



Ministry of Housing,
Communities &
Local Government

Our ref: APP/P5870/W/19/3241269

Alan Gunne-Jones
Planning & Development Associates,
118 Pall Mall,
London, SW1Y 5ED

By email: a.gunnejoness@plandev.co.uk 25 March 2021

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY WATES CONSTRUCTION LTD
LAND AT FORMER ALL-WEATHER PITCH AND ASTRO TURF TENNIS COURTS,
ROSEHILL RECREATION GROUND, ROSE HILL, SUTTON SM1 3HH
APPLICATION REF: DM2019/00985**

1. I am directed by the Secretary of State to say that consideration has been given to the report of R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC, who held a public local inquiry starting on 9 September 2020 into your client's appeal against the decision of the Council of the London Borough of Sutton (the Council) to refuse your client's application for planning permission for the erection of a four-storey building creating a new eight form entry secondary school, including a sixth form, a Special Educational Needs (SEN) school for secondary age students and a detached part-one, part-two storey sports hall (Use Class D1), modification of existing access from Rose Hill, provision of areas of hard playing space, car parking, cycle parking and hard and soft landscaping works and other associated works, reference DM2019/00985, dated 5 June 2019.
2. On 11 February 2020, 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 subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendation. He has decided to allow the appeal and grant planning permission subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Matters arising since the close of the inquiry

5. An application for a full award of costs was made by Wates Construction Ltd against the Council (IR9). This application is the subject of a separate costs report by the Inspector and Secretary of State decision letter.
6. On 2 March 2021, the London Mayor published the new London Plan. Relevant emerging policies were considered by the Inspector at the Inquiry and although it was undisputed that those emerging policies were similar for the purpose of the appeal to those in the previous London Plan (IR26), the relevant new London Plan policy for tall buildings is considered separately at paragraph 17 below. However, the Secretary of State does not consider that the adoption raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.
7. On 18 February 2021, the Secretary of State wrote to the main parties about references to him in various documents in relation to a lease for the site. He requested clarification of the background, his interests in the matter, including full information on the process and arrangements between MHCLG and the Department for Education (DfE). A list of representations received in response to this letter is at Annex A and the Secretary of State is content that the necessary procedures have been adhered to in this matter

Policy and statutory considerations

8. 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.
9. In this case the development plan consists of the Sutton Local Plan (2018) and the newly adopted London Plan (2 March 2021). Therefore, those London Plan policies listed by the Inspector at IR17-21 have been superceded while those local policies set out at IR22-24 are extant. The latter include site allocation S98 which allocates a site larger but including the appeal site, for a secondary school, sixth form and special educational needs (SEN) provision (IR24).
10. The Secretary of State considers that the policies in the new London Plan of most relevance to this appeal include D3 - Optimising site capacity through the design-led approach, D4 – Delivering Good Design; S3 – Education and Childcare; G3 – Metropolitan Open Land and T4 – Assessing and mitigating transport impacts.
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and planning guidance ('the Guidance') as well as the Written Ministerial Statement – Planning for Schools Development (August 2011); Building Bulletin 103 (June 2014) and Building Bulletin 104 (June 2014).

Main issues

Educational Need

12. The Secretary of State notes that it is common ground that there is a clear and proven need for additional secondary school provision within the Borough of Sutton (IR204). The Secretary of State considers, in line with paragraph 94(a) of the Framework, that great

weight should be attached to this benefit. The Secretary of State is also of the view that given the additional, undisputed need for specialist SEN places, this should be given separate and significant weight in the planning balance. He further considers that the proposal would generally accord with new London Plan policy S3 as well as the local plan with regards to these matters.

