressed a coherent critique of the overall design approach or the materials.
54. Some details were arguably missing from the original submission, even though these were not critical to the design approach. In particular the relationship of the proposed building to Silchester Court has been clarified with the additional information submitted at the appeal stage [2,3].
55. Overall, the appeal scheme would create a high quality modern building, with strong elevational lines and a deliberately limited palette of materials. In the wider context the articulation, detailing and materials proposed would not result in a monolithic or unduly assertive building which would harm the area. It would comply in particular with CLP policy DM10, dealing with respect for local character and distinctiveness.

*The loss of trees and the lack of replacement planting*

56. The site at present includes a number of trees which have largely grown up since the previous buildings were demolished. In total 23 of these individual trees and four groups, none of which are covered by any protection, would be removed to make way for the proposal. On the face of it this is a significant number of trees but their condition and health is moderate at best [23, 33] and their loss would result in very little harm to the area – even allowing for the fact that there are comparatively few trees in the vicinity.
57. On the western side of the site there is a group of three trees (two oaks and one lime) which are covered by a Tree Preservation order. One of these trees is agreed to have failed and the remaining two would be protected during construction and thereafter retained (one would require minor pruning works). These retained trees would continue to contribute to the character and appearance of the area.
58. The issue of replacement planting is, in part, related to the extent of the footprint, as discussed above. Given the limited extent of the site and the

pressing need to improve its appearance, significant replacement planting cannot reasonably be sought. This aligns with the opinion of the Council's landscape officer, though not with the Council's formal position. Even if it were considered that the loss of the unprotected trees was harmful to the area, the planning and educational benefits arising from the proposal significantly outweigh any limited harm.

59. Overall the loss of trees, and the lack of replacement planting, would not harm the character and appearance of the area. The proposal complies with CLP policies DM27 and DM28, dealing with biodiversity and nature.

*Air pollution*

60. The site is within an Air Quality Management Area, declared in 2002 due to widespread breaches of the annual mean NO<sub>2</sub> air quality objective. However, in itself, this is of limited relevance as this covers the entire Borough. Of greater significance is the fact that the most problematic areas are along the main roads, including the A23. This is a major arterial route into Central London, and the high numbers of vehicles using the road inevitably creates pollution as a result of exhaust emissions. The parties agreed that the roads to the west of the site are below the annual mean objective.
61. The appellant submitted an air quality assessment and an air quality monitoring report [24] to the Council at the application stage, which the authority considered were contradictory. The appellant did not accept this but, in any event, has submitted a Technical Addendum which demonstrates that all sensitive locations have been assessed [25].
62. In particular dispersion modelling was undertaken to predict pollution concentrations across the development, and this has indicated that predicted values would be below the standard. The authority continues to maintain that this is inadequate, and that there are some ground floor areas which still need mitigation, and that this could have design implications.
63. Overall, the appellants' dispersion modelling indicates that pollution levels at relevant points across the site would be below the relevant air quality standards. In particular, given that road sourced pollution decreases with height, the evidence is persuasive that the environment would not be unsuitable at the rooftop play area. There is no demonstrable need for green screens to act as a barrier to particulate matter. The appellants have employed robust assumptions to support the assessments, whereas in contrast the Council has not submitted any air quality monitoring or assessment, but has criticised various aspects of the appellants' studies at different stages.
64. Aside from potentially one small area at the easternmost end of entrance plaza, where there would be only short term exposure for individuals, the conclusive evidence is that the levels of air pollution would not make the external environment unsuitable for outdoor play and other outdoor school activities. The proposal would not conflict with CLP policy DM25 which provides that development which may be affected by pollution will not be detrimental to the health of users of the site.

*Other matters*

65. Those residents objecting to the proposal mostly did so on the basis of the matters which formed the Council's reasons for refusal and which have been discussed above.
66. Additional objections related to disturbance to local residents, particularly litter and overlooking, have not been supported by substantial evidence. Some are objections which could be raised in relation to any redevelopment in an urban area and do not weigh heavily against the proposal. There is nothing to substantiate and concerns regarding overlooking.

