



Ministry of Housing,
Communities &
Local Government

Mr Richard Holland
Rivington Street Studio
28 Navigation Road
LONDON E3 3TG

Our ref: APP/M5450/W/18/3208434
Your ref: P/1940/16

31 October 2019

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY THE KEEPERS AND GOVERNORS OF THE FREE GRAMMAR
SCHOOL OF JOHN LYON (HARROW SCHOOL)
LAND AT HARROW SCHOOL, 5 HIGH STREET, HARROW, HA1 3HP
APPLICATION REF: P/1940/16**

1. I am directed by the Secretary of State to say that consideration has been given to the report of by Cullum J A Parker BA(Hons) MA MRTPI IHBC, who held a public local inquiry between 30th April and 16th May 2019 into your appeal against the decision of the London Borough of Harrow Council (LBH) (under direction from the Mayor of London) to refuse your application for planning permission for the demolition of existing buildings: existing sports building, Peel House, Museum Cottage, gardeners compound, Boyer Webb Pavilion, pavilion next to the athletics track; and the construction of a new sports building over 3 levels (7269 sqm); new science building over 3 levels (3675 sqm); new landscaping core from existing chapel terrace to the athletics track at the base of hill; new visitors car parking on Football Lane adjacent to maths and physics school buildings; rerouting and regrading of private access road; alterations to landscaping and servicing for dining hall; relocation of multi-use games area for Moretons Boarding House to south west of dining hall, in accordance with application ref: P/1940/16, dated 20th April 2016.
2. On 9th October 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

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

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.

Application for costs

5. An application for a full award of costs was made by the Keepers and Governors of the free grammar school of John Lyon (Harrow School) against the Mayor of London (IR7). This application is the subject of a separate decision letter, also being issued today.

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 consists of the Harrow Core Strategy 2012 (CS), the Harrow Development Management Policies DPD 2013 (DMDPD) and The London Plan 2016 (LDNP). The Secretary of State considers that relevant development plan policies include those set out at IR13 and Policies 3.16 - 3.19 Open Space and 7.8 Heritage Assets of the LDNP, DMDPD policies DM6 and DM7 Heritage Assets.
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'), as well as the Harrow School Conservation Area Appraisal (dated December 2007), Harrow School Supplementary Planning Document (dated July 2015) & Harrow on the Hill Conservation Area Supplementary Planning Document (dated January 2008). The revised Framework was published on 24 July 2018 and further revised in February 2019. Unless otherwise specified, any references to the Framework in this letter are to the 2019 Framework.
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.
10. In accordance with section 72(1) of the LBCA Act, the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Emerging plan

11. The Secretary of State notes that the emerging plan comprises the draft New London Plan 2018 (NLP) and is relevant to this case. It concluded examination hearings on 22nd May 2019. The Secretary of State considers that relevant emerging policies include those set out at IR14 and Policies HC1 Heritage and Culture and G4 Open Spaces.
12. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in

the Framework. Overall, the Secretary of State agrees with main parties and with the Inspector at IR14 that the emerging policies carry limited weight.

Main issues

Metropolitan Open Land (MOL)

13. For the reasons given at IR40 - 44, the Secretary of State agrees with the Inspector that the proposal represents inappropriate development in the MOL, which is by definition harmful. He further agrees with the Inspector (IR49 – 62) that the proposed location within the MOL is broadly in keeping with the Council's adopted SPD; that the proposal would not result in harm to openness in visual impact terms; but there would remain harm to openness through the erosion of the MOL. The Secretary of State, like the Inspector, attaches substantial weight to these harms (IR143).
14. The Secretary of State also agrees with the Inspector's conclusions at IR45 - 48 that the proposed extension of the MOL to restrict any further development in this area is a pragmatic and reasonable approach, but that this should carry minimal weight in this case as it also depends on a number of other factors.
15. The Secretary of State has considered carefully the very special circumstances (VSC) put forward by the appellant and reported by the Inspector (IR96 – 141). The Secretary of State agrees with the Inspector's conclusions and weight attached to each VSC and further agrees that, overall, and looking at the case as a whole, these factors amount to VSCs that clearly outweigh the harm to the MOL and are sufficient to justify the development.

Heritage impacts

16. For the reasons given at IR126 - 128, the Secretary of State agrees with the Inspector that the proposal would generate some potential heritage benefits. However, having carefully considered the inspector's reasoning at IR126 - 128 in relation to the opinion of Historic England (IR77), the Secretary of State concludes that the impact of the development by reason of its location, scale and position within the site would result in 'less than substantial' harm to the setting of the relevant heritage assets in conflict with Development Plan policies policy 7.8 of the LDNP, DM6 and DM7 of the Harrow DMDPD. The Secretary of State agrees with the Inspector at IR103 that the proposed use would enable the school to provide its sports facilities to other local schools and clubs, community groups, and individuals at market, low or cost price, or for free for roughly two-thirds of the available user time through the Community Use Agreement. The Secretary of State therefore concludes that, overall, significant public benefits exist to outweigh the harm in line with the heritage test in paragraph 196 of the Framework.

Other matters

Protected species

17. For the reasons given at IR133 - 135, the Secretary of State agrees with the Inspector at IR136 that the net biodiversity gains of the proposal merit substantial weight as the proposal provides a significant opportunity to provide a tangible net biodiversity gain for a multitude of bird, mammal and invertebrate species on and near to the site.

Highway matters

18. For the reasons given at IR132 and IR137 - 140 the Secretary of State agrees with the Inspector that moderate weight should be given to the proposed landscaping and safety improvements designed to reduce conflicts between students and vehicles.

Planning conditions

19. The Secretary of State has given consideration to the Inspector's analysis at IR28 - 30, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 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 55 of the Framework and that the conditions set out at Annex A should form part of his decision.

Planning obligations

20. Having had regard to the Inspector's analysis at IR28-36, the planning obligation dated 16 May 2019, paragraph 56 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 IR36 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

Planning balance and overall conclusion

21. The Secretary of State considers that, given the VSCs applying in this case, the appeal scheme is not in conflict with the development plan in respect of MOL, but that it is not in accordance with the heritage policies of the development plan. Nevertheless, the Secretary of State concludes that, in view of the significant public benefits outweighing the harm in line with the heritage test in paragraph 196 of the Framework, the proposal accords with the adopted development plan when considered as a whole. 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.
22. The Secretary of State also concludes that, although the proposed sports building would constitute inappropriate development within MOL and would harm openness through the erosion of the MOL, this harm is outweighed by the VSCs identified above which, when taken individually and as a whole, outweigh the harm identified.
23. Overall, the Secretary of State considers that there are no material considerations which indicate that the proposals should be determined other than in accordance with the development plan.

Formal decision

24. 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 demolition of existing buildings: existing sports building, Peel House, Museum Cottage, gardeners compound, Boyer Webb Pavilion, pavilion next to the athletics track; and the construction of a new sports building over 3 levels (7269 sqm); new science building over 3 levels (3675 sqm); new landscaping core from existing chapel terrace to the athletics

track at the base of hill; new visitors car parking on Football Lane adjacent to maths and physics school buildings; rerouting and regrading of private access road; alterations to landscaping and servicing for dining hall; relocation of multiuse games area for Moretons Boarding House to south west of dining hall, in accordance with application ref: P/1940/16, dated 20th April 2016.

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

Right to challenge the decision

26. 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.

27. A copy of this letter has been sent to London Borough of Harrow, Rule 6 party (Harrow Hill Trust) and the Greater London Authority (GLA). Notification has also been sent to others who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

Annex A: List of conditions

1. The development hereby approved shall be begun before the expiration of three years from the date of this planning permission.

2. Unless otherwise agreed in writing by the local planning authority, the development shall be carried out in accordance with the approved drawings:

P.05.01 ; P.05.02; P.5.10; P.10.02; P.10.11; P.10.14; P.10.17; P.10.25; P.11.01; P.12.01 B; P.12.02 B; P.12.10B; P.12.11 B; P.12.12 B; P.12.13 B; P.12.14 B; P.12.20 B; P.12.21 B; P.12.22 B; P.12.23 B; P.12.24 B; P.12.25 B; P.12.26 B; P.12.27 B; P.12.30 A; P.12.31 A; P.12.32 A; P.12.33 A; P.13.01B; P.13.04 B; P.13.20 A; P.13.21 A; P.13.22 A; P.13.23 B; P.13.24 A; P.13.25 A; P.13.30 A; P.13.31 A; P.13.32 A; P.13.33 A; P.13.35 A; P.13.50A; P.13.51 A; P.13.52 A; P.13.53 A; P.13.54 A; P.14.01 B; P.14.10 B ; P.14.15 B; P.14.16 B; P.14.17B; P.14.18 A; P.14.25 B; P.14.26 B; P.14.31 A; P.14.32 A; P.14.33 A; P.14.34 B; P.14.35 B; P.14.40 B; P.14.41 B; P.14.42 B; P.14.43 B; P.14.44 B; P.14.45 B; P.14.46 A; P.14.47 B; P.14.48 A; P.14.49 B; P.14.50 A; P.14.51 A; P.14.52 A; P.14.53 A; P.14.54 A; P.14.55 A; P.14.60 A; P.14.65 A; P.14.70 A; P.28.10 B; P.28.11 A; P.28.12 B; P.28.13 B; P.28.14 B; P.28.15 A; P.28.16 B; P.28.17 A; P.28.22 A; P.28.30 A; P.28.31 A; P.28.32 A; P.28.33 A; P.28.35 A; P.28.36 A; P.90.10; P.90.11; P.90.12; P.90.20; P.90.21; P.90.22; P.90.25; P.90.26; P.90.27; P.90.28; P.90.30; P.90.32; P.110.01 A; P.110.02 A; P.110.03 B; P.110.04 B; P.110.05 B; P.110.06 B; P.110.07 A; P.110.08 B; P.110.09 B; P.110.10 A; P.110.11 A; P.110.12 B; P.110.13 A; P.110.14 B; P.110.15; P.110.22; P.110.23 A; P.110.24 A; P.110.25 A; P.110.26 A; P.110.28 A; P.110.30; P.110.31; P.110.32 A; P.110.41; P.110.42; P.110.43; P.110.44; P.110.45; P.110.46; P.110.47; 90.20 A; 90.21 A; 90.30 A; 90.31 A; 90.40 A; 90.41 A; and 90.50 A; 90.51 A.

3. No development shall take place, including any works of demolition, until a dust, noise and vibration management plan has been submitted to, and agreed in writing by, the Local Planning Authority. The plan shall detail measures for the control and reduction of dust emissions, noise and vibration impacts associated with demolition, earthworks, construction and track out, and arrangements for monitoring air quality during construction. The development shall be carried out in accordance with the plan so agreed.

4. No development shall take place, including any works of demolition, until a demolition and construction waste management plan, setting out arrangements for the handling of excavation, demolition and construction waste arising from the development, and to make provision for the recovery and re-use of salvaged materials wherever possible, has been submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the agreed plan or any amendment or variation to it as may be agreed in writing by the local planning authority.

5. No development shall take place, including any works of demolition, until a revised construction and logistics plan, to include details on temporary access from Watford Road, detailed construction drawings and a traffic management plan, has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed plan or any amendment or variation to it as may be agreed in writing by the local planning authority.

6. The development hereby approved shall not be commence until details of the means of protection of the trees, hedgerows and other existing planting to be retained within the site, and adjacent trees within adjoining sites, have been submitted to, and agreed in writing by, the local planning authority. The details shall include:

- a) arrangements for audited arboricultural monitoring of the site during the construction works;
- b) identification of root protection areas;
- c) the method of any excavation proposed within the root protection areas;
- d) the type, height and location of protective fencing; and
- e) measures for the prevention of soil compaction within the root protection areas.

The tree protection measures shall be put in place prior to the commencement of the development, including demolition/site clearance, and remain in place throughout the development. The construction of the development shall be carried out in accordance with the details so agreed or any amendment or variation to them as may be agreed in writing by the local planning authority.

7. Notwithstanding the approved plans, prior to the commencement of the development hereby permitted, details for a scheme for works for the disposal of sewage, surface water and surface water attenuation and storage works on site as a result of the approved development shall be submitted to the local planning authority to be approved in writing. The development shall be completed in accordance with the approved details and shall thereafter be retained.

8. The development hereby permitted shall not commence beyond damp proof course level until a plan for the on-going maintenance of the sustainable drainage measures to be implemented across the development shall be submitted to, and agreed in writing by, the local planning authority. The plan shall thereafter be implemented for the lifetime of the development, or any amendment or variation to the plan as may be agreed in writing by the Local Planning Authority.

9. Any telecommunications apparatus, extraction plant, air conditioning units and other plant or equipment that is required to be installed on the exterior of the buildings hereby approved shall be carried out in accordance with details that shall first have been submitted to, and agreed in writing by, the local planning authority, and shall be permanently retained as such thereafter. The details shall include siting, appearance, any arrangements for minimising the visual and (if relevant) odour impacts and any arrangements for mitigating potential noise or vibration.

10. Notwithstanding the approved plans, prior to the commencement of development hereby permitted the following specifications shall be submitted to, and agreed in writing by, the local planning authority:

- a) the detailed design of all ramps, steps and pathways within the external areas of the development;
- b) the thresholds, door opening widths and landing areas at all entrances between the external areas of the development and the approved buildings; and
- c) the levels and layout of pedestrian route(s) between the parking areas within the site and the entrances of the approved buildings.

The development shall be carried out in accordance with the specifications so agreed, or any amendment or variation to them as may be agreed in writing by the local planning authority, and shall be permanently retained as such thereafter.

11. Notwithstanding the plans and supporting documents hereby approved, prior to the commencement of the development beyond damp proof course level, details of the palette of materials and/or colours for all of the external surfaces have been submitted to, and approved in writing by, the Local Planning Authority. Details to be provided shall include two sample panels of approximately 2 metres by 2 metres to be provided on site, of typical parts of the building, showing the material finishes of all external surfaces including a sample window/s and door/s. The development shall be built in accordance with the approved details and shall thereafter be retained.

12. Notwithstanding the approved plans the development shall not commence beyond damp proof course level, until details to show additional secure cycle parking facilities on site shall be submitted to, and agreed in writing by, the local planning authority. The development shall be carried out in accordance with the details so agreed or any amendment or variation to them as may be agreed in writing by the local planning authority.

13. Before the hard surfacing hereby permitted is brought into use the surfacing shall EITHER be constructed from porous materials, for example, gravel, permeable block paving or porous asphalt, OR provision shall be made to direct run-off water from the hard surfacing to a permeable or porous area or surface within the curtilage of the site.