Design and character and appearance

13. The Secretary of State has considered carefully the Inspector's analysis and findings at IR158-167. For the reasons given the Secretary of State agrees with the Inspector that its proposed use would justify a modest departure from the height of the surrounding mainly residential development (IR158). However, as the proposal is a 'taller building' in terms of Local Plan policy 28Q, and is located outside an Area of Tall Building Potential, it is in conflict with that policy.
14. The Secretary of State notes that Local Plan policy 28Q 'Areas of Taller Building Potential' sets out additional design expectations for taller buildings. He further notes that the Inspector is of the view that that the criteria set out within it relate to development within those areas and do not relate to the appeal development including the requirement for exemplar design (IR164). However, the Secretary of State considers that, notwithstanding Local Plan policy 28Q is headed 'Areas of Taller Building Potential', it expresses the requirement that taller buildings will be expected to be of exemplar design and make a positive contribution to the quality of the local and wider townscape and skyline, whether they are located in an Area of Taller Building Potential or not. The Secretary of State, therefore, considers that the proposed development is expected to be of exemplar design.
15. He further considers that the proposal's design does not meet this standard. He notes that although the Inspector is satisfied that the comments made by the Design Review Panel (DRP) were taken into account and some influenced design changes (IR202), a range of significant of unresolved issues remained at the conclusion of the DRP process (IR97). He agrees with the Inspector's assessment that the building would appear institutional with limited modulation of its large roughly rectangular shape (IR159), and that the sheer size of the proposed school building, along with its mass and bulk, located adjacent to the MOL would diminish the openness of that space (IR161).
16. While the Secretary of State agrees with the Inspector that on balance the main building would have an acceptable appearance, overall he considers that the proposal does not reach the bar of 'exemplar design' and is therefore in conflict with Local Plan policy 28Q. In the light of his conclusions on the design, the Secretary of State considers that the proposal would have a harmful impact on the character and appearance of the area, and on the visual setting of the adjacent MOL which also puts it in conflict with Local Plan Policy 28N. He considers that the design deficiencies and the resulting harm weighs against the proposal.
17. The Secretary of State has also considered the Inspector's conclusions at IR165-167 noting the references to London Plan policies have since been superceded and that new London Plan policy D9 – Tall buildings does not apply to this proposal as it specifically relates to buildings of not less than 6 storeys. Nonetheless, as he finds the proposal would have a harmful impact on the visual setting of MOL, he also therefore considers there would be some conflict with new London Plan policy D3.

18. For the reasons given at IR213, the Secretary of State agrees with the Inspector at IR226 that even if the whole of Local Plan site allocation S98 were to be utilised, due to the constraints of flood risk and proximity to the MOL, on the basis of the evidence before him, he is not convinced that a policy compliant higher quality design alternative development which would deliver the requirements of Local Plan site allocation S98 could be delivered.

Design and educational environment

19. The Secretary of State has considered carefully the Inspector's analysis, findings and conclusions at IR168-186.

The main school

20. For the reasons given at IR170, the Secretary of State agrees with the Inspector that the corridors meet the relevant standards. However, the Secretary of State notes that the main school would include roughly 16 internal classrooms, that would not have natural light. He further notes that the Inspector considers that the proposed layout would result in a small number of classrooms, with no natural light and used for subjects such as ICT, history and English, which do not lend themselves to such conditions and that the Inspector considers this is a small number in relation to the school as a whole (all at IR174). While the Secretary of State agrees with the Inspector that some subjects may lend themselves to teaching environments without windows (also IR174), he, nevertheless considers the number and effect is not insignificant in relation to the space and class provision overall. The Secretary of State also notes that outside space would be limited and some spaces would be positioned so as to require management in order for them to function effectively. While the Secretary of State agrees overall with the Inspector that the outside spaces would provide a suitable learning and working environment (IR175), he considers that these deficiencies weigh against the scheme.

SEN

21. The Secretary of State notes that the SEN staff room would be an internal room on the first floor with no windows or designated access to outside space (IR179). He agrees with the Inspector that views to the outdoors and designated access to outside space would be preferable (albeit he also accepts that the internal character of the staff room would not critically harm the teaching environment created). Although all classrooms would have good levels of natural light and views to outside space (IR180), the Secretary of State also notes that the specialist teaching spaces would be clustered together on the second floor and would include two internal rooms with no windows (IR181). Unlike the Inspector the Secretary of State does consider the overall quality of the teaching and learning environment is compromised, albeit to a limited extent, and weighs against the scheme.