*Planning conditions and Obligation*

67. A set of conditions was discussed and generally agreed (without prejudice) at the Hearing in the light of Planning Practice Guidance.
68. For the avoidance of doubt the approved plans are set out (Condition 2). Should the Secretary of State deal with the un-amended scheme, the alternative plan numbers are set out in a footnote. In either case, details of materials and landscaping need to be submitted for approval (Conditions 11 and 13).
69. In the interests of highway safety a condition is necessary requiring the submission of a Construction Logistics Plan (Condition 3) dealing with various aspects of the construction phase. For the same reason Highways Agreements on the A23 and the minor roads are needed (Conditions 4 and 5) and various other works need to be undertaken (Condition 6). The submitted Delivery and Servicing Plan should be adhered to (Condition 22).
70. To avoid surface water discharge a condition is necessary to require the provision of a drainage strategy (Condition 7).
71. In the interests of archaeology a condition is needed to require a written scheme of investigation and, if necessary, subsequent investigation and analysis (Condition 8).
72. To protect the retained trees, a condition is necessary to provide for their protection during building works (Condition 9).
73. In order to ensure the safe development of potentially contaminated land a condition is necessary to require an intrusive site investigation, assessment, and potential remedial works (Condition 10).
74. In the interests of promoting sustainable travel modes, a condition requiring the production of a Travel Plan is necessary (Condition 12).
75. Conditions are needed to ensure the efficient use of energy, construction techniques, and to ensure an acceptable standard of development (conditions 14, 15 and 23).
76. In order to protect the amenity of residents in the area conditions are required to address noise and odours (Conditions 16, 17 and 21).
77. For the same reason a condition is required to control the hours of use of the MUGA and rooftop play deck (Condition 18). The hours themselves were not

- agreed, with the Council preferring more limited hours for starting and finishing, and a prohibition on Saturday use. However the appellants' suggested conditions (as recommended below) are reasonable and allow for use shortly before and after school hours and for a limited period on Saturday.
78. A prohibition of amplified music outside the building is reasonable and necessary (Condition 19). The Council had wanted this extended to cover the playing of all musical instruments but it was persuasively explained that this would restrict outdoor music sessions. This would be unreasonable.
79. The intention is that parts of the facility would be available for after-hours use by the wider community. This should be subject to a community use plan in order to control these uses in the interests of residential amenity (Condition 20).
80. A condition removing permitted development rights is necessary given the proximity of residential dwellings (Condition 24).
81. A condition had been suggested dealing with on-site car and minibus parking. However this is not necessary as the revised scheme omits on-site parking and no minibus is proposed.
82. One of the Council's reasons for refusal related to the failure, in the absence of a legal agreement, to provide for a reduction in carbon dioxide emissions. A Planning Obligation has since been provided which deals with a carbon offset contribution and the provision of a local employment and training strategy [4]. On that basis the Council no longer objects to this aspect of the proposal [4, 10]. The elements of the Obligation are necessary to make the scheme acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the proposal. In the light of the evidence, all the elements of the Obligation meet the policy in paragraph 204 of the National Planning Policy Framework and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. The carbon offset contribution mitigates the impact of the proposal whilst the local employment and training strategy is a benefit in favour of the proposal.

*Planning balance and conclusion*

83. The start point is that the proposal accords with the very recently adopted land use allocation in the development plan, which identifies the site for a use of this nature. It is also supported by a policy to support educational uses. The only objections to the proposal relate to matters of detail, and these do not come close to outweighing the fact that the development accords with the allocation and underlying educational policy.
84. There would be an economic boost to the local economy from students, staff and parents, together with the short term provision of a significant number of construction jobs. The social effect would be wholly beneficial, particularly in relation to the provision of education in a purpose built building and the promotion of healthy inclusive communities aided by the potential non-school use of some facilities. Environmentally, the proposal would make good use of an unattractive and disused site, and if it were considered that there was a disbenefit arising from the loss of the unprotected trees, this would be entirely outweighed by the provision of a good quality modern building.