14. Before any landscaping is carried out within the site, including any works preparatory to such landscaping, a scheme for the hard and soft landscaping of the whole site shall be submitted to, and agreed in writing by, the local planning authority. Details shall include:

- a) planting plans (at a scale not less than 1:100), written specification of planting and cultivation works to be undertaken and schedules of plants, noting species, plant sizes and proposed numbers / densities and an implementation programme;
- b) existing and proposed site levels, clearly identifying changes to landform;
- c) details of hard surface materials;
- d) details of all boundary treatment, including fences, means of enclosure and gates;
- e) detailed drawings and specifications of all levels, both existing and proposed; and
- f) detailed drawings and specifications of any proposed external lighting and flood lighting.

The approved hard and soft landscaping shall be carried out in accordance with the approved details agreed prior to occupation of the new sports building save that all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following first occupation of the sports building. Any existing or new trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season, with others of a similar size and species and the approved hard and soft landscaping shall thereafter be retained.

15. A landscape management plan, including species numbers/locations, long term design objectives, management responsibilities and maintenance schedules for all communal landscape areas shall be submitted to, and approved in writing by, the local planning authority prior to the occupation of the development. The landscape management plan shall be carried out as approved.

16. No impact piling shall take place until a piling method statement has been submitted to, and agreed in writing by, the local planning authority. The statement shall detail the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface

sewerage infrastructure and the programme for works. All piling activities on the site shall be undertaken in accordance with the statement so agreed.

17. Notwithstanding the approved plans the development shall not commence beyond damp proof course level, until details of the provision of appropriate bird nesting boxes, bat roosting boxes/tubes and invertebrate habitat for the enhancement of biodiversity within the design of the buildings hereby permitted and the wider development area have been submitted to, and agreed in writing by, the local planning authority. The details shall comprise:

- a) species catered for, number, location, orientation and type of bird boxes incorporated into or affixed to new buildings;
- b) number, location, orientation and type of bat boxes/tubes incorporated into or affixed to new buildings;
- c) number, location, orientation and type of bird and bat boxes affixed to appropriate trees; and
- d) location and form of invertebrate habitat, and for example may include log piles and stag beetle loggeries.

The development shall not be first used until the details so agreed have been implemented, and shall thereafter be retained.

18. Notwithstanding the details within the submitted Geotechnical and Geoenvironmental Investigation Report (March 2016), in the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority

19. Prior to the occupation of the development hereby permitted, a full Delivery and Service Plan demonstrating safe vehicular access to and from the school dining hall, shall be submitted to and approved in writing by the Local Planning Authority. The Delivery and Service Plan thereby approved shall be adhered to thereafter.

20. The site wide heating system boiler(s) shall be installed and thereafter retained in accordance with a specification that shall first have been submitted to, and agreed in writing by, the local planning authority.

21. The refuse and waste bins shall be stored at all times, other than on collection days, within the designated refuse storage areas as shown on the approved plans.

22. Prior to the sports building being brought into use, a management and maintenance scheme for the sports building - including management responsibilities, a maintenance schedule and a mechanism for review, shall be submitted to and approved in writing by the local planning authority. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the sports building.

23. The development hereby approved shall not be used until details of the measures to make efficient use of mains water within the science building and sports building have been

submitted to, and agreed in writing by, the local planning authority. The measures shall be implemented in accordance with the details so agreed or any amendment or variation to them as may be agreed in writing by the local planning authority.

24. Within 3 months (or other such period agreed in writing by the Local Planning Authority) of the first occupation of the development a post construction assessment shall be undertaken for each phase demonstrating compliance with the approved Energy Strategy and Sustainability Strategy (including the Sustainability Development - Energy: Response to the GLA, September 2016) which thereafter shall be submitted to the Local Planning Authority for written approval.

25. The sports building hereby permitted shall not be first used until photo voltaic panels have been installed in accordance with a drawing showing the location, orientation and pitch of the photo voltaic panels that shall first have been submitted to, and agreed in writing by, the local planning authority. The panels shall thereafter be retained.

26. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall be carried out in accordance with the proposals for emissions savings that are documented in the approved Planning Energy Statement - 033761 - Revision 01 (March 2016) and the Sustainability Development - Energy: Response to the GLA (September 2016).

27. No external lighting shall be installed anywhere on the site until details of such lighting has been submitted and, and agreed in writing by, the local planning authority. Such details shall include:

- a) the siting, height and appearance of the proposed lighting and any associated mounting structures;
- b) the type and strength of luminance of the luminaires;
- c) isoline (lux) diagrams;
- d) times and controls of illumination;
- e) the measures proposed to reduce light pollution; and
- f) the measures proposed to ensure minimal UV light emittance of luminaires.

The external lighting shall be installed and thereafter retained in accordance with the details so agreed in writing by the Local Planning Authority.

28. The development hereby permitted shall not be occupied until a full overheating analysis has been to, and agreed in writing by, the Local Planning Authority and the development shall only be completed and operated in accordance with any approval.

29. Prior to the commencement of development, a strategy shall be submitted to and approved by the Local Planning Authority demonstrating that it would be technically feasible to connect the proposed heating network to any future district heating network in the vicinity of the development, should one become available. The strategy shall include details that ensure the provision of sufficient space within the energy centre for future plant, heat exchanges, connection points to generate, export and take heat, cooling and/or electricity, and details of how the development would connect to a future district heat network (including an agreed safeguarded route for infrastructure).

The development shall be carried out in accordance with the details so agreed and shall be retained as such thereafter.

30. The development hereby approved shall be used for education and sports use only, and shall not be used for any other purpose, including any other use that would fall within Classes D1 or D2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to those classes in any statutory instrument revoking and re-enacting that order with or without modification).



Report to the Secretary of State for Housing, Communities and Local Government

by Cullum J A Parker BA(Hons) MA MRTPI IHBC
an Inspector appointed by the Secretary of State

Date: 22 July 2019

Town and Country Planning Act 1990

The London Borough of Harrow

**Appeal by The Keepers and Governors of the Free Grammar
School of John Lyon (Harrow School)**

Mayor of London (Direction)

Harrow Hill Trust (Rule 6)

Inquiry Held on 30 April to 16 May 2019

Harrow School, 5 High Street, Harrow, HA1 3HP

File Ref: APP/M5450/W/18/3208434

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File Ref: APP/M5450/W/18/3208434
Harrow School, 5 High Street, Harrow, HA1 3HP

- 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 The Keepers and Governors of the Free Grammar School of John Lyon (Harrow School) against the decision of the Council of the London Borough of Harrow (under Direction from the Mayor of London).
- The application Ref P/1940/16, dated 20 April 2016, was refused by notice dated 13 February 2018.
- The development proposed is *demolition of existing buildings: existing sports building, peel house, museum cottage, gardeners compound, boyer webb pavilion, pavilion next to the athletics track; construction of new sports building over 3 levels (7269 sqm); new science building over 3 levels (3675 sqm); new landscaping core from existing chapel terrace to the athletics track at the base of hill; new visitors car parking on football lane adjacent to maths and physics school buildings; rerouting and regrading of private access road; alterations to landscaping and servicing for dining hall; relocation of multi use games area for moretons boarding house to south west of dining hall* (Updated Metropolitan Open Land Approach Statement and Revised Community Uses Agreement submitted).

Summary of Recommendation:

That the appeal be **Allowed** and planning permission granted subject to conditions.

Preliminary Matters

Reason for refusal

1. The planning application was received by Harrow Council on 20 April 2016. The planning application was resolved to be granted conditional planning permission by Harrow Council's Planning Committee at its meeting of 6 September 2017. Following a Direction from the Mayor of London, issued to the Council on 29 January 2018, the Council refused planning permission by Decision Notice dated 13 February 2018, citing the following reason for refusal:
 - (i) *The proposed sports building is inappropriate development within Metropolitan Open Land and causes substantial harm to the openness of the Metropolitan Open Land – by reason of its excessive footprint and its location. The harm to the Metropolitan Open Land by reason of the proposed inappropriate development, and the harm to openness, to which substantial weight is attached, is not clearly outweighed by other considerations. Very special circumstances do not exist. The proposed sports building is contrary to London Plan Policy 7.17, Policy G3 of the draft London Plan, Core Policy 1 of the Harrow Core Strategy, Policy DM16 of the Harrow Development Management Policies DPD and the National Planning Policy Framework.*

Determination of the appeal

2. The Secretary of State has directed that he shall determine the appeal as the appeal relates to development in Metropolitan Open Land (MOL), to which London Plan Policy 7.17 affords the same level of protection as Green Belt. As there is no recovery criterion applicable directly to MOL the appeal is being recovered due to the particular circumstances.

Main Issues

3. Prior to opening the Inquiry, a pre-inquiry note was issued¹. This set out what I considered to be the main issues at that stage on the basis of the evidence before me. These main issues were repeated orally at the opening of the Inquiry. The main parties agreed these were the salient main matters in dispute. The main issues in this case are therefore considered to be:
 - (i) Whether the proposed development is inappropriate development in Metropolitan Open Land (MOL) for the purposes of the adopted Development Plan, London Plan, the National Planning Policy Framework, and any other relevant document², and;
 - (ii) The effect of the proposal on the openness of the MOL, and;
 - (iii) Whether the proposed development would preserve the setting of nearby designated heritage assets, and preserve or enhance the character or appearance of the Harrow School Conservation Area, and if not whether any public benefits would outweigh any harm, and;
 - (iv) If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify it.
4. This Report primarily focusses upon addressing these issues.

Site visits

5. On Monday 29 April 2019 I undertook an unaccompanied site visit to the site and the surrounding areas.
6. On Tuesday 7 May 2019 I made an accompanied site inspection, with all main parties, which lasted around three-and-a-half hours. During which I saw the existing science and sports facilities internally, and externally I was able to see the appeal site from a variety views and viewpoints; including from nearby public footpaths.

Costs

7. At the Inquiry an application for costs was made by Harrow School against the Mayor of London. This application is the subject of a separate Report.

The Site and Surroundings

8. The site and its context are described in greater detail within the submitted cases. To summarise, Harrow School is located on the slopes and towards the crest of the settlement of Harrow-on-the-Hill. The school buildings are set within fairly open areas, with landscaped grounds around and between them. The school buildings include a variety of buildings from different eras; albeit the main phases appear to be Victorian and 20th Century. Towards the crest of the hill (to the

¹ Instead of pre-inquiry meeting, which I did not deem as necessary.

² At that stage, I saw no reason not to concur with the position set out in the SOCG that the proposal would represent 'inappropriate development' within the MOL. The first initial main issue is primarily included for completeness.

west) the concentration of buildings become denser; with a number of listed and non-listed school and private residential buildings occupying the hill to the north and west.

9. The appeal proposal would be located roughly to the east of the hill. Beyond the appeal site are outdoor sports facilities; such as athletics track and other athletics facilities, rugby and football pitches, tennis courts, hockey and football astro-pitches. Beyond these to the east and south east are open fields mainly used for pasture, with Pebworth and Watford Roads forming distinct and defined boundaries beyond to the south and east.
10. The hill is visible from the surrounding area, with some buildings or their roofs towards the top of the hill visible from the rear of some dwellings on Pebworth Road. Watford Road (the A404) is a fairly busy road leading to the junction with the A4006/A409 to the north and generally devoid of development along most of its length adjacent to the Harrow School Playing Fields. Between Watford Road and the school 'campus' are two footpaths – FP58 and FP59³, from which views of the school and hill are appreciated from. Part of the wider Capital Ring footpath is also located in this area. These footpaths broadly concentrate to a point at the bottom of Football Lane (adjacent to the existing sports building).
11. FP57 is located on a more southerly axis, between the hockey and football artificial pitches and leading in the direction to or from Pebworth Road to the bottom of Football Lane. There are also some permissive footpaths. All the various footpaths across the site are not fenced off. To varying degrees, and not necessarily from all points, the appeal site and the hill are visible from these footpaths.
12. To the south there is a small serpentine lake, with a golf course to the west. This area forms a part of the Grade II Harrow Park Registered Park and Garden. This is characterised by a fairly open sloped landscaped, enclosed by a tree line. Although documentary evidence is limited, it is clear that it was initially a Capability Brown designed 'landscape'. It is unclear as to how much its current form reflects its original design. Nonetheless, the main parties agreed that the characteristics it exhibits; with a serpentine lake, use of trees and landscaping for example, strongly suggest that the original Capability Brown influence continues to be visible even today. From what I saw during my site inspection, I concur.

Planning policy and relevant statutory duties

13. The development plan for the appeal site area comprises *Harrow Core Strategy 2012 (CS)*, the *Harrow Development Management Policies DPD 2013 (DMDPD)* and *The London Plan 2016 (LDNP)*. The policies referred to include⁴:-

- (a) Core Policy 1 – Overarching Policy, of the CS;

The quantity and quality of the Green Belt, Metropolitan Open Land, and existing open space shall not be eroded by inappropriate uses or insensitive development. The reconfiguration of existing open space may be permitted

³ For plans of the footpath routes, see for example Compendium of CGIs, Page 3, 'Image of viewpoint locations'

⁴ Policy extracts provided in 'italics'

where qualitative improvements and/or improved access can be secured without reducing the quantity of the open space.

- (b) Policy DM16: Maintaining the Openness of the Green Belt and Metropolitan Open Land, of the DMDPD (extract) –

A. The redevelopment or infilling of previously developed sites within the Green Belt and Metropolitan Open Land will be supported where the proposal would not have a greater impact on the openness of the Green Belt and Metropolitan Open Land, and the purposes of including land within it, than the existing development, having regard to: a. the height of existing buildings on site, b. the proportion of the site that is already developed, c. the footprint, distribution and character of existing buildings on site; and, d. the relationship of the proposal with any development on the site that is to be retained...

B. Proposals for the redevelopment or infilling of previously-developed sites in the Green Belt and Metropolitan Open Land will also be required to have regard to the visual amenity and character of the Green Belt and Metropolitan Open Land...

C. Partial infilling or redevelopment...

D. Proposals for inappropriate redevelopment or which, for other reasons, would harm the Green Belt or Metropolitan Open Land will be refused in the absence of clearly demonstrated very special circumstances.

- (c) London Plan Policy 7.17 Metropolitan Open Land, of the LDNP (extract) -

The strongest protection should be given to London's Metropolitan Open Land and inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt. Essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL.

14. The main parties agree that the *draft New London Plan 2018* (NLP) is also relevant but should be afforded limited weight in view of their state of advancement and the ongoing Examination in Public process⁵. The policies referred to include⁶:-

- (d) Policy G3 Metropolitan Open Land, of the NLP:

A. Metropolitan Open Land (MOL) should be protected from inappropriate development:

(i) development proposals that would harm MOL should be refused

(ii) boroughs should work with partners to enhance the quality and range of uses of MOL.

B. The extension of MOL designations should be supported where appropriate.

⁵ Agreed SOCG, page 10, Para. 4.3

⁶ Policy extracts provided in 'italics'

C. Any alterations to the boundary of MOL should be undertaken through the Local Plan process, in consultation with the Mayor and adjoining boroughs.