22. The Secretary of State notes that, in a similar way to the main school, the outside space, would not meet the minimum guideline areas for open space set out in BB104. However, for the reasons given at IR182 he agrees with the Inspector that, taking all matters into account, this seems reasonable provision.

Conclusion on both schools

23. Like the Inspector, the Secretary of State has found some disadvantages in the internal and external arrangement of the schools. He also agrees with the Inspector that the

matter in question here is whether the proposed scheme would provide acceptable learning and teaching environments (IR183).

24. The Secretary of State considers that there are ways in which the school would function well in providing an effective and flexible layout, communal and specialist space, connectivity between the two schools and the potential to use extensive open space and sports facilities nearby (IR184). Furthermore, he notes the DfE assessed the educational environment proposed and judged that it merited funding, and that the proposal was assessed by experts in the field of secondary education and SEN provision and considered adequate (IR176).

Overall conclusion (Design character and appearance and Design educational environment)

25. For the reasons given in paragraphs 19–24 of this letter, the Secretary of State considers that the design deficiencies in the educational environment do weigh against the scheme, and, together with the failure to deliver an exemplary standard of design as set out in paragraphs 13-18 are together afforded significant weight against the proposal.

Traffic (and transport), highways and construction logistics

26. For the reasons given in IR189 the Secretary of State agrees with the Inspector that the proposed access arrangements represent an improvement on the existing situation. The access would be significantly wider and street furniture removed, thereby improving pedestrian visibility overall. The Secretary of State affords this moderate weight in the planning balance. For the reasons given at IR206 the Secretary of State is satisfied that the tennis courts would provide a safe access for construction traffic. Furthermore, for the reasons given at IR188-199 the Secretary of State further agrees with the Inspector's conclusions at IR200 and IR225 that the proposed parking/servicing/access arrangements would not adversely impact, during construction and once the development is operational, the safe and efficient operation of the local and strategic highway network, including pedestrian safety, nor the amenity of the occupiers of neighbouring properties. The Secretary of State agrees with the Inspector that the proposal would therefore accord with Local Plan policies 29, 36 and 37 and also considers it accords with the new London Plan, principally policy T4 in this regard.
27. For the reasons given at IR203, the Secretary of State agrees with the Inspector that that the anticipated level of public transport trips generated by the appeal proposal could be accommodated on the existing bus services.

Other matters

28. For the reasons given at IR205 the Secretary of State, like the Inspector, does not consider it his role to revisit matters deliberated as part of the local plan examination including in relation to the suitability of Local Plan site allocation S98.
29. For the reasons given at IR207-210 the Secretary of State agrees with the Inspector that that the appeal development would not result in adverse impact on the surrounding residents in terms of air quality and consequently there would be no conflict with Local Plan policies 29 and 34 (IR207) or new London Plan policy S1 – Improving air quality. He also concludes that any adverse impacts on the living conditions and convenience of local residents would not be unacceptable and there would not be an unacceptable loss of privacy (IR208). The Secretary of State also agrees with the Inspector that whilst

some additional noise and disturbance would result from pupils arriving and departing, this would be for a limited period each day and for the reasons given this would not result in undue additional noise and disturbance for local residents (IR209). The Secretary of State further agrees with the Inspector that additional planting would compensate for any tree loss that would be a result of the appeal proposal (IR210).

30. The Secretary of State notes that it is common ground that the development would deliver a biodiversity net gain (IR211). The Secretary of State agrees and affords the biodiversity net gain moderate weight in favour of the proposal.
31. The Secretary of State notes that concern is raised regarding the impact of fencing around the school which could inhibit emergency exit in the event of a fire at the Sports Village (IR212). For the reasons given the Secretary of State agrees with the Inspector that undue danger to those using the Sports Village would not result.
32. Like the Inspector, the Secretary of State considers he has very limited substantive evidence to demonstrate that Rosehill Recreation Ground would become an intimidating place or that there would be an increase in anti-social behaviour in the locality as a consequence of this development (IR214). For the reasons given at IR215 the Secretary of State agrees with the Inspector's conclusions on the proposed alterations to the Sports Village car park.