85. Taking the three dimensions of sustainability together, the proposal represents sustainable development. The balance is very clearly in favour of the grant of planning permission.

**Recommendation**

86. I recommend that the appeal be allowed and planning permission be granted subject to conditions.

*P. J. G. Ware*

Inspector

**APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY:	
M Carney	Planning
V Bates	Planning
C Simmons	Environmental Consultant
D Chatter-Singh	Environmental Consultant

FOR THE APPELLANT:	
T Byrne	JLL
I Reece	Blue Sky Architects
S Williamson	Intermodal Transportation
C Kearney	REC
J Barrett	Paxton Academy
S Chisholm	ESFA

INTERESTED PERSONS:	
C Thomas	Parent
J Adjei	Parent
S Adorn	Parent
M D A Maciel	Parent
V Atsu	Governor

**HEARING DOCUMENTS**

1	List of persons appearing at the Hearing
2	Appellants' legal opinion regarding changed information and plans
3	Appellants' block heights plan
4	Appellants' table of Predicted Annual Mean NO <sub>2</sub>
5	Council's comments on CLP
6	Appellants' comments on CLP
7	Planning Obligation dated 7 march 2018

**DOCUMENTS SUBMITTED WITH THE APPLICATION**

Air Quality Assessment (11/16)
Waste Management Overview and Plan (both 11/16)
Pedestrian Environment Review System Audit (11/16)
Assessment of new pedestrian crossing (1/7)
Surface Water Drainage Strategy (2/17)
Proposed crossing – Stage 1 Road Safety Audit (2/17)
Daylight, sunlight and overshadowing effects (2/17)
Drainline Assessment (1/17)
Air Quality Monitoring (2/16) and Technical Addendum (7/17)
Addendum Transport Assessment (8/17)
School Travel Assessment (8/17)
Design and Access Statement (11/16)

Noise Study (11/16)
Nocturnal and Tree Climbing Bat Survey Report (9/16)
Floor Risk Assessment (6/15)
Extended Phase 1 Habitat Survey (8/15)
Preliminary Unexploded Ordnance Risk Assessment
Explosive Ordnance Desktop Threat Assessment (9/16)
Energy Statement (11/16)
Delivery and Servicing Plan (11/16)
Phase 1 Desk Study and Preliminary Geo-Environmental (8/16)
Phase 2 Geo-Environmental Investigation and Assessment (9/16)
Transport Assessment (11/16)
Sustainability Statement (11/16)
School Travel Plan Framework
Planning Statement (11/16)
Underground Utilities Survey Report (7/15)
BREEAM Pre Assessment Report (10/16)
Archaeological Desk Based Assessment (8/16)
Preliminary Tree Survey (6/15)
Arboricultural Impact Assessment and Arboricultural Method Statement (8/16)