15. The Secretary of State will be aware that the *National Planning Policy Framework*⁷ (the Framework) is a material consideration in planning decisions. Whilst specific paragraphs are not cited within the reason for refusal, the following Chapters and Paragraphs are considered of most relevance to the appeal here:
Chapter 8: Promoting healthy and safe communities⁸, Chapter 13: Protecting Green Belt land⁹, and Chapter 16: Conserving and enhancing the historic environment¹⁰.
16. Sections 66(1) and 72(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended (PLBCA) requires having special regard to the desirability of preserving listed buildings or their settings and special attention being paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
17. Section 38(6) of the *Planning and Compulsory Purchase Act 2004*, as amended (PCPA) requires that determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The Proposal

18. Put simply, the proposal seeks the demolition of existing sports buildings including a swimming pool and sports hall (and some smaller buildings such as the Boyer Webb Pavilion) and their replacement with a multi-sport building and science block in a different location to these. There would also be the creation of a central axial route between the Chapel downwards towards the proposed sports building and further soft and hard landscaping.
19. The proposed science block would not be built upon MOL but would be located within the Harrow School Conservation Area.
20. The proposed multi-sports building would be located within MOL but is not in the Harrow School Conservation Area.

The cases of the main parties

21. The cases of the main parties are set out within the Closing Submissions (including shortened summaries for the Mayor and Harrow School)¹¹. To avoid repetition I have not sought to replicate such matters here.
22. Nevertheless, the summaries and closing submissions of all four main parties have been taken into account in reaching a recommendation.

⁷ The February 2019 version for the purposes of this appeal

⁸ Paragraphs 91-101

⁹ Paragraphs 133-147

¹⁰ Paragraphs 184-202

¹¹ Accessible within Folder L, 0400,

https://www.dropbox.com/sh/sj4c32184zin2sn/AACFkYh2pqfhPK1M1zK40ZY0a/L%20-%20NEW%20INFO%20ISSUED%20DURING%20INQUIRY/APP-L-0400%20Closing%20Statements?dl=0&subfolder_nav_tracking=1

Other Agreed Facts/Matters

23. A number of matters were agreed between the Mayor, Harrow Council and the Appellant¹². Of particular interest, those parties agreed that:

- (i) The current sports centre building and biology and chemistry facilities are inadequate (in quality, quantum and functionality terms);
- (ii) The current sports centre building is located within MOL;
- (iii) The science building development as proposed falls outside of MOL and as part of the appeal scheme is not objectionable in itself;
- (iv) The new sports building is 'inappropriate development' on MOL; by definition, inappropriate development is harmful to MOL in line with Development Plan policy harm to MOL should be afforded substantial weight;
- (v) In addition to harm through inappropriateness, the new sports building causes harm to the openness of MOL by reason of its siting, footprint and scale and to MOL purposes. In line with Development Plan policy such harm should be afforded substantial weight;
- (vi) The Mayor of London considers the proposed sports building could be located on the site of the existing sports hall;
- (vii) The Mayor of London does not consider that there are very special circumstances to outweigh the harm to MOL. The Appellant disagrees.
- (viii) There are no objections on access, transportation or highways grounds to the proposed development;
- (ix) The Sustainable Travel Plan for non-school users of the new Sports building facilities is acceptable to both the Mayor of London and the Appellant;
- (x) There are no objections on grounds of residential amenity or building sustainability grounds to the proposed development;
- (xi) Sustainable drainage and surface water is to be managed utilising the full extent of the school's land ownership on the eastern side of Harrow Hill.

Matters in dispute¹³

24. The main matters in dispute between the Mayor and the Appellant are:

- (i) Whether the benefits of the proposal, individually or in combination, constitute 'Very Special Circumstances' (VSC) so as to outweigh the harm by reason of 'inappropriateness' and harm to the openness of MOL and to MOL purposes caused by the proposed development, as alleged in the reason for refusal.

¹² See the agreed Statement of Common Ground (SOCG), page 12-15, Section 5

¹³ See agreed SOCG, page 15, Section 6

- (ii) The suitability and acceptability of the proposed 'land swap' as mitigation for the loss of and impact on MOL resulting from the proposed development;
- (iii) The robustness of the 'alternative site selection' exercise and discounting of other potential suitable sites within the School's ownership that could result in less harm to MOL; and,
- (iv) The weight attached to the other VSC advanced by the appellant, notably the proposed Community Use Agreement (CUA).
- (v) The Mayor of London considers that less than substantial harm to the significance of heritage assets is caused by the proposal; the Mayor does not seek dismissal of the appeal on heritage grounds and the Mayor's case in respect of heritage assets is set out para.53 of the Stage II report. The Appellant considers that the proposed development would not cause any harm to the special interest, significance, setting or identified views of any historic asset.

Written and Oral Representations

- 25. Written representations were submitted at both the planning application and appeal stages. This includes a petition submitted through the change.org website consisting in excess of 1400+ signatures entitled '*Save our Metropolitan Open Land and beautiful views from London's Capital Ring Footpath*'.
- 26. Written representations were also received by public bodies such as Historic England, Highways England, the Harrow Hill Trust, Sport England, CPRE London, and also from a number of local residents.
- 27. At the Inquiry, oral representations were made by; a historian and researcher for the London Parks and Gardens Trust; a local resident (and retired Solicitor) who was also assisting Harrow Hill Trust with specific regard to the Community Use Agreement; and a Councillor and ward member from the adjoining London Borough of Brent. Where possible, these interested parties submitted written material, in addition to their oral submissions. I have taken all of these submissions and representations into account.

Conditions and Obligations

Planning Conditions

- 28. The main parties have agreed, without prejudice following a round table discussion at the Inquiry, the thirty suggested conditions set out in Annex A of this Report. I have considered these planning conditions in light of Paragraph 55 of the Framework which sets out that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 29. Paragraph 55 also sets out that agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification. The guidance set out in the national *Planning Practice Guidance* (the Guidance) and the use of planning conditions is also of

relevance and I have taken it into account in considering both the suggested conditions and the reasons agreed between the main parties (in this case the Mayor, the Council as local planning authority and the Appellant).

30. Having considered the suggested conditions against Paragraph 55 of the Framework, I find that these conditions would all meet the tests set out in this Paragraph and would conform with the Guidance. Were the Secretary of State minded to agree with the recommendation of this Report to grant planning permission, it is recommended that the thirty suggested conditions listed in Annex A are imposed for the reasons set out in the Annex. For the avoidance of doubt, the relevant planning condition itself is preceded by the condition number and ends before the word 'REASON' for each condition.

Planning Obligations

31. The Framework and Community Infrastructure Levy (CIL) Regulations set out that planning obligations must only be sought and be considered as a reason for granting planning permission where they meet the following tests:
- a) necessary to make the development acceptable in planning terms;*
 - b) directly related to the development; and*
 - c) fairly and reasonably related in scale and kind to the development.¹⁴*
32. A completed Unilateral Undertaking under Section 106 of the TCPA was signed and dated on 16 May 2019 by the Appellant to The London Borough of Harrow. The Appellant and the local planning authority were content with its content, which secures; additional trees and land for the trees, a community use agreement, an employment contribution of £15,000 to identify local residents for construction jobs arising from the development, an employment and training plan, a local goods and services commitment strategy, an area of land identified as MOL Extension Land (wherein MOL policies would apply until designated as MOL in the development plan process), and a sustainable travel plan.
33. Concerns were raised by Harrow Hill Trust (the Rule 6 Party) and an Interested Party, Ms Lloyd, over the content and practical operability of the Community Use Agreement (CUA). Principally, this concerned the number of specific hours the CUA would secure for community use – an additional 1300 hours free use by local schools and around 500 hours at a discounted rate for permitted users – and the operation of the management committee for the sports facilities.
34. Time was provided outside of the Inquiry itself for those parties to discuss and resolve these concerns, which led to some alterations to the CUA creating its final, agreed, form.
35. The final agreed CUA is an agreement between the Council and the School. It provides up to 1800 hours of community use including 1300 hours of free use by local state schools and would be managed by a committee made up of members of the local community, the School and the Council. In this respect, I find that this obligation would meet the tests set out in the CIL Regulations and the Framework.

¹⁴ Framework, Paragraph 56

36. Moreover, having carefully considered the obligations sought and secured by the S106, including the justification set out by the Council and its confirmation as set out in its Closings¹⁵, I am content that the obligations sought and secured by means of a unilateral undertaking would satisfy the tests set out in the CIL Regulations and Paragraph 56 of the Framework, and in doing so should be taken into account as a reason for granting planning permission.

Inspector's Considerations

37. The references in square brackets [x] refer to the various paragraphs of this report of the information from where my considerations are drawn.

The main considerations

38. It is not disputed between any party that that part of the site lies within the established Metropolitan Open Land (MOL) designation. This is afforded similar protection to Green Belt designated land within London. The Council, Mayor of London and the Appellant agree in the SOCG that the new sports building would be 'inappropriate development' within MOL and would cause harm to the openness of the MOL by reason of its siting, footprint and scale and to MOL purposes.

39. The Appellant and Mayor of London dispute the following matters:

- (i) Whether Very Special Circumstances (VSC) outweigh the harm of inappropriate development and to openness¹⁶.
- (ii) The Mayor of London also considers that there would be less than substantial harm to the significance of heritage assets caused by the proposal; but does not seek dismissal of the appeal on heritage grounds.

Whether inappropriate development in Metropolitan Open Land

40. All parties agree that part of the proposed development (the sports building) lies within the MOL as defined within Policy DM16 of the *Harrow Development Management Policies 2013*, Policy CS1 of the CS and London Plan Policy 7.17 of the LDNP.

41. The supporting paragraphs to Policy 7.17 set out that '*the policy guidance of paragraphs 79-92 of the NPPF on Green Belt applies equally to Metropolitan Open Land (MOL)*'. Whilst this refers to the 2012 NPPF¹⁷ all parties agreed that this reference should now be paragraphs 133-147 of the Framework 2019 dealing with Green Belt. This is a pragmatic and logical approach which I also adopt in this case.

42. I was not directed to any other policy document which detailed what is meant by 'inappropriate development' within MOL beyond the Framework. In such circumstances it is reasonable to use the Framework to define the nature of the proposal in this case, even though it technically applies to Green Belt and not MOL.

¹⁵ LPA3, dated 16 May 2019

¹⁶ See Section 6 of the SOCG for further details

¹⁷ Replaced for planning decision-making by the February 2019 Framework

43. Paragraph 143 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt. The construction of new buildings in the Green Belt is inappropriate unless they fall within certain exceptions set out at Paragraph 145. Certain other forms of development are also not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. None of these exceptions applies here.
44. The proposal would therefore constitute inappropriate development within MOL when assessed against the criteria set out in national planning policy.

MOL 'land swap'

45. The Appellant has submitted a Unilateral Undertaking (under Section 106 of the TCPA). One of the Planning Obligations this secures is that an area of land under the control of the Appellant would be subject to MOL policies until such time that that area is formally designated as MOL [32]. This has inaccurately been described as a 'land swap', whereas in practical terms it would extend the MOL were the area formally incorporated at the local plan examination stage. Such an idea was proposed in planning policy terms through the *Harrow School Supplementary Planning Document July 2015*.
46. Concerns have been raised by the Rule 6 Party that this is not the correct way in which to extend the area of the MOL. For example, Paragraph 135 of the Framework sets out that Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. In this they are correct. However, the important distinction here is that any decision on the appeal proposal does not inhibit the ability of any local plan examination to designate or not designate the land swap, or the local planning authority from suggesting the same.
47. What it does do is restrict the Appellant from developing such land by imposing MOL policies as essentially a 'material consideration' that a planning decision-maker would have to take into account. In this respect the 'land swap' is a pragmatic and reasonably robust way in which the Appellant restricts development in this area, and goes some way to alleviate concerns of concerned parties that it would be developed in the near future.
48. At the same time, this land is subject to other designations – such as being within a Conservation Area – which require statutory duties to be exercised. This may also act as an inhibitor to development irrespective of whether MOL policies are applied in that area. The key point is the degree of weight, if any, that this specific obligation should be afforded in any planning balance. In this respect, this obligation should be taken into account as a positive benefit of the proposal [36]. However, it should only be afforded minimal weight given that it relies upon the realistic likelihood of the land being developed, the failure of other statutory duties to prevent or mitigate harm, and the formal extension of the MOL at a development plan stage.

Effect on openness

49. Openness is not specifically defined within the Framework, nor was the Inquiry directed to any local plan definition. Typically, in Green Belt cases, the concept of openness can be expressed as a 'lack of built form'.

50. The High Court¹⁸ found that 'any construction harms openness quite irrespective of its impact in terms of its obtrusiveness or its aesthetic attractions or qualities' but that 'there is a clear conceptual distinction between openness and visual impact' and that 'it is wrong in principle to arrive at a specific conclusion as to openness by reference to its visual impact'. Recent caselaw¹⁹ from the Court of Appeal indicates that impact on openness in Green Belt terms can also have visual dimension. The more recent judgement of *Turner* confirms that the openness of Green Belt has a spatial as well as a visual impact, and assessing openness was found not to be limited to measuring the volume of the existing and proposed structures on site²⁰.
51. The relevance here is that the reason for refusal is relatively plain and simple in form. This states that the proposal is unacceptable as it '*causes substantial harm to the openness of the Metropolitan Open Land – by reason of its excessive footprint and its location*' [1]. It logically follows that the concerns of the Mayor as the decision-maker with regard to openness centred on the footprint and location only; a point emphasised by the phraseology 'by reason of' which indicates the unacceptable factors, the visual dimension was not considered a matter of such relevance requiring specific reference to it.
52. To be clear, there is no indication as to the unacceptability or otherwise of the proposal in terms of visual impact within the reason for refusal beyond excessive footprint and its location. For example, the reason for refusal does not cite bulk, scale, mass, appearance, design, materials, or indeed any other number of adjectives which may hint towards concerns over the unacceptable visual impact of a proposal. This is further compounded by the fact that the policies referred to are not specifically ones that deal with visual impact in terms of design, character or appearance.
53. The advancement of the point by the Mayor at the Inquiry itself that the excessive footprint should be considered as a 3D-concept rather than a 2D-concept in terms of openness is therefore rather surprising. More so when the established statutory requirements are clear in the DMPO 2015: '*where planning permission is refused, the notice must state **clearly and precisely** their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision*'²¹ (emphasis mine).
54. Nonetheless, recent caselaw departs somewhat from the distinction made in *Timmins* between openness and visual impact. The fact remains that a building of the size proposed here; including the height, width and depth of the proposed sports building, will erode the openness of MOL as there will be built form where there is currently relatively undeveloped land. As such the proposal would result in development which would, by logical definition, erode the openness of the MOL by fact of its size and siting. Put another way, in terms of openness and visual impact as an element of such an assessment.