Planning conditions

33. The Secretary of State has given consideration to the Inspector's analysis at IR148-156, 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 B should form part of his decision.

Planning obligations

34. Having had regard to the Inspector's analysis at IR217-222, the planning obligation dated 5 October 2020, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector that the obligation, with the exception of those provisions referenced in IR220-221, comply with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

Planning balance and overall conclusion

35. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with new London Plan policy D3 and Local Plan policy 28 of the development and, therefore, is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
36. The Secretary of State affords great weight in favour of the proposal to the additional secondary school places and significant weight to the additional SEN places. He affords moderate weight in favour to the improvements to access arrangements and moderate weight to biodiversity gains.

37. Weighing against the proposal the Secretary of State affords significant weight to external design quality and the deficiencies in the external and internal arrangements. He also considers there are consequent impacts on the character and appearance of the area and visual setting of the MOL. However, taking into account the educational and site specific constraints of the scheme, the Secretary of State does not consider that the harm justifies a refusal of permission in this case.
38. Overall the Secretary of State considers that the material considerations in this case indicate a decision not in line with the development plan – i.e. a grant of permission.
39. The Secretary of State therefore concludes that the appeal should be allowed and planning permission should be granted.

Formal decision

40. 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 B of this decision letter for the erection of a four-storey building creating a new eight form entry secondary school, including a sixth form, a Special Educational Needs (SEN) school for secondary age students and a detached part-one, part-two storey sports hall (Use Class D1), modification of existing access from Rose Hill, provision of areas of hard playing space, car parking, cycle parking and hard and soft landscaping works and other associated works, reference DM2019/00985, dated 5 June 2019.
41. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

42. 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.
43. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
44. A copy of this letter has been sent to the Council of the London Borough of Sutton.

Yours faithfully

M A Hale

Mike Hale

This decision was made by the Secretary of State and signed on his behalf

Annex A

Representations received in response to the Secretary of State's letter of 18 February 2021

Party	Date
Womble Bond Dickinson (on behalf of applicant)	1 March 2021

Annex B List of conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Block Plan - 2470_04040 Rev P1

Location Plan - 24702_04000 Rev P2

Scope of Works Plan - 2470_04050 Rev P1

Site Sections 1 - 2470_AP05020 Rev P1

Site Sections 2 - 2470_AP05021 Rev P1

Proposed Facade Sections 1 -2470_AP05008 Rev P1

Proposed Facade Sections 2 - 2470_AP05009 Rev P1

Typical Bay Elevations - 2470_AP05004 Rev P1

Sports Hall Sections - 2470_AP05007 Rev P1

Sports Hall Elevations - 2470_AP05006 Rev P1

Sports Hall Ground Floor Plan - 2470_AP04010 Rev P1

Sports Hall Roof Plan - 2470_AP04011 Rev P1

Teaching Block Sections - 2470_AP05005 Rev P1

Teaching Block Elevations - 2470_AP05001 Rev P1

Teaching Block Elevations - 2470_AP05002 Rev P1

Teaching Block Ground Floor Plan - 2470_AP04001 Rev P1

Teaching Block First Floor Plan - 2470_AP04002 Rev P1

Teaching Block Second Floor Plan - 2470_AP04003 Rev P1

Teaching Block Third Floor Plan - 2470_AP04004 Rev P1

Teaching Block Roof Plan - 2470_AP04005 Rev P1

Landscape Sections - 553096-FAB-ZZ-00- DR-L-11400

Combined Hard and Soft Landscape General Arrangement Plan - 553096-FAB-ZZ-00-DR- L-11250

Combined Hard and Soft Landscape General Arrangement Plan - 553096-FAB-ZZ-00-DR- L-11251