## Annex – Recommended conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans<sup>21</sup>: 10067-04-P650; 10067-04-P651; 10067-04-P652 Rev C; 10067-04-P653 Rev C; 10067-04-P654 Rev A; 10067-04-P656 Rev A; 10067-04-P657 Rev A; 10067-04-P700 Rev B; 10067-04-P701 Rev B; 10067-04-P702 Rev A; 10067-04-P750; 10067-04-P751; 10067-04-P752 Rev A; 10067-04-P001; 10067-04-P101; 10067-04-P201; 10067-04-P301; 10067-04-P401; 10067-04-P600 Rev A; 10067-04-P753 Rev A; 10067-04-P800; 10067-04-P801; QDS/350/732/TOP Rev A; 7126 E01.
- 3) Notwithstanding anything contained in Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any amendment or replacement thereof), prior to the commencement of any building or engineering operations, a Construction Logistics Plan shall be submitted to the Local Planning Authority for approval. The Statement shall include amongst other things the following information for all phases of the development, which shall only be implemented as approved:
  - (a) Hours of deliveries.
  - (b) Parking of vehicles associated with deliveries, site personnel, operatives and visitors.
  - (c) Facilities for the loading and unloading of plant and materials,
  - (d) Details of the precautions to guard against the deposit of mud and substances on the public highway, to include washing facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances prior to entering the highway.
  - (e) Access arrangement to the site during the demolition and construction periods.
  - (f) Details of the routes commercial vehicles would use within the borough to gain access to the site.
- 4) Prior to commencement of any works on site, a Highways Agreement shall be agreed with TfL as Highways Authority for the works on the A23 London Road. The agreed works shall be completed prior to occupation and retained for as long as the development remains in existence.
- 5) Prior to commencement of any works on site, a Highways Agreement shall be entered into with the London Borough of Croydon as Highways Authority for the proposed works to Grove Road. The agreed works shall be completed prior to occupation and retained for as long as the development remains in existence.
- 6) The signalised pedestrian crossing, the closing up of the existing vehicular entrance and its reinstatement to footway on the A23 and the provision of the

---

<sup>21</sup> If the Secretary of State were to approve the scheme as refused by the Council, the relevant plan numbers would be: 10067-04-P650; 10067-04-P651; 10067-04-P652 Rev C; 10067-04-P653 Rev C; 10067-04-P654 Rev A; 10067-04-P655 Rev A; 10067-04-P656 Rev A; 10067-04-P657 Rev A; 10067-04-P700 Rev B; 10067-04-P701 Rev B; 10067-04-P702 Rev A; 10067-04-P750; 10067-04-P751; 10067-04-P752 Rev A; 10067-04-P001; 10067-04-P101; 10067-04-P201; 10067-04-P301; 10067-04-P401; 10067-04-P600; QDS/350/732/TOP Rev A; 7126 E01 P2.

new vehicular entrance and 'School Keep Clear' and zig zag road markings on Grove Road shall be provided prior to occupation of the building and retained for as long as the development remains in existence.

- 7) Prior to commencement of any works on site, in accordance with the submitted Flood Risk Assessment, incorporating the proposed Drainage Strategy (Jacobs, July 2015), and additional details submitted to the Local Planning Authority (February 2017), detailed designs of a surface water drainage scheme incorporating the following measures shall be submitted to and agreed with the Local Planning Authority. The approved scheme will be implemented prior to the first occupation of the development. The scheme shall address the following matters:
  - (a) Detailed plans, drawings and specifications for all SuDS features, including the proposed rainwater harvesting and attenuation scheme.
  - (b) Evidence of agreement from Thames Water to connect to the existing sewer and the agreed discharge rate.
  - (c) A detailed SuDS maintenance plan, including details on who will be maintaining the proposed drainage network and how it will be accessed.
- 8) No demolition or development shall take place until a stage 1 Written Scheme of Investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works. If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the local planning authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:
  - (a) The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
  - (b) The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.
- 9) Tree protection shall be put in place prior to any on-site works commencing, including demolition, site preparation works and excavation. All the trees to be retained shall be protected by strong fencing, the location and type to be previously approved in writing by the Local Planning Authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be undertaken.
- 10) Before the development is begun an intrusive site investigation and assessment into the possibility of soil, water and gaseous contamination must be carried out to the approval of the Local Planning Authority. The investigation report shall

include a risk assessment and details of remediation if required. Remedial works which are shown to be required must be approved by the Local Planning Authority before any such works are carried out and completed prior to the occupation of any building. A validation report detailing evidence of all remedial work carried out must be submitted to and approved in writing by the Local Planning Authority at the conclusion of the work and before any occupation of the properties. The developer shall notify the Local Planning Authority immediately of any on-site contamination not initially identified by the site investigation so that an officer of the Council may attend the site and agree any appropriate remedial action.