¹⁸ *Timmins v Gedling Borough Council* [2014] EWHC 654 (Admin)

¹⁹ *Turner V SSCLG* [2016] EWCA Civ 466

²⁰ This was further confirmed in the judgement of *Samuel Smith Old Brewery (Tadcaster) & Oxton Farm v North Yorkshire CC & Darrington Quarries Ltd* [2018] EWCA Civ 489

²¹ *Town and Country Planning (Development Management Procedure)(England) Order 2015*, Article 35(1)(b)

55. However, visual impact as a concept is not limited to what something looks like, but inherently relies upon the context in which it is enjoyed. In this respect, views to the ridge line along Harrow-on-the-Hill would still be possible even with the proposed sports building (as can be seen from the various CGIs submitted), no issue is taken with the materials proposed or colour palette, and no specific issues have been raised with regard to the overall shape and form of the proposed building in design terms. What is more, the proposed sports building would be viewed within the context of the main school campus to the north and west, and outdoor sports facilities to the east and south; including the tennis courts, running track, astro-pitches and associated fencing. It would not be seen as an isolated building standing alone in a field.
56. The Mayor pointed me to the fact that the agreed SOCG indicates that harm is caused to openness by reason of its 'scale'²² as well as its siting and footprint. These words clearly differ from those given on the decision notice, and neither of the main parties departed from this agreed position at the Inquiry. However, when read plainly, the context of this appears to be little more than agreeing the scale of the building, in terms of the size of the footprint, is contested which is indeed the case. However, in this respect no issue is taken with the broad principle of the size of the building in terms of the sports needs of the school and the level of multi-facility provision that needs to be delivered.
57. I note that the Mayor has suggested alternate locations where, through various means including stacking, a similar sports provision may be provided. However, these schemes are no more than concepts at extremely early stages of thought. Indeed, as an example, it was evident at the Inquiry that for one of the schemes (being located on the area of the proposed science building which the Mayor takes no issue within the Conservation Area) may involve the removal or works to a Wellingtonia tree²³ planted in memory of the late former Prime Minister and pupil of Harrow School, Sir Winston Churchill.
58. What is more, some of the concept schemes require stacking the facilities on top of each other so as to reduce the footprint. However, the result of such stacking (in the absence of engineering plans and the consideration of the sewer close to the existing swimming pool) the building would most likely expand upwards in height so as to deliver the two sports halls, 25 metre swimming pool, training pool, judo dojo, classrooms and changing facilities. It is clear that to deliver the agreed need for the school, somewhere compromise is required.
59. The Appellant's approach, which both the written and oral evidence demonstrates has been carefully planned over a number of years, moving from a concept stage where a number of sites and various layouts were considered, and which was based upon the Council's adopted SPD²⁴ for the school, appears to be a pragmatic, detailed, thoughtful and well-designed scheme. Indeed, with the use of materials, the axial route providing a central link between the upper and lower hill to the Chapel in one direction and proposed science and sports building and sports fields,

²² SOCG, page 13, paragraph 5.1.7

²³ Shown as tree T107 on the submitted drawings. Mr Pryke (for the Mayor) suggested under Evidence in Chief, that the Mayor would work on retaining this tree. But the point is that it is unclear as to how the Mayor properly understood the context of this significant tree within the conservation area; and this is before factoring in the statutory requirements of s197 of the TCPA and s72 of the PLBCA for example.

²⁴ Supplementary Planning Document, Harrow School July 2015

with views of the London skyline beyond in the other direction would appear as an epitome of high-quality buildings and places. National policy emphasises that this is fundamental to what the planning and development process should achieve²⁵.

60. The proposal would result in the erosion of the openness of MOL by the fact that it would represent built form where currently there is very little. The proposal would see the restoration of some MOL openness through the removal of existing sports building and its replacement with tree planting to create a woodland-style walk from Football Lane. It would also secure an area of land – the ‘land swap’ -which would be subjected to MOL policies as a material consideration until incorporated into an adopted development plan [32, 45]. However, neither of these factors overcome the fundamental point that the proposal would still result in the erosion of MOL openness. This is harm that weighs substantially against the proposal.
61. However, it is important to note that I do not find that the proposal would have an adverse impact in respect of its visual impact. The footprint is not ‘excessive’ when one considers that there is a certain level of need that the sports building will have to provide. This is need that no main party argues is not required to be provided. The alternative concepts, which were suggested by the Mayor in the Proofs of Evidence, literally do not stack up even under the rudimentary assessment – whether in practical terms with the potential loss of trees and/or considerations such as sewers and required ground works, or in detailed consideration against policy requirements; for example, an assessment in heritage impact terms.
62. As a result, the only logical conclusion I can come to is that the proposed location within the MOL for the sports building, which is broadly in keeping with the Council’s adopted SPD, is acceptable in terms of the reason for refusal. As such, and taking into account the agreed position in respect of the visual appearance of the proposed sports building, I do not consider that the proposal would result in harm to openness, or indeed any other harm, in visual impact terms. However, there would remain harm to openness through its erosion which should be afforded substantial weight.

MOL purposes

63. At the Inquiry, my attention was drawn to the concept of ‘MOL purposes’ by the Mayor. This was in part due to its inclusion within the agreed SOCG rather than expressed in the reason for refusal²⁶. Green Belt clearly serves five purposes as set out in the Framework²⁷. Policy DM16 of the DMDPD, Core Policy 1 of the CS and Policy 7.17 of the London Plan do not clearly set out what the purposes of MOL are in the same way.
64. Policy DM17 of the DMDPD indicates that ‘*proposals for the beneficial use of land in the Green Belt and Metropolitan Open Land will be supported where the use would not have a greater impact on the openness of the Green Belt and MOL, and the purposes of including land within it*’. But again, this policy does not set out what is specifically meant by MOL purposes.

²⁵ Section: Achieving well-designed places, Paragraph 124, National Planning Policy Framework

²⁶ Agreed SOCG, page 13, paragraph 5.1.7

²⁷ See Paragraph 134 of the Framework.

65. The supporting paragraph²⁸ to Policy 7.17 of the London Plan indicates that '*the policy guidance of paragraphs 79-92 of the NPPF²⁹ on Green Belts applies equally to MOL*' [41]. Setting aside the fact that the Framework is policy rather than guidance as the London Plan suggests, the purposes of Green Belt are clearly set out in the Framework can only be the logical 'purposes' the MOL designation serves – even though this is not expressed clearly within MOL policy itself.
66. In respect of the five purposes set out in Paragraph 134 of the Framework, the proposal would not result in unrestricted sprawl of a large built up area, it would not result in neighbouring towns merging into one another, it would not encroach into the countryside, and urban regeneration and the recycling of derelict and other urban land is not at issue here.
67. The only potential purpose that the proposal may infringe is the purpose '*to preserve the setting and special character of historic towns*'. This was suggested by the Mayor to Mr Paterson (planning witness for the Appellant) to be infringed due to the harm to heritage assets. This specific matter is considered in greater detail in the next section of this Report.
68. However, I have found that the proposal would not result in harm to heritage assets; including their settings [88]. As a result, following a logical thread, the proposal does not conflict with the five purposes set out in Paragraph 134 of the Framework. Whilst I acknowledge the position between the main parties contained within the agreed SOCG, after careful consideration of this specific point I can only conclude that the evidence submitted to the Inquiry proposal suggests that this agreed position within the SOCG is incorrect and that the proposal would not deviate from the purposes which MOL serves. I do not, therefore, find that the proposal would result in harm to MOL purposes as suggested in the SOCG.

Heritage assets

69. There are a number of designated heritage assets on or near to the appeal site including:
- i. St Marys Church (Grade I);
 - ii. Vaughan Library (Grade II*);
 - iii. The Chapel (Grade II*);
 - iv. New Schools (Grade II);
 - v. Butler Building including Biology and Chemistry (Grade II);
 - vi. Music Building (Grade II);
 - vii. Harrow School Conservation Area;
 - viii. Harrow Park Registered Park and Garden (Grade II) and Conservation Area.
70. Although not cited as a specific reason for refusal, and an absence of references to the statutory duty imposed by parliament on decision-makers under

²⁸ Core Document APP-D-0105 - London Plan 2016, Page 313, Paragraph 7.56

²⁹ Now Paragraphs 133 to 147 of the Framework 2019

Sections 66(1) and 72(1) of the PLBCA within the Mayor's Stage 1 and Stage 2 responses, the Secretary of State will need to exercise such duties [16].

71. Within the *GLA Stage 1 Consultation Response Report*, there is an absence of any considerations of heritage matters, with the focus on matters such as flood risk, MOL and access. In the *GLA Stage 2 Letter and Report* of January 2018, consideration of heritage matters is contained within Paragraphs 52 and 53, which relies upon harm identified by Historic England. This states that '*...When considered in conjunction with the proposed public benefits of the community use arrangements (discussed in paragraph 59 below), GLA officers are satisfied that this less than substantial harm to heritage assets does not warrant a reason for refusal...*'
72. By the Inquiry stage, the Mayor's heritage witness, Dr Barker-Mills, confirmed that the sports building element of the proposal would, in his view, fail to preserve the setting of these nearby listed buildings and would fail to preserve or enhance the character or appearance of the Harrow School Conservation Area. Accordingly, he considered that the proposal would fail to preserve the special interest of these heritage assets, the preservation of which should be given special regard under Sections 66(1) and 72(1) of the PLBCA respectively.
73. As a result, in the view of the Mayor's heritage expert witness the proposal would result in less than substantial harm to the significance of the heritage assets; harm which would need to be considered against public benefits under Paragraph 196 of the Framework. With regard to any such balance, I was referred to Ms Flight³⁰ to have carried this out. She indicated that she was surprised that there was no specific reason for refusal on heritage grounds put forward by the Mayor.
74. More surprising to me is the absence of any detailed reference or assessment of any harm to heritage within her submitted Proof of Evidence, wherein reference to heritage matters is primarily constrained to paragraphs 7.22 to 7.25 under the section 'Any other relevant material considerations'. All this section of the Proof does is re-iterate the points made by Dr Barker-Mills without any explanation of whether public benefits outweigh the less than substantial harm.
75. It should also be noted that the Mayor and Dr Barker-Mills did not identify any harm to the Harrow School Conservation Area or setting to the listed buildings or other heritage assets arising from the proposed science building. I re-iterated my observation at the Inquiry and the position of the Mayor did not alter. This is of some interest given that the location of the proposed science building is not only within the Conservation Area, but it would also be situated physically and visually closer to the aforesaid listed buildings.
76. The position of the Appellant's heritage expert witness³¹ differs from the Mayor's in that whilst it is acknowledged that there would be a change in the context of settings of heritage assets, this does not amount to a negative impact. As such, the proposal would not result in any harm to heritage assets including their significance. Accordingly, in his view the proposal would not fail to preserve the setting of listed buildings as set out in the PLBCA, and similarly Paragraph 196 of

³⁰ Mayor's Planning witness

³¹ Mr Pugh

the Framework is not relevant. What is more, Mr Pugh clarified at the Inquiry that if it was considered to be the case that less than substantial harm did exist, there are substantial public benefits which would outweigh this harm.

77. Historic England, the government's statutory advisers on heritage, were consulted at both pre-application and application stages³² providing responses from November 2015 to February 2017. Their most recent response indicates that they identify 'some harm' through inserting a structure of the broad massing and height proposed in the specific location. However, it is for the determining authority (at that point the Council) to be convinced that the harm has been clearly and convincingly justified.
78. Incidentally, both the local planning authority and the Mayor must have carried out such requirement as set out in national policy and the statutory duties imposed by the PLBCA. This is presumably borne in Paragraphs 52 and 53 of the Mayor's Stage II Report, albeit not well expressed.
79. I concur with the expert witnesses from both main parties that the significance of the heritage assets derives in part from their architectural and artistic interest of the purpose-built school buildings which is both individual, as examples of varying styles over the C19 and early C20 including High Victorian Gothic Revival and Queen Anne Revival. The organic evolution of the school, dictated originally by the topography of the site, has informed the architecture, requiring terracing, which provides for basements and lower storeys, or in the case of the Chapel a crypt.³³
80. The lack of overall architectural formality and unity at Harrow School is an interesting and distinct feature in the context of the foundation and design of public schools and their expansion in the C19 as a building type. The more organic evolution of Harrow with its intimate and entwined relationship with the town is thus distinctive within this building type and a key element of both its architectural and historic interest.³⁴
81. In particular, it is being able to appreciate and experience the hill top/side nature of the school (which includes the listed buildings and the conservation area) which contributes to the historic significance of both the individual heritage assets and their combined visual appearance. Being able to appreciate that the school has grown and evolved since the 1500s on the hill, whilst a sizeable residential population has also continued to grow.
82. The proposal would continue the growth of the school, with the proposed buildings – both science and sports – clearly built for school use and purposes to further and continue education on this site. Views of the ridgeline along the hill top, which includes listed buildings such as the Chapel, Vaughan Library and St Mary's Church would continue. For example, looking at the Compendium of CGIs at various views³⁵, including those from public footpaths, it is clear that the

³² See Core Document F-0103, Correspondence with Historic England

³³ POE Nigel Barker-Mills, page 12, paragraph 3.10

³⁴ POE Nigel Barker-Mills, page 13, paragraph 3.13

³⁵ Compendium of CGIs:

View FP4: From Capital Ring/Footpath 58, Appeal Scheme – winter young landscaping, page 24;

View E: from far side of all-weather pitches looking northwest (Footpath 57), Appeal scheme – winter young landscaping, page 40;

important views (in terms of heritage significance) of the ridgeline of the listed buildings would be retained. Moreover, it would continue to be visible from both private and public vantage points. Viewers from various viewpoints would continue to experience a setting where the hill context with a school campus running down the side would remain. In this respect, the various settings would, at the very least, be preserved.