Exceedance Flow 1 in 100 Year + 40% CC Critical Storm Surcharged Outlet to Culvert plan 553096-AKSW-XX-XX-DR-C-52010 Rev P1

External Lighting Lux Levels 553096-MET- TB-ZZ-DR-M-91006 S2 P05 submitted 23.08.2019

Green space factor plan D2717 553096-FABZZ-00-DR-L-11150

553069-EWA-SH-RF-DR-A-04011 Rev P1 Sports Hall- Roof Plan

2. The development must be begun not later than the expiration of three years beginning with the date hereof.
3. Prior to the commencement of development above ground level, the type and treatment of the materials, including samples, to be used on the exterior of the buildings shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the construction of the development hereby approved, completed prior to its occupation/use and retained thereafter.
4. Prior to commencement of works (excluding site investigations and demolition), the applicant must submit a final detailed sustainable drainage scheme including drawings to the Lead Local Flood Authority for review and approval and to show that the development will achieve an improved Green Space Factor (GSF) score of at least +0.1 compared to the baseline GSF score for the site prior to redevelopment. The Council's GSF scoring system set out in the Council's 'Technical Guidance Note - Building a Sustainable Sutton' (June 2018) must be used for this purpose. Where the applicant has made changes to the approved drainage strategy defined in Drainage Strategy and Water Quality Management Report dated August 2019, revised calculations, updated drainage pro forma and management and maintenance plan that demonstrate compliance with the original drainage strategy must be submitted to support the detailed design. The development shall be carried out in accordance with the approved details and thereafter retained in perpetuity.
5. Prior to the occupation of the development, full details of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping and tree planting shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards (in particular, BS 3882: Specifications for Topsoil, Recommendations (2015) and BS 8545: Trees from Nursery to Independence in the Landscape, Recommendations (2014) or other recognised codes of good practice). The works shall be carried out prior to the occupation of any part or relevant phase of the development or in accordance with the timetable agreed with the Local Planning Authority. Any tree(s) or plants that (within a period of five years after planting) are removed, die, or (in the opinion of the Local Planning Authority) are damaged or defective shall be replaced as soon as is reasonably practicable with others of a similar size/species/number as originally approved.

6. Prior to the commencement of works to improve the junction with Rose Hill (including demolition and all preparatory work), a scheme for the protection of the retained trees, restricted to those not already covered in the submitted arboriculture method statement dated May 2019 and tree protection plan within the arboriculture impact assessment report dated March 2019, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with agreed details and the above documents in all other respects.
7. Prior to the commencement of development hereby approved, a scheme for biodiversity protection (including protected species) and enhancements shall be submitted to and approved in writing by the Local Planning Authority. This will take the form of a Biodiversity Enhancement and Management Plan (BEMP), with full No Net Loss and Net Gain evaluation, working to the LPA's provided methodology and in accordance with BS42020:2013. Work shall be undertaken in accordance with the approved scheme and thereafter retained in perpetuity.
8. Prior to the occupation of the development hereby approved, a Statement of Conformity, provided by a suitably qualified ecologist shall be submitted to and approved in writing by the Local Planning Authority, to ensure compliance with the habitat creation and landscaping approved through the BEMP.
9. Prior to the commencement of development hereby approved, a scheme for the delivery of an extensive substrate-based biodiverse roof and an extensive substrate-based biosolar roof shall be submitted to and approved in writing by the Local Planning Authority. Work shall be undertaken in accordance with the approved scheme and thereafter retained and managed, following the BEMP in perpetuity.
10. Prior to rising above the damp proof course of the development hereby permitted, a scheme for integrated nesting features on buildings shall be submitted to and approved in writing by the Local Planning Authority. Features shall be undertaken in accordance with the approved scheme and thereafter retained in perpetuity.
11. Prior to the commencement of development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, in line with the recommendations contained within the submitted ecological information (Preliminary Ecological Assessment and supplementary documents). All work shall be undertaken in accordance with the approved CEMP.
12. Prior to the commencement of development hereby approved a plan for baseline bat activity surveys shall be submitted to and approved in writing by the Local Planning Authority. The plan shall outline the timings, within the first available survey season after granting of planning permission, of at least two bat activity surveys, to be undertaken away from the extant lighting of the adjacent sports facility along the adjacent site of importance for nature conservation (SINC). The bat surveys will accord with available best practice guidelines and seek to sample a broad swathe of the survey season. The applicant shall establish the existing