- 11) No above ground works shall commence on site until full details of the external facing materials have been submitted to and approved by the Local Planning Authority in writing. Details that should be provided as part of this condition include: material samples of all external facing materials; details of the timber fins; appearance of the roof top safety balustrade; details (including sections) of the roof top parapets and solar PV panels; a set of drawings showing the appearance and materials for the cycle and scooter stores; elevations and layout of plant on the first and third floor external plant decks. The development shall be implemented in accordance with the approved details.
- 12) Prior to occupation, an updated full Travel Plan shall be submitted to the Local Planning Authority for approval in writing. The measures in the Travel Plan shall be implemented as approved for the life of the development. A monitoring report of the effectiveness of the Travel Plan shall be submitted to and approved in writing within 12 months and 36 months of occupation.
- 13) Prior to occupation, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include:
  - (a) Existing planting to be retained
  - (b) Species (including indicative full height/spread) of proposed new planting.
  - (c) Hard landscaping materials.
  - (d) All boundary treatment within and around the development.

The approved details shall be provided before any part of the development is occupied. All planting shall be maintained for a period of five years from the date of planting; any planting which dies or is severely damaged or becomes seriously diseased or is removed within that period shall be replaced by planting of similar size and species to that originally provided.

- 14) The development shall achieve a reduction of carbon dioxide emissions of at least 24.69% beyond Building Regulations 2013. Prior to first occupation, a report showing how the target has been met together with EPC certificates, BRUKL/SBEM certificates and evidence of the PA panels/renewables installed (such as MCS certification) shall be submitted to the Council for approval in writing.
- 15) Unless otherwise agreed in writing with the Council, the development shall achieve a BREEAM 'Excellent' rating. A certificated BREEAM Post Construction Review, or other verification process agreed with the Local Planning Authority,

- shall be provided, confirming that the agreed standards have been met, prior to the first occupation of the development.
- 16) The noise level from any air handling units, mechanical plant, or other fixed external machinery shall be at least 10dB below existing background noise levels.
  - 17) No food shall be cooked on the premises, other than the warming or heating up of pre-prepared food, until a scheme for the control of odours, smoke and grease has been submitted to and approved by the Local Planning Authority in writing and any required ducting or other equipment has been satisfactorily installed on the site. Any such ducting and equipment shall be retained for so long as the use remains in existence.
  - 18) The MUGA and rooftop play deck shall only be used by the school between the hours of 0800 to 1930 Monday to Friday and 0900 to 1300 on Saturday.
  - 19) No amplified music shall be used outside the building or on the rooftop playdeck.
  - 20) The school shall not be used for any after-school community use until a community use plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall apply to the out-of-hours community use of the school facilities and shall include details of access by non-educational establishment users, hours of use, the type of activities/use, frequency of uses, the school's facilities which would be used, maximum numbers of users for the proposed activities/uses, management responsibilities and a mechanism for review, and anything else which the Local Planning Authority considers necessary in order to secure the effective community use of the facilities. The development shall not be used for after-school community uses at any time other than in strict compliance with the approved plan.
  - 21) The recommendations of the environmental noise survey by SRL Technical Services Limited dated 15th November 2016 (ref: C/42208A/T01v2/RM) shall be complied with.
  - 22) The details and recommendations in the Delivery and Servicing Plan (titled 'Delivery and Servicing Plan' on behalf of McAvoy Group, dated November 2016) shall be complied with.
  - 23) Details shall be submitted to and approved by the local planning authority prior to the first occupation of the development of the installation of Ultra-Low NOX boilers with a maximum NOX emission less than 40 mg/kWh of dry NOX (at 0% O<sub>2</sub>) should a gas connection be installed. The details as approved shall be implemented prior to the first occupation of the development and shall be retained thereafter.
  - 24) Notwithstanding anything contained in Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 as amended, or any amendment or replacement thereof, no enlargement of the building (including the erection or enlargement of any other building or enclosure within the curtilage of the school building) shall be carried out.



# Ministry of Housing, Communities & Local Government

[www.gov.uk/mhclg](http://www.gov.uk/mhclg)

## RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.