83. What is more, the axial route would enable viewers expansive views from the terrace outside the Chapel towards London, whilst the Chapel and its tower would provide a focal point looking up towards the mount of the hill³⁶. Views from the Harrow Park Registered Park and Garden (Grade II) and Conservation Area would also alter³⁷. However, the park itself including its important Capability Brown designed/inspired landscape would remain unaltered by the proposal [12]. Moreover, the settings described in the above paragraph would continue to be appreciated in its current form when looking out and into Harrow Park.
84. I note the comments made at the Inquiry by the *London Gardens and Parks Trust* (the LGP Trust) who explained that in their view the significance of the Harrow Park derives from the fact it is one of limited examples of a Capability Brown landscape within London and contains features such as the serpentine style lake and trees and shrubs set out in a typical Capability Brown manner. An important feature is considered to be the feeling of openness³⁸ into and out of the park into the wider landscape. The proposal, with the construction of a large building adjacent to the park, is considered to have a significant negative impact, with the park seemingly 'hemmed in'.
85. Whilst I concur with many of the observations made by the LGP Trust in terms of significance, I disagree that the proposed sports building in particular would 'hem in' the park. From my site inspection I was able to see that Harrow Park is used recreationally for activities such as golf and fishing, and it is possible to see that on its northern and western edges there is built form which is visually softened by tree and other planting. The proposal would continue this prevailing visual experience both from and to Harrow Park.
86. Moreover, the key features contributing to the significance of the Park itself would remain – the landscape setting, verdant views to the south and east (although these change to the east with the sports fields and track), and the established built form of the school to the north retained. In this respect, whilst there would be some changes to the context of the Registered Park and Garden, its

View 01: From far corner of athletics track looking west, Appeal Scheme – at night, page 78;
View D: From far side of athletics track looking northwest, Appeal Scheme – Winter young landscaping, page 83;

View B: Long view from southern edge of Harrow Park looking north, Appeal scheme winter young landscaping, page 88,

³⁶ See for example Compendium of CGIs:

View 6: Up the new axial route to the Chapel, Appeal Scheme – Winter young landscaping, page 95

View A: Chapel Terrace looking east, Appeal Scheme – Winter, page 108

³⁷ Compendium of CGIs:

View B: Long view from southern edge of Harrow Park looking north, Appeal Scheme – Winter young landscaping, page 88

View B: long view from southern edge of Harrow Park looking north, Appeal scheme – summer mature landscaping on winter base photo, page 89

³⁸ In terms of 'openness' as open, not MOL/Green Belt context

significance would continue to be preserved and would not be negatively affected by the proposal.

87. It is important to note that views and the visual impact are not the only considerations one must take into account when assessing the impact of a proposal on settings and/or significance. In this respect, I have considered factors such as the relationship between the school campus and the hill, the historic evolution and growth of the school and wider community on Harrow-on-the-Hill, the relationship between the built and natural form, and also how the various heritage assets are experienced both currently and as a potential result of the proposal.
88. Taking all these factors in the round, I find that the proposal would not cause any harm to the historic environment. The proposal would preserve the setting of listed buildings in accordance with statutory duty set out in s66(1) of the PLBCA. It would also conserve heritage assets in a manner appropriate to their significance in policy terms; including the settings of designated heritage assets not covered by s66(1) PLBCA. In this respect, I do not consider that there are any conservation or heritage related reasons as to why permission should be refused.

Other matters/considerations

89. Other matters were raised at the Inquiry by interested parties, and those not covered elsewhere in this Report are considered here.
90. In terms of ecology and protected species such as birds, bats, badgers, and other such species protected by various national and international legislation, no main party to the Inquiry raised similar concerns. I am content that the surveys undertaken by the Appellant, and the response to concerns raised by an interested party³⁹ demonstrate that due consideration has been given to any protected species on or near to the appeal site.
91. Concerns relating to highway safety on Watford Road and the hospital service road were raised by a Councillor of the adjoining London Borough of Brent. In the main, these revolved around against using the hospital service road to access the site. It is important to note - and this point was clarified orally at the Inquiry - that this represented the views of the Councillor only, and there was not a formal objection from the London Borough of Brent.
92. The highways consultant for the Appellant provided a response to the concerns raised by the Brent Councillor⁴⁰. The concerns appear to relate to technical information and how accidents and/or incidents have been calculated. It is of very limited relevance in this specific case. No doubt the local planning and highways authorities will together with any developer give it consideration when determining how the proposal could be built out if approved.
93. I do not find, whether alone or in combination, these other matters provide justification for the refusal of planning permission.

³⁹ Core Documents, L Folder – New Info issued during Inquiry, Representations Folder, documents; APP-L-0071 and APP-L-0072

⁴⁰ See Core Documents, Folder App-L-0070

Consideration of potential 'Very Special Circumstances'

94. Put simply, both local and London-wide development plan policy require that proposals that amount to 'inappropriate development' in MOL, as is the case here, should be refused in the absence of clearly demonstrated very special circumstances (VSC) [13, 44].
95. The Appellant considers that there are a number of material considerations amounting to VSC which justify the MOL element of the proposal⁴¹. I consider each of these in turn before coming to an overall conclusion on VSC.
- (a) *educational need*;
96. No party at the Inquiry disputed the need for the science and sports buildings proposed. From my site inspection it was clear that the internal facilities and layouts of both the existing science and sports buildings are less than satisfactory. For example, for chemistry various substances, including those covered by COSHH⁴², have to be wheeled from preparatory labs to classrooms on different floors using dumb-waiter style lifts, and a lift platform – in one instance the delivery of chemicals requires lab technicians to cross the front of a classroom, potentially whilst lessons take place. This is demonstrative of issues over the general layout of these listed buildings, which encompass narrow staircases, a lack of lobby or waiting areas and in one instance the 'emergency' chemical spill shower located in a stairwell.
97. The existing sports building, whilst extended to provide a gym and weights room in recent years, lacks any formal seated teaching space; with a break-out space used for teaching and activities such as yoga or ping pong. The swimming pool lacks a teaching pool, meaning that learning to swim has to compete with activities such as lane swimming and water polo.
98. What is more, the pool itself suffers from issues such as water overspill and has very limited spectator viewing from a high balcony for swimming galas without fixed seating. I saw that the sports hall (which was being used for exams at the time of my site visit) was limited in size, meaning that wall climbing could not take place at the same time as badminton, basketball, or indoor hockey for example.
99. There are both dry and wet changing rooms within the existing sports building. I heard at the Inquiry that normally students at Harrow will change in the boarding houses before taking part in sports. However, there is still a need for changing rooms for 'wet' sports and also for when the school hosts other schools for inter-sports games or for when non-boarding schools use the facilities.
100. The proposal would not only meet the various existing and predicted needs of the school, but also provide capacity and facilities for local community (which I consider under point (b) below). Moreover, this need would be met to various club, national or international standards. The evidence of Mr Ploszajski⁴³, which in the main is not disputed by the main parties, identifies that the proposal

⁴¹ *Closing Submissions on behalf of Harrow School* dated 16 May 2019, Annex 1, Summary Policy Analysis, page 68, paragraph 7

⁴² COSHH – Control of Substances Hazardous to Health

⁴³ Sports Provision expert witness for the Appellant

would meet needs of various competitive bodies such as Badminton England, Basketball England, British Gymnastics, British Judo, England Netball, Swim England, Table Tennis England, Triathlon England and Volleyball England⁴⁴. This will allow pupils to continue to undertake various sporting activities at the school from entry-level through to GCSE and A-levels⁴⁵.

101. The ability of the proposal to meet both existing and future educational needs of the school for science and sports should be afforded significant weight.

(b) community need and the 22,000 hours use which the facility will provide;

102. The indicative timetable for the proposed sports building indicates that there are just under 34,000 hours of user time available for the sports building⁴⁶. This is aggregated from roughly 11,000 hours Harrow School use, 1,345 hours for partner schools as per the Community Use Agreement (CUA) and 10,043 hours for other third parties (roughly 11,388 hours in this category), and around 11,440 hours for the Harrow School Fitness Club, which currently provides public access to the school's sports facilities.
103. Put another way, the proposed sports building will enable the school to provide its sports facilities to other local schools and clubs, community groups, and individuals at market, low, or cost price, or for free for roughly two-thirds of its available user time. The other third of the time it will be used by Harrow School.
104. I note the point made by the Harrow Hill Trust at the Inquiry that more time could be provided for users other than the school. However, it is hard to fault Harrow School on this point when it would be funding the erection and ongoing costs of the building, and for around 66% of its total time the building would be accessible to various public users, including other schools or the general public through the Harrow School Fitness Club.
105. These are facilities which, as identified elsewhere in this Report, would meet national standards for various sports. This is clearly a public benefit to the local community for both public and private bodies, families and individuals: with state-of-the-art sports facilities provided for a wide range of age groups, and for both the public and private sector.
106. This is a benefit directly accruing from the proposal which should be afforded very substantial weight.

(c) provision of 1300 hours free access to state maintained local schools and a 400 further hours at a significantly discounted rate to deserving community groups proposed by LBH;

107. The agreed submitted s106 contains the Community Use Agreement (CUA), which is agreed between Harrow School and the London Borough of Harrow [32 to 35]. The final agreed version increased the number of free hours for local schools to 1300 hours, with an 'at cost' rate for 500 hours⁴⁷ for local community groups within the Harrow and nearby Brent local authority areas.

⁴⁴ See Paragraph 16 POE

⁴⁵ Mr Shyrane, School Bursar's Oral evidence to Inquiry

⁴⁶ POE Ms Mason, Appendix wm/G, page 121 of 208

⁴⁷ The total increased from 400 to 500 hours as a result of negotiations between the Appellant and Harrow Council. For the avoidance of doubt, the final Community Use Agreement contained within The

108. I note the concerns raised by the Harrow Hill Trust when cross-examining Mr Shyrane (the School's Bursar), that the 1300 hours would represent around 4% of the total number of available hours. However, Mr Shyrane⁴⁸ made clear that this is 1300 hours in addition to circa 10,000 hours already provided for third parties; and importantly this would be a minimum of 1300 hours of free access of the facilities. These hours would equate to roughly 33 to 34 hours per week during the normal yearly opening of 39 weeks for state schools.
109. The further 500 hours for other community groups or 'nominated permitted users' at cost rate would be managed by a management committee, as set out in the CUA itself. This committee would be made up of a mix of local residents to ensure that this is provided. This is also in addition to the roughly 11,000 hours for which the Harrow School Fitness Club has access to sports facilities.
110. I accept that providing even more than 1300 hours to local schools could have the appearance of being even more generous. The same can also be said of the 500 hours 'at cost' for nominated permitted users as per the CUA. Moreover, it is clear that relative to the time for other users, 1300 hours is a fairly small number of hours against the 11,000 hours Harrow School may use the facilities. However, there is a difference between how an all-boys boarding-only school operates and a state school, where children return home each evening. For example, the sports facilities can provide part of the extra-curricular activities outside of lessons as music, drama, and other clubs operating at Harrow School do.
111. The 1300 or so hours of free access by state-funded schools should also be calibrated by when state schools are able to use the facilities during term time. The ability to access the proposed facilities during school term time for around 34 hours a week provides flexibility to local state schools to arrange timetables that can better meet the needs of their students as much as those attending Harrow School.
112. Put another way, setting aside the free nature of the total of 1300 hours in relative terms, it would also be at times that would work in practical terms for local state schools. I was not directed to any detailed evidence where local state schools had objected to the provision of these hours on practical grounds. These are facilities and hours which would be provided to state schools and nominated permitted users with the initial capital cost borne by Harrow School rather than the public purse. Whilst this latter point may not necessarily be a planning matter per se, it is relevant to take into account that the significant benefits of the proposal as a result of the private investment of the school are not limited to Harrow School.
113. I consider the provision of around 1300 hours free access and 500 hours at cost rate access, as per the CUA, to be a manifest benefit which should be afforded significant weight.

Second Schedule of the completed S106 secures 500 hours for Nominated Permitted Users and 1300 hours for primary or secondary state schools within Harrow or Brent (see the submitted CUA, paragraphs 4.1, 4.2 and 4.3, page 7).

⁴⁸ In answering the points concerning the hourly break down set out in Ms Mason's Appendix wm/G, page 121 of 208.

(d) The MOL extension;

114. I have considered the MOL extension or land swap within the MOL section of this Report [45 to 48]. For the reasons given therein, I considered that this benefit should be afforded no more than minimal weight.

(e) lack of alternative sites;

115. The Closing Submissions of the Appellant reflects on the lawfulness of considering 'alternatives' in caselaw and planning policy terms⁴⁹. The purpose of the planning Inquiry process is to test the competing evidence of main and interested parties, so as to arrive at a reasonable, considered and justified decision or recommendation. In this case, where the proposal will result in harm to MOL which has a heightened level of protection through planning policy, it is only proper that if alternative sites or locations are suggested these are considered: to not do so would be unfair.

116. That said, in this case I have found that the alternative locations suggested by the Mayor's concept schemes submitted to the Inquiry to be fraught with unknowns which diminish and undermine their realistic implementation [57 to 59]. Put another way, in the absence of sufficient evidence to the contrary, I do not consider that they are realistic alternatives which would meet the identified and agreed need of the school.

117. The Appellant has undertaken a relatively rigorous review of other sites prior to the submission of the appeal scheme⁵⁰. This has included the master planning to inform the *Harrow School SPD* (which was subsequently adopted following public consultation; including with the Greater London Authority), the assessment set out in the submitted *Design and Access Statement* dated April 2016⁵¹, the assessment conducted following Harrow Council's planning committee deferral⁵², and a further review following Harrow Council's resolution to grant planning permission and prior to the Stage II response of the Mayor⁵³⁵⁴.

118. It is clear that through these various reviews, assessments and considerations by a number of different parties, the proposed location of the sports building in MOL and the proposed science building within the Conservation Area are the most favourable locations. What is more the alternatives, whether considered by the Mayor, the local planning authority or the Appellant, are more unlikely to be feasible in either technical or planning policy terms.

119. The lack of realistic and feasible alternative locations to deliver the identified sports and science need of Harrow School weigh significantly in favour of the proposal.

⁴⁹ See *Closing Submissions on behalf of Harrow School* dated 16 May 2019, pages 8 to 19, Paragraphs 17 to 44

⁵⁰ See Mr Paterson's POE, pages 44 to 47, Paragraphs 6.28 to 6.37

⁵¹ APP Drop box, Folder E, Document 106

⁵² APP Drop box, Folder E, Document 203

⁵³ APP Drop box, Folder F, Document 301

⁵⁴ All references from *Closing Submissions on behalf of Harrow School* dated 16 May 2019, page 15, paragraph 36

(f) compliance with the SPD which specifically proposes the location of the sports building in the location of the appeal scheme;

120. The Harrow School Supplementary Planning Document (the SPD) was adopted in July 2015 in order to *'help Harrow School strengthen its role as a world-class education institution by outlining an agreed masterplan for the development and change of the School Estate over the next 20 years. Such an approach is consistent with the School's site allocation in the Harrow Local Plan.'*⁵⁵
121. The document goes on to identify potential issues with highway safety, needing to consider various heritage assets such as eight conservation areas and listed buildings, the significance of Harrow's skyline, and that the School is a major employer and contributes greatly to the local economy and community.
122. It is clear that as a supplementary planning document, the SPD is not a planning policy or the development plan. However, the document recognises that it is a material consideration which will be used by the Council when determining future planning applications for the School⁵⁶. What is more, it is clear even were someone to only skim read the document that the SPD seeks to act as a masterplan for the future development of the School site over the next 20 or so years. Put another way, the SPD is a clear result of the local planning authority engaging with the School, the local community and other bodies to consider how the school site could be developed in the coming years.
123. Nowhere is this clearer than the diagram on page 25 labelled Figure 6: Indicative Proposal Areas. This clearly identifies Polygon 2 as an area for a sports building and Polygon 3 as an area for a science building. Both of these are areas that directly correlate to proposed locations of the appeal scheme. I acknowledge that this drawing is indicative – that is an indication rather than a definitive location: it does not bind a decision-maker to a specific outcome. It is also clear that the SPD is nothing more than a material consideration.
124. However, the purpose of master planning is to provide a broad direction and indication for where development may be acceptable, and for this to then be studied in greater detail. This greater study has been undertaken since 2015 as detailed in (e) above and found after careful consideration that the locations set out in the SPD were the most feasible and realistic to deliver the agreed need required by the School for science and sports buildings.
125. In such circumstances, the compliance with the Council's site-specific adopted SPD should be afforded substantial weight in this instance.

(g) heritage benefits;

126. The heritage benefits considered by the Appellant to weigh in favour of the proposal include: the opening up of views of the historic ridge and out over greater London; the re-planting of the boundary to Harrow Park⁵⁷; the removal of the gardeners compound⁵⁸; the demolition of the existing sports buildings with

⁵⁵ Harrow School SPD, Page 2, Paragraph 1.1

⁵⁶ Ibid, page 4, Paragraph 1.15

⁵⁷ *Closing Submissions on behalf of Harrow School* dated 16 May 2019, page 27, paragraph 60, subsection e) vi)

⁵⁸ Ibid, page 42, Paragraph 99, subsection e)

the area returned to open landscaping to enhance the setting of the Grade II listed Music Schools and setting of the conservation area; the provision of access into the historic environment allowing them to be appreciated in terms of the significance of the listed buildings and conservation area; and ensuring the continuance of the institution of Harrow School, which is a protector of numerous heritage assets⁵⁹.

127. I acknowledge that some of these potential 'heritage benefits' are not necessarily reliant upon the delivery of the proposed scheme. For example, it would be possible for the Appellant to re-plant trees along the boundary to Harrow Park. That said, it is clear that these benefits, if the Secretary of State concurs with my findings in respect of heritage matters elsewhere in this Report [88] will enable current and future generations to experience, understand, see, and appreciate the plethora of designated heritage assets on or near to the appeal site including their significance.

128. In this respect, the heritage benefits of the proposal should be afforded modest weight in favour of the proposal.

(h) landscaping benefits;

129. The Appellant suggests that the proposal would result in a number of potential landscaping benefits including; substantial tree planting - including along Harrow Park; the opening up of panoramic views from and to the Chapel; the provision of well-designed building sitting within the sports zone of the school; ensuring that none of the protected views as set out in Core Document App-D-205 are intruded upon, the that the zone of theoretical visibility is extremely limited and ensuring that views where the sports building are prominent the area is currently already experienced as part of a sports zone, where it is entirely appropriate to see a sports building adjacent to facilities such as the running track⁶⁰.

130. Similar to my findings in respect of heritage benefits, some of these 'benefits' do not necessarily rely upon the delivery of the appeal scheme. However, the only points where any significant objection was raised in respect of landscaping was whether trees would obscure the axial path views when fully matured given their potential canopies and whether the new planting near to Harrow Park would respect the historical evolution of that heritage asset⁶¹.

131. In both respects, it is clear from the variously submitted CGIs, even allowing for some creative enthusiasm by the CGI-drawer⁶², that the proposed landscaping would be part of a wider scheme for the eastern side of the hill – allowing students, visitors, and members of the public using the various rights of way, to appreciate what is a school campus set within fairly visually open landscaped grounds. Put another way, the landscaping scheme demonstrates the Appellant's commitment to the long-term landscaping of the school site, and its contribution to the wider landscape in which it sits.

⁵⁹ Ibid, Annex 1, Summary Policy Analysis, Page 73, paragraph 19

⁶⁰ Ibid, Pages 37 to 38, paragraph 90

⁶¹ Raised by the London Parks and Gardens Trust at the Inquiry

⁶² For example, in some cases new trees had been put directly in front of the view point on the CGI where they did not exist on the ground at the time of the site inspection.

132. In this respect, the landscaping benefit identified should be afforded moderate weight in favour of the proposal.

(i) biodiversity benefits;

133. The ecological surveys⁶³ carried out by the Appellant's consultants indicate that the site is not considered to currently have any material ecological value. With little evidence to the contrary, I see no reason to disagree. Whilst the proposal would result in the loss of around 92 trees, none of these are category A trees, and those to be removed would be replaced on a 3:1 basis⁶⁴.

134. In this respect, the proposal would accord with the aims of paragraph 170 of the Framework, which seeks to provide net gains for biodiversity. For example, the ability to provide new or different habitats for various species – including the woodland walk area adjacent to Football Lane. Exercising the duty under s40 of the *Natural Environment and Rural Communities Act 2006*, I have carefully considered the purpose of conserving biodiversity. It is evident from the various surveys submitted and the ability to use conditions such as Condition 17; which would require the provision of bird boxes for nesting, bat boxes and invertebrate habitats, enables the appeal site to provide specific and suitable habitats for a number of animal species where currently such provision is limited.

135. Moreover, the proposal would also require consideration under s197 of the *Town and Country Planning Act 1990*, as amended, which seeks to include appropriate provision for the preservation and planting of trees. In the provision of trees at a ratio of 3:1 for each lost tree, the proposal provides a significant opportunity for the appeal site to provide a tangible net biodiversity gain for a multitude of bird, mammal and invertebrate species on and near to the appeal site.

136. The net biodiversity gains of the proposal should be afforded substantial weight in favour of the proposal.

(j) benefits to pupil safety;

137. The school campus sits astride the ridge of Harrow-on-the-Hill with the highway called High Street running along the ridge. This requires pupils to use the zebra crossings on High Street and/or the narrow footpaths either side, to access various school buildings. Added to this, pupils also use the public right of way, which is partially shared with motorised vehicles along Football Lane without footpaths to access various school buildings. Vehicles use the uppermost part of Football Lane in order to access the buildings such as the Shepherd Churchill Dining Room and the groundsman's building.

138. The proposal would reduce some areas of potential conflict between students and vehicles by re-routing these and/or making the axial route primarily for pedestrians. For example, pupils would be encouraged to use the axial route to access the science, modern languages and sports buildings rather than Football Lane as is presently the case. The Appellant suggests that the enhancement of pupil and visitor safety should weigh heavily in favour of the scheme⁶⁵.

⁶³ Core Documents; APP-E-0120, APP-H-0201-0211

⁶⁴ *Closing Submissions on behalf of Harrow School* dated 16 May 2019, Annex 1, pages 62 and 63, paragraphs 153 and 154

⁶⁵ *Closing Submissions on behalf of Harrow School* dated 16 May 2019, Annex 1, page 62, paragraph 152

139. However, it may also be possible for the school to deliver such safety improvements by other means. For example, placing a gate to discourage vehicles from entering down Football Lane – though this in itself may be fraught with difficulties over access rights. In any case, pupils and staff would still need to cross High Street in order to access the various classrooms and/or boarding houses on the other side of the highway. The provision of the axial route is unlikely to result in any significant benefits in respect of this matter.
140. In this respect, whilst this benefit would reduce the potential for conflict on, at or around Football Lane – where access to the science buildings is currently made from – any issue with access along or across the High Street is likely to remain. This factor should therefore be afforded no more than moderate weight in favour of the proposal.

(k) compliance with all other policies set out in the Closing Submissions of the Appellant.

141. I have found that the proposal in this case would comply with the policies of the adopted development plan for the area [147, 150]. However, I am unconvinced that this is a benefit as such. Compliance with adopted development plan policy is a consideration under s38(6) of the *Planning and Compulsory Purchase Act 2004*, as amended. Although if a development complies with the adopted development plan realistically there is a greater potential for it to be granted planning permission; material considerations still require consideration. However, for the purposes of other considerations in this report, I do not consider that this should be afforded anything more than neutral weight in this instance.

Conclusion on whether Very Special Circumstances outweigh harm

142. I find that the other considerations in this case clearly outweigh the harm to MOL that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Overall Conclusions and The Planning Balance

143. The proposed development would result in harm to MOL through being inappropriate development and resulting in the erosion of openness of MOL. Such harm should be afforded substantial weight against the proposal.
144. I have found that the proposal would not result in any other harm, nor would it result in any harm to the settings of nearby listed buildings or other designated heritage assets. As such, this factor has no weight against the grant of planning permission in this case.
145. In respect of MOL, I have found that the other considerations put forward in this case would clearly outweigh the harm to MOL I have identified.
146. Section 38(6) of the *Planning and Compulsory Purchase Act 2004*, as amended, requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

147. It is my view, following careful consideration of the written, oral and visual evidence submitted by all parties to the Inquiry, that the proposal in this case would accord with Policy DM16 of the DMDPD, Core Policy 1 of the CS, and Policy 7.17 of the London Plan, which seek the aforesaid aims, which include the inappropriate development in MOL should be '*refused in the absence of clearly demonstrated very special circumstances*'. [13].
148. For similar reasons, I find that the proposal would accord with the Policies of the Framework, including those relating to heritage assets and Green Belts⁶⁶.
149. I note the reference to Policy G3 of the draft London Plan within the reason for refusal. However, given the unadopted status of this policy I afford it limited weight as a material consideration, as do the main parties in the agreed SOCG [14]. What is more, it does not alter my considerations of the acceptability and conformity of the proposal when considered against the adopted development plan for the area.
150. Accordingly, I conclude that the proposed development would accord with the adopted development plan for the area when considered as a whole and that there are no material considerations which indicate a decision otherwise than in accordance with it.

Inspector's Recommendation

151. I recommend that the appeal be allowed and planning permission granted subject to the suggested conditions listed in Annex A of this report.
152. However, the Secretary of State may find that the other considerations suggested by the Appellant do not amount to the very special circumstances required justifying inappropriate development in MOL. He may also conclude that these very special circumstances also do not overcome the other harm identified to the heritage assets by the Mayor.
153. Unlike the Appellant and I, he may also conclude that the proposal fails to preserve the setting of nearby listed buildings, as required by the PLBCA, and that this harm to heritage assets; being less than substantial, is not outweighed by the public benefits cited in accordance with Paragraph 196 of the Framework.
154. If the Secretary of State is minded to disagree with my recommendation the appeal should be dismissed and planning permission not granted.

Cullum J A Parker

INSPECTOR

⁶⁶ Although not Green Belt per se, local planning policy suggests that developments involving MOL designated land should be dealt with in a similar way.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Edward Grant, Barrister

Instructed by the Solicitor of
Harrow Council

Callum Sayers, BRP (Hons)

Policy Officer
(for S106/CUA element only)

FOR THE MAYOR OF LONDON:

Douglas Edwards QC and
Sarah Sackman

Instructed by Steen
Smedegaard, LARTPI
(Transport for London)

He called

Nigel Barker-Mills, BA(Hons), PHD, DIP
Cons AA, IHBC, FSA

Heritage

Ben Wright, BA(Hons), DIP LA, CMLI

Landscape

Andrew Pryke, BA(Hons), Dip. Arch, RIBA

Architect

Alison Flight, BA(Hons) MRTPI

Planning

FOR THE RULE 6 PARTY – HARROW HILL TRUST (HHT):

Paul Catherall

Accountant acting as advocate
and witness for the HHT

FOR THE APPELLANT:

John Steel QC and
Victoria Hutton

Instructed by Harrow School

He called

Paddy Pugh, BSc(Hons), PG Dip BC, PG Dip TP,
MRTPI

Heritage

Mike Luszczak, BSc(Sp. Hons, MA)

Landscape

Nick Shyrane, MBE, BA (Oxon), MPhil (Cantab)

School Bursar

Tony Ploszajski, MA (Cantab), PGDip. Planning
for Leisure

Sports provision

Wendy Mason, BA, Dip Arch RIBA

Architect

Matthew Paterson, BSc, MRRP

Planning

Christine Hereward

Solicitor

(for S106/CUA element only)

INTERESTED PERSONS:

Ms E G Lloyd
Sophie Seifalian

Retired solicitor and local resident
Historian and researcher for the London Parks and
Gardens Trust

Councillor Keith Perrin

Councillor for Brent Council and local resident

DOCUMENTS SUBMITTED AT THE INQUIRY

A number of documents were submitted at the Inquiry. The listed in the first table below are those submitted in paper form.

Those listed in the *Document Register and Issue Sheet* on the following two pages were submitted electronically at the Inquiry (via 'Dropbox' software) which was found at the following link, and was referred to by the main parties at the Inquiry:
<https://www.dropbox.com/sh/sj4c32184zin2sn/AAA4qFsf35DehyyiBUf58Tkla?dl=0>

For the avoidance of doubt, all of these documents were considered in reaching my recommendation.

Paper submitted documents:

LPA1 List of appearances for LBH
LPA2 Opening Statement by LBH
LPA3 Closing Submissions by LBH

MAYOR1 List of Appearances for the Mayor of London
MAYOR2 Opening statement for the Mayor of London
MAYOR3 Summary of the submissions for the Mayor of London
MAYOR4 Submissions for the Mayor of London

APP1 List of Appearances on behalf of Harrow School
APP2 Opening statement on behalf of Harrow School
APP3 Drawing HSS_RSS_00_ZZ_DR_A_0570 – Planning Appeal Inquiry Site Visit - Route
APP4 Excerpt from webpage – About – Harrow Hill Trust, dated 07/05/2019
APP5 Drawing HSS_RSS_00_ZZ_DR_A_0570 – Planning Appeal Inquiry Site Visit – Route (A3 version used at the site inspection and shared with all parties at the inspection)

R6-1 Excerpt from webpage – Remove signature from petition (how to on change.org)

R6-2 Excerpt from Agenda Item – Reference from Special Cabinet held on 6 June 2013 – petition in relation to John Lyon Sports Centre

IP1 Written submission from Sophie Seifalian on behalf of the London Parks and Gardens Trust

IP2 Response to the rebuttal by David Tucker Associates (APP-H-0303 pages 159-161) in response to Councillor Keith Perrin's comments made October 2018

IP3 Email from William Ellis, local resident, dated 2 May 2019

IP4 Document entitled 'Community Use Agreement' from Ms E G Lloyd

IP5 Photograph entitled 'Back of No. 4 Pebworth Road'

IP6 Photograph entitled '1st Floor of 16 Pebworth '

DOCUMENT REGISTER & ISSUE SHEET

JOB TITLE	HARROW SCHOOL SPORTS & SCIENCE APPEAL
PROJECT	HSS
ELEMENT	Information Submitted During Inquiry

	Vol	No.	Document
APP	L	0001	Erratum to Compendium of CGIs
APP	L	0002	Rebuttal to PoE of AP - Wendy Mason
APP	L	0003	Rebuttal to PoE of AP - Wendy Mason - drawings only
APP	L	0004	Harrow Park (Harrow School) London Parks & Gardens Trust
APP	L	0005	Extract from HHT website
APP	L	0006	Extract from Harrow School 2017 ACS
APP	L	0007	Chronology of Planning Events
APP	L	0008	Email Correspondence between Historic England and P Pugh
APP	L	0009	Capital Ring Section 9 v2
APP	L	0010	APP-L-0010 Shell-Curriculum-2019_V3
APP	L	0011	Correspondence between LBH and GLA re SPD
APP	L	0012	DRAFT Harrow School Strategic Estates Masterplan
APP	L	0013	HE Decisions: Legal Requirements for Listed Building and Other
APP	L	0014	Rebuttal of Andrew Pryke's Evidence with AP response
APP	L	0015	Extract from Russ Canning CMP for Harrow Park - Fig 10.8
APP	L	0016	Harrow School - List of Sports
APP	L	0017	Addendum to Personal Profile of Rule 6 Party
APP	L	0018	Area of Special character Harrow on the Hill
			<i>Written Reps received during course of Inquiry</i>
APP	L	0050	Response to the rebuttal by David Tucker Associates in response to Councillor Keith Perrin
APP	L	0051	Keith Barker 2019.05.06
APP	L	0052	William Ellis
APP	L	0053	Ms G Lloyd 2019.05.13
APP	L	0054	Further response from Cllr Perrin
			<i>Appellant response to Written Reps</i>
APP	L	0070	Response to K Perrin
APP	L	0071	Harrow School Appeal - Ecology Rebuttal
APP	L	0072	Response to points raised by Ms Lloyd re badgers
			<i>Other Docs</i>
APP	L	0100	Costs Application
APP	L	0101	Costs Application - Response

DOCUMENT REGISTER & ISSUE SHEET

JOB TITLE	HARROW SCHOOL SPORTS & SCIENCE APPEAL
PROJECT	HSS
ELEMENT	Information Submitted During Inquiry

	Vol	No.	Document
			<i>Cost Application</i>
APP	L	0100	Costs Application
APP	L	0101	Costs Application - Mayor of London Response
APP	L	0102	Brief Response to Mayor Rebuttal to Costs Application
			<i>Draft Planning Conditions</i>
APP	L	0200	Draft Planning Conditions
APP	L	0201	Pre-commencement Conditions
			<i>S106</i>
APP	L	0300	S106 including CUA
APP	L	0301	Addendum to Local Planning Authority
APP	L	0302	Updated Sustainable Travel Statement (Fourth Schedule to S106)
			<i>Closing Statements</i>
APP	L	0401	Mayor of London Summary Closing
APP	L	0402	Mayor of London Full Closing
APP	L	0404	LBH Full Closing
APP	L	0406	HHT Full Closing
APP	L	0407	Harrow School Summary Closing
APP	L	0408	Harrow School Full Closing

DOCUMENTS SUBMITTED RELATING TO APPLICATION FOR COSTS

(Note these may replicate those already listed above)

Title	Dated
Costs Application on behalf of Harrow School	12 May 2019
(Draft) Skeleton costs on behalf of Harrow School	Undated
<i>Derbyshire Dales DC V SoS CLG [2009] EWHC 1729 (Admin)</i>	17 July 2009
<i>Regina (Mount Cook Land Ltd and another) v Westminster City Council [2003] EWCA Civ 1346</i>	May and October 2003
<i>Trusthouse Forte Hotels Ltd v SoS for Environment</i>	June 1986
<i>Westerleigh Group Limited v SoS CLG, Blaby District Council, Memoria Limited [2014] EWHC 4313 (Admin) 2014 WL 6862827</i>	18 December 2014
Mayor of London's Written Response to Harrow School's Application for Costs	15 May 2019

Annex A – List of suggested conditions to impose

1. The development hereby approved shall be begun before the expiration of three years from the date of this planning permission.

REASON : To comply with the provisions of section 91 of the Town and Country Planning Act 1990.

2. Unless otherwise agreed in writing by the local planning authority, the development shall be carried out in accordance with the approved drawings:

P.05.01 ; P.05.02; P.5.10; P.10.02; P.10.11; P.10.14; P.10.17; P.10.25; P.11.01; P.12.01 B; P.12.02 B; P.12.10 B; P.12.11 B; P.12.12 B; P.12.13 B; P.12.14 B; P.12.20 B; P.12.21 B; P.12.22 B; P.12.23 B; P.12.24 B; P.12.25 B; P.12.26 B; P.12.27 B; P.12.30 A; P.12.31 A; P.12.32 A; P.12.33 A; P.13.01B; P.13.04 B; P.13.20 A; P.13.21 A; P.13.22 A; P.13.23 B; P.13.24 A; P.13.25 A; P.13.30 A; P.13.31 A; P.13.32 A; P.13.33 A; P.13.35 A; P.13.50A; P.13.51 A; P.13.52 A; P.13.53 A; P.13.54 A; P.14.01 B; P.14.10 B ; P.14.15 B; P.14.16 B; P.14.17B; P.14.18 A; P.14.25 B; P.14.26 B; P.14.31 A; P.14.32 A; P.14.33 A; P.14.34 B; P.14.35 B; P.14.40 B; P.14.41 B; P.14.42 B; P.14.43 B; P.14.44 B; P.14.45 B; P.14.46 A; P.14.47 B; P.14.48 A; P.14.49 B; P.14.50 A; P.14.51 A; P.14.52 A; P.14.53 A; P.14.54 A; P.14.55 A; P.14.60 A; P.14.65 A; P.14.70 A; P.28.10 B; P.28.11 A; P.28.12 B; P.28.13 B; P.28.14 B; P.28.15 A; P.28.16 B; P.28.17 A; P.28.22 A; P.28.30 A; P.28.31 A; P.28.32 A; P.28.33 A; P.28.35 A; P.28.36 A; P.90.10; P.90.11; P.90.12; P.90.20; P.90.21; P.90.22; P.90.25; P.90.26; P.90.27; P.90.28; P.90.30; P.90.32; P.110.01 A; P.110.02 A; P.110.03 B; P.110.04 B; P.110.05 B; P.110.06 B; P.110.07 A; P.110.08 B; P.110.09 B; P.110.10 A; P.110.11 A; P.110.12 B; P.110.13 A; P.110.14 B; P.110.15; P.110.22; P.110.23 A; P.110.24 A; P.110.25 A; P.110.26 A; P.110.28 A; P.110.30; P.110.31; P.110.32 A; P.110.41; P.110.42; P.110.43; P.110.44; P.110.45; P.110.46; P.110.47; 90.20 A; 90.21 A; 90.30 A; 90.31 A; 90.40 A; 90.41 A; and 90.50 A; 90.51 A.

REASON : To ensure that the development is carried out in accordance with the details submitted in the planning application and to provide certainty.

3. No development shall take place, including any works of demolition, until a dust, noise and vibration management plan has been submitted to, and agreed in writing by, the Local Planning Authority. The plan shall detail measures for the control and reduction of dust emissions, noise and vibration impacts associated with demolition, earthworks, construction and track out, and arrangements for monitoring air quality during construction. The development shall be carried out in accordance with the plan so agreed.

REASON : To ensure that measures are put in place to manage and reduce dust emissions, noise and vibration impacts during demolition and construction and to safeguard the amenity of neighbouring occupiers, in accordance with Policies 7.14 & 7.15 of the London Plan (2016), Policies SI1 and D13 of the Draft London Plan (2017) and Policy DM 1 of the Development Management Policies Local Plan (2013). To ensure that measures are agreed and in place to manage and reduce dust during the demolition and construction phases of the development, this condition is a PRE-COMMENCEMENT condition.

4. No development shall take place, including any works of demolition, until a demolition and construction waste management plan, setting out arrangements for the handling of excavation, demolition and construction waste arising from the development, and to make provision for the recovery and re-use of salvaged materials wherever possible, has been submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the agreed plan or any amendment or variation to it as may be agreed in writing by the local planning authority.

REASON : To ensure that waste management on the site is addressed from construction stage and to promote waste as a resource, in accordance with Policy CS1 X of the Core Strategy (2012). To ensure that measures are agreed and in place to manage and re-use waste arising during the demolition and construction phases of the development, this condition is a PRE-COMMENCEMENT condition

5. No development shall take place, including any works of demolition, until a revised construction and logistics plan, to include details on temporary access from Watford Road, detailed construction drawings and a traffic management plan, has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed plan or any amendment or variation to it as may be agreed in writing by the local planning authority.

REASON: To ensure that the transport network impact of demolition and construction work associated with the development is managed in accordance with Policy 6.3 of the London Plan (2016) and Policy T4 of the Draft London Plan (2017). To ensure that measures are agreed and in place to manage and access and egress during the construction phases of the development, this condition is a PRE-COMMENCEMENT condition.

6. The development hereby approved shall not be commence until details of the means of protection of the trees, hedgerows and other existing planting to be retained within the site, and adjacent trees within adjoining sites, have been submitted to, and agreed in writing by, the local planning authority. The details shall include:

- a) arrangements for audited arboricultural monitoring of the site during the construction works;
- b) identification of root protection areas;
- c) the method of any excavation proposed within the root protection areas;
- d) the type, height and location of protective fencing; and
- e) measures for the prevention of soil compaction within the root protection areas.

The tree protection measures shall be put in place prior to the commencement of the development, including demolition/site clearance, and remain in place throughout the development. The construction of the development shall be carried out in accordance with the details so agreed or any amendment or variation to them as may be agreed in writing by the local planning authority.

REASON: To ensure that the retention and survival of trees, hedgerows and other planting of significant amenity value within the site that are to be retained, and trees within adjoining sites, are safeguarded during construction, in accordance with Policy DM 22 of the Development Management Policies Local Plan (2013). To ensure that measures are agreed for the protection of trees and tree roots during the demolition and construction phases of the development, this condition is a PRE-COMMENCEMENT condition.

7. Notwithstanding the approved plans, prior to the commencement of the development hereby permitted, details for a scheme for works for the disposal of sewage, surface water and surface water attenuation and storage works on site as a result of the approved development shall be submitted to the local planning authority to be approved in writing. The development shall be completed in accordance with the approved details and shall thereafter be retained.

REASON: To ensure that the development has adequate drainage facilities, to reduce and mitigate the effects of flood risk and would not impact the character and appearance of the development, in accordance the recommendations of Core Strategy (2012) policy CS1, the NPPF and policies DM1, DM9 & DM10 of the Harrow Development Management Local

Policies Plan (2013). Details are required prior to commencement of development to ensure a satisfactory form of development.

8. The development hereby permitted shall not commence beyond damp proof course level until a plan for the on-going maintenance of the sustainable drainage measures to be implemented across the development shall be submitted to, and agreed in writing by, the local planning authority. The plan shall thereafter be implemented for the lifetime of the development, or any amendment or variation to the plan as may be agreed in writing by the Local Planning Authority.

REASON : To ensure that adequate measures for the control and disposal of surface water from the development are maintained on the site, in accordance with Policy 5.13 of the London Plan (2016), Policy SI13 of the Draft London Plan (2017) and Policy DM 10 of the Development Management Policies Local Plan (2013).

9. Any telecommunications apparatus, extraction plant, air conditioning units and other plant or equipment that is required to be installed on the exterior of the buildings hereby approved shall be carried out in accordance with details that shall first have been submitted to, and agreed in writing by, the local planning authority, and shall be permanently retained as such thereafter. The details shall include siting, appearance, any arrangements for minimising the visual and (if relevant) odour impacts and any arrangements for mitigating potential noise or vibration.

REASON : To ensure that the development achieves a high standard of design and amenity; and to ensure that neighbouring occupiers are not exposed to unreasonable noise, disturbance and odour; in accordance with Policies 7.6 and 7.15 of the London Plan (2016), Policies D2 and D3 of Draft London Plan (2017) and Policy DM 1 of the Development Management Policies Local Plan (2013).

10. Notwithstanding the approved plans, prior to the commencement of development hereby permitted the following specifications shall be submitted to, and agreed in writing by, the local planning authority:

- a) the detailed design of all ramps, steps and pathways within the external areas of the development;
- b) the thresholds, door opening widths and landing areas at all entrances between the external areas of the development and the approved buildings; and
- c) the levels and layout of pedestrian route(s) between the parking areas within the site and the entrances of the approved buildings.

The development shall be carried out in accordance with the specifications so agreed, or any amendment or variation to them as may be agreed in writing by the local planning authority, and shall be permanently retained as such thereafter.

REASON : To ensure that the development contributes to the creation of a Lifetime Neighbourhood and an inclusive environment, in accordance with Policies 7.1 & 7.2 of the London Plan (2016), Policy GG1 of the Draft London Plan (2017) and Policy DM 2 of the Development Management Policies Local Plan (2013). To ensure that measures are agreed and in place in regard to the detailed design of internal and external areas prior to the demolition and construction phases of the development, this condition is a PRE-COMMENCEMENT condition.

11. Notwithstanding the plans and supporting documents hereby approved, prior to the commencement of the development beyond damp proof course level, details of the palette of materials and/or colours for all of the external surfaces have been submitted to, and approved in writing by, the Local Planning Authority. Details to be provided shall include two sample

panels of approximately 2 metres by 2 metres to be provided on site, of typical parts of the building, showing the material finishes of all external surfaces including a sample window/s and door/s. The development shall be built in accordance with the approved details and shall thereafter be retained.

REASON: In order to mitigate the harm to character and setting of the heritage assets affected and to ensure that the development achieves a high standard of design in accordance with Policies 7.6 and 7.8 of the London Plan (2016), Policies D2 and HC1 of the Draft London Plan (2017) and Policies DM 1 and DM7 of the Development Management Policies Local Plan (2013).

12. Notwithstanding the approved plans the development shall not commence beyond damp proof course level, until details to show additional secure cycle parking facilities on site shall be submitted to, and agreed in writing by, the local planning authority. The development shall be carried out in accordance with the details so agreed or any amendment or variation to them as may be agreed in writing by the local planning authority.

REASON : To ensure that the development achieves a high standard of design, and is safe & secure, in accordance with Policy 7.6 of the London Plan (2016), Policy D2 of the Draft London Plan (2017) and Policies DM 1 and DM 2 of the Development Management Policies Local Plan (2013).

13. Before the hard surfacing hereby permitted is brought into use the surfacing shall EITHER be constructed from porous materials, for example, gravel, permeable block paving or porous asphalt, OR provision shall be made to direct run-off water from the hard surfacing to a permeable or porous area or surface within the curtilage of the site.

REASON: To ensure that adequate and sustainable drainage facilities are provided, and to prevent any increased risk of flooding in accordance with policy DM22 of The Development Management Policies Local Plan 2013.

14. Before any landscaping is carried out within the site, including any works preparatory to such landscaping, a scheme for the hard and soft landscaping of the whole site shall be submitted to, and agreed in writing by, the local planning authority. Details shall include:

- a) planting plans (at a scale not less than 1:100), written specification of planting and cultivation works to be undertaken and schedules of plants, noting species, plant sizes and proposed numbers / densities and an implementation programme;
- b) existing and proposed site levels, clearly identifying changes to landform;
- c) details of hard surface materials;
- d) details of all boundary treatment, including fences, means of enclosure and gates;
- e) detailed drawings and specifications of all levels, both existing and proposed; and
- f) detailed drawings and specifications of any proposed external lighting and flood lighting.

The approved hard and soft landscaping shall be carried out in accordance with the approved details agreed prior to occupation of the new sports building save that all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following first occupation of the sports building. Any existing or new trees or shrubs which, within a period of 5 years from the completion of the development, die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season, with others of a similar size and species and the approved hard and soft landscaping shall thereafter be retained.

REASON: To ensure that the development secures satisfactory hard and soft landscaping details for all parts of the site, in accordance with Policies DM 1 and DM 22 of the Development Management Policies Local Plan (2013).

15. A landscape management plan, including species numbers/locations, long term design objectives, management responsibilities and maintenance schedules for all communal landscape areas shall be submitted to, and approved in writing by, the local planning authority prior to the occupation of the development. The landscape management plan shall be carried out as approved.

REASON: To safeguard the appearance and character of the area, and to enhance the appearance of the development in accordance with policy DM22 of The Development Management Policies Local Plan 2013.

16. No impact piling shall take place until a piling method statement has been submitted to, and agreed in writing by, the local planning authority. The statement shall detail the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure and the programme for works. All piling activities on the site shall be undertaken in accordance with the statement so agreed.

REASON To ensure that measures are agreed and in place to manage and re-use waste arising during the demolition and construction phases of the development, this condition is a PRE-COMMENCEMENT condition. To ensure that sewerage infrastructure is safeguarded from potential damage in the interests of flood risk management and reduction, in accordance with Policy DM 9 of the Development Management Policies Local Plan (2013).

17. Notwithstanding the approved plans the development shall not commence beyond damp proof course level, until details of the provision of appropriate bird nesting boxes, bat roosting boxes/tubes and invertebrate habitat for the enhancement of biodiversity within the design of the buildings hereby permitted and the wider development area have been submitted to, and agreed in writing by, the local planning authority. The details shall comprise:

- a) species catered for, number, location, orientation and type of bird boxes incorporated into or affixed to new buildings;
- b) number, location, orientation and type of bat boxes/tubes incorporated into or affixed to new buildings;
- c) number, location, orientation and type of bird and bat boxes affixed to appropriate trees; and
- d) location and form of invertebrate habitat, and for example may include log piles and stag beetle loggeries.

The development shall not be first used until the details so agreed have been implemented, and shall thereafter be retained.

REASON : To ensure that the development appropriately protects and enhances the biodiversity value of the site in accordance with Policy 7.19 of the London Plan (2016), Policy G6 of the Draft London Plan (2017) and Policies DM 20 and DM 21 of the Development Management Policies Local Plan (2013).

18. Notwithstanding the details within the submitted Geotechnical and Geoenvironmental Investigation Report (March 2016), in the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy 5.21 of the London Plan 2016, and Policy DM 15 of the Harrow Development Policies Local Plan 2013

19. Prior to the occupation of the development hereby permitted, a full Delivery and Service Plan demonstrating safe vehicular access to and from the school dining hall, shall be submitted to and approved in writing by the Local Planning Authority. The Delivery and Service Plan thereby approved shall be adhered to thereafter.

REASON: To ensure that the development does not harm the safety and free flow of the routes within the development site, and safeguard the pupils from internal traffic movements, thereby according with policies DM1, DM42, DM43 and DM44 of the Harrow Development Management Policies Local Plan 2013. Details are required prior to occupation to ensure a satisfactory form of development.

20. The site wide heating system boiler(s) shall be installed and thereafter retained in accordance with a specification that shall first have been submitted to, and agreed in writing by, the local planning authority.

REASON : To ensure that the emissions from the combined heat and power system comply with the standards published at Appendix 7 of the Mayor of London's Sustainable Design & Construction supplementary planning document (2014) (or such appropriate standards as may supersede them) and that the development is consistent with the provisions of Policy 7.14 of the London Plan (2016), and Policy SI1 of the Draft London Plan (2017).

21. The refuse and waste bins shall be stored at all times, other than on collection days, within the designated refuse storage areas as shown on the approved plans.

REASON: To enhance the appearance of the development and safeguard the character and appearance of the area, in accordance with policies 7.4.B of The London Plan 2016, Policy D2 of the Draft London Plan (2017) and policy DM1 of The Development Management Policies Local Plan 2013.

22. Prior to the sports building being brought into use, a management and maintenance scheme for the sports building - including management responsibilities, a maintenance schedule and a mechanism for review, shall be submitted to and approved in writing by the local planning authority. The measures set out in the approved scheme shall be complied with in full, with effect from commencement of use of the sports building.

REASON : To ensure that a new facility is capable of being managed and maintained to deliver facilities which are fit for purpose, sustainable and to ensure sufficient benefit of the development to sport.

23. The development hereby approved shall not be used until details of the measures to make efficient use of mains water within the science building and sports building have been submitted to, and agreed in writing by, the local planning authority. The measures shall be implemented in accordance with the details so agreed or any amendment or variation to them as may be agreed in writing by the local planning authority.

REASON: To ensure that the development makes efficient use of mains water in accordance with Policy 5.15 of the London Plan (2016), Policy SI5 of the Draft London Plan (2017) and Policy DM 10 of the Development Management Policies Local Plan (2013).

24. Within 3 months (or other such period agreed in writing by the Local Planning Authority) of the first occupation of the development a post construction assessment shall be undertaken for each phase demonstrating compliance with the approved Energy Strategy and Sustainability Strategy (including the Sustainability Development - Energy: Response to the GLA, September 2016) which thereafter shall be submitted to the Local Planning Authority for written approval.

REASON: To ensure the delivery of a sustainable development in accordance with National Planning Policy Framework, policies 5.2.B/C/D/E of The London Plan 2016, Policy SI2 of the Draft London Plan (2017) and Policy DM12 of the Harrow Development Management Policies Local Plan (2013).

25. The sports building hereby permitted shall not be first used until photo voltaic panels have been installed in accordance with a drawing showing the location, orientation and pitch of the photo voltaic panels that shall first have been submitted to, and agreed in writing by, the local planning authority. The panels shall thereafter be retained.

REASON : To ensure that the development makes appropriate provision for the minimisation of carbon dioxide emissions in accordance with Policy 5.2 of the London Plan (2016), and Policy SI2 of the Draft London Plan (2017).

26. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved shall be carried out in accordance with the proposals for emissions savings that are documented in the approved Planning Energy Statement - 033761 - Revision 01 (March 2016) and the Sustainability Development - Energy: Response to the GLA (September 2016).

REASON : To ensure that the development makes appropriate provision for the minimisation of carbon dioxide emissions in accordance with Policy 5.2 of the London Plan (2016) and Policy SI2 of the Draft London Plan (2017).

27. No external lighting shall be installed anywhere on the site until details of such lighting has been submitted and, and agreed in writing by, the local planning authority. Such details shall include:

- a) the siting, height and appearance of the proposed lighting and any associated mounting structures;
- b) the type and strength of luminance of the luminaires;
- c) isoline (lux) diagrams;
- d) times and controls of illumination;
- e) the measures proposed to reduce light pollution; and
- f) the measures proposed to ensure minimal UV light emittance of luminaires.

The external lighting shall be installed and thereafter retained in accordance with the details so agreed in writing by the Local Planning Authority.

REASON: To ensure that the development achieves a high standard of amenity in accordance with Policy 7.6 of the London Plan (2016), Policy D2 of the Draft London Plan (2017) and Policy DM 1 of the Development Management Policies Local Plan (2013); to ensure that the development appropriately protects and enhances the biodiversity value of the site in accordance with London Plan (2016) Policy 7.19, Policy G6 of the Draft London Plan (2017) and Local Plan Policies DM 20 and DM 21.

28. The development hereby permitted shall not be occupied until a full overheating analysis has been to, and agreed in writing by, the Local Planning Authority and the development shall only be completed and operated in accordance with any approval.

REASON: To ensure that the development makes appropriate provision for the reduction in unwanted solar gains in accordance with Policy 5.9 of the London Plan (2016) and SI4 of the Draft London Plan (2017).

29. Prior to the commencement of development, a strategy shall be submitted to and approved by the Local Planning Authority demonstrating that it would be technically feasible to connect the proposed heating network to any future district heating network in the vicinity of the development, should one become available. The strategy shall include details that ensure the provision of sufficient space within the energy centre for future plant, heat exchanges, connection points to generate, export and take heat, cooling and/or electricity, and details of how the development would connect to a future district heat network (including an agreed safeguarded route for infrastructure).

The development shall be carried out in accordance with the details so agreed and shall be retained as such thereafter.

REASON : To ensure that the development is able to provide an on-site energy centre which is capable of connecting to a site wide combined heat and power network and any future district-wide decentralised energy network, in accordance with Policies 5.5 and 5.6 of The London Plan (2016), Policy SI3 of the Draft London Plan (2017), Policy CS1.T of the Harrow Core Strategy (2012), and Policy DM13 of the Development Management Policies Local Plan (2013).

30. The development hereby approved shall be used for education and sports use only, and shall not be used for any other purpose, including any other use that would fall within Classes D1 or D2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 (or in any provision equivalent to those classes in any statutory instrument revoking and re-enacting that order with or without modification).

REASON: To ensure that the transport impacts of the development are satisfactorily mitigated, in accordance with Policy 6.3 A of the London Plan (2016), Policy T4 of the Draft London Plan (2017), and Policies DM 42 C and DM 44 C of the Harrow Development Management Policies Local Plan (2013), and in the interests of the amenities of the neighbouring occupiers in accordance with Policy DM 1 C & D of the Harrow Development Management Policies Local Plan (2013).

****END OF CONDITIONS****

Informative:

The following documents have been submitted by the applicant, and considered as part of the planning application and subsequent appeal process;

P.05.01 ; P.05.02; P.5.10; P.10.02; P.10.11; P.10.14; P.10.17; P.10.25; P.11.01; P.12.01 B; P.12.02 B; P.12.10 B; P.12.11 B; P.12.12 B; P.12.13 B; P.12.14 B; P.12.20 B; P.12.21 B; P.12.22 B; P.12.23 B; P.12.24 B; P.12.25 B; P.12.26 B; P.12.27 B; P.12.30 A; P.12.31 A; P.12.32 A; P.12.33 A; P.13.01B; P.13.04 B; P.13.20 A; P.13.21 A; P.13.22 A; P.13.23 B; P.13.24 A; P.13.25 A; P.13.30 A; P.13.31 A; P.13.32 A; P.13.33 A; P.13.35 A; P.13.50A; P.13.51 A; P.13.52 A; P.13.53 A; P.13.54 A; P.14.01 B; P.14.10 B; P.14.15 B; P.14.16 B; P.14.17B; P.14.18 A; P.14.25 B; P.14.26 B; P.14.31 A; P.14.32 A; P.14.33 A; P.14.34 B; P.14.35 B; P.14.40 B; P.14.41 B; P.14.42 B; P.14.43 B; P.14.44 B; P.14.45 B; P.14.46 A; P.14.47 B; P.14.48 A; P.14.49 B; P.14.50 A; P.14.51 A; P.14.52 A; P.14.53 A; P.14.54 A; P.14.55 A; P.14.60 A; P.14.65 A; P.14.70 A; P.28.10 B; P.28.11 A; P.28.12 B; P.28.13 B; P.28.14 B; P.28.15 A; P.28.16 B; P.28.17 A; P.28.22 A; P.28.30 A; P.28.31 A; P.28.32 A; P.28.33 A; P.28.35 A; P.28.36 A; P.90.10; P.90.11; P.90.12; P.90.20; P.90.21; P.90.22; P.90.25; P.90.26; P.90.27; P.90.28; P.90.30; P.90.32; P.110.01 A; P.110.02 A; P.110.03 B; P.110.04 B; P.110.05 B; P.110.06 B; P.110.07 A; P.110.08 B; P.110.09 B; P.110.10 A; P.110.11 A; P.110.12 B; P.110.13 A; P.110.14 B; P.110.15; P.110.22; P.110.23 A; P.110.24 A; P.110.25 A; P.110.26 A; P.110.28 A; P.110.30; P.110.31; P.110.32 A; P.110.41; P.110.42; P.110.43; P.110.44; P.110.45; P.110.46; P.110.47; 90.20 A; 90.21 A; 90.30 A; 90.31 A; 90.40 A; 90.41 A; 90.50 A; 90.51 A;

Planning Statement by Paterson Planning (April 2016), Design & Access Statement by Rivington Street Studio (April 2016), Landscape Report by Rivington Street Studio & Tyrens UK (March 2016), Visual Impact Assessment Rev A by Rivington Street Studio (September 2016), Arboricultural Report by Arbol Euroconsulting: (Updated April 2018), Transport and Servicing Assessment; Transport Assessment by David Tucker Associates (4 April 2016), Energy Statement by Buro Happold Engineering (22 March 2016), Sustainability Statement by Buro Happold Engineering (24 March 2016), Heritage Statement by Rivington Street Studio (April 2016), Archaeological Impact Assessment by Wessex Archaeology (March 2016), Archaeological Evaluation Report by Wessex Archaeology (July 2016), Flood Risk Assessment and Drainage Report (including surface water strategy) by JBA Consulting, (March 2016), Statement of Community Involvement; Included within Planning Statement, Paterson Planning (April 2016), Construction Logistics Plan by Keir; REV 0, (May 2018), BREEAM Pre-assessment Report by Ingleton Wood (March 2016), Sustainable Travel Statement by David Tucker Associates (25 October 2016), Planning Application – Update by Rivington Street Studio (September 2016) Harrow School Civil & Structural Engineering Documentation (March 2016), Geotechnical & Geoenvironmental Investigation Report (March 2016); Ecological Assessment (July 2018); ASW/HS/032/22/2018 (June 2018); ASW/HS/028/22/2018 (June 2018); ASW/HS/035/22/2018 (June 2018); ASW/HS/030/22/2018 (June 2018); ASW/HS/031/22/2018 (June 2018); ASW/HS/037/22/2018 (July 2018); ASW/HC/026/22/2018 (May 2018).



Ministry of Housing, Communities & Local Government

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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.