ambient lighting of the site and surrounds, the additional impact of any construction phase lighting and refine the proposed post- development lighting levels, in accord and alignment with Condition 35.

13. Within 6 months of the commencement of development, a BREEAM New Construction 2018 Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE) or equivalent authorising body, must be submitted to the Local Planning Authority and approved in writing to show that an 'Excellent' rating will be achieved with a minimum score of 74%.
14. Within 9 months of the occupation of the development, a BREEAM New Construction 2018 Final (Post-Construction) Certificate, issued by the BRE or equivalent authorising body, must be submitted to the Local Planning Authority and approved in writing to demonstrate that an 'Excellent' rating has been achieved. All the measures integrated shall be retained for as long as the development is in existence.
15. Prior to first occupation of the school buildings, 'as-built' BRUKL outputs prepared under the Simplified Building Energy Model (SBEM) and details of the installed solar PV array, including product specifications, output, layout and orientation must be submitted to the Local Planning Authority and approved in writing to demonstrate that the development has been carried out in accordance with the approved Energy Statement (Method Consulting, April 2019). If the development as a whole is unable to meet at least a 35% reduction in CO2 emissions below the target emission rate (TER) based on Part L2A of the 2013 Building Regulations and achieve at least a 20% reduction through on-site renewable energy generation through the approved energy strategy, then any shortfall shall be made up through the application of further sustainability measures or by reference to the Council's Carbon Offset Fund.
16. The development hereby approved shall be constructed in accordance with the overheating strategy described in Section 10 and Appendix E of the approved Energy Statement (Method Consulting, April 2019) and thereafter retained. If any changes are proposed to the cooling and ventilation measures arising from the detailed design stage, a revised Energy Statement, incorporating amended dynamic thermal modelling outputs as appropriate must be submitted to the Local Planning Authority and approved in writing prior to the commencement of ground works and thereafter retained in perpetuity.
17. Prior to the commencement of the development above ground, a full and detailed application for the Secured by Design award scheme shall be submitted to the Local Planning Authority and the Metropolitan Police SW Designing Out Crime Office, setting out how the principles and practices of the Secured by Design Scheme are to be incorporated. Once approved in writing by the Local Planning Authority development shall be carried out in accordance with the agreed details and thereafter retained in perpetuity.
18. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated June 2019 and the following mitigation measures detailed within the FRA:

- Provision of a new compensatory flood storage in the lower games area / secondary playground space in accordance with paragraph 5.2.3 and appendix D.
 - Finished floor levels are set no lower than 34.15m above Ordnance Datum (AOD). The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority and thereafter retained in perpetuity.
19. If, during development, contamination not previously identified is found to be present at the site then no further development in the area where contamination is found (unless the contamination is considered to be widespread), shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.
20. The noise level from the cumulative sound emissions from any operational plant shall be at least 5dBA lower than the existing background noise level measured or predicted 1m externally to any window at the nearest residential facade. Measurements and assessment shall be made according to British Standard 4142:2014.
21. The MUGA pitches hereby approved shall only be used between the hours of 8 am to 8 pm Monday to Friday.
- Before the use hereby permitted commences to minimise sound levels from ball impacts on fencing surrounding the MUGA pitches all perimeter weld mesh fencing panels shall be securely clamped with resilient fixings to damp impact noise and minimise vibration and shall be retained in perpetuity.
- Before the use hereby permitted commences a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority, setting out measures to be implemented to minimise noise from users of the MUGA pitches and any spectators.
22. The development shall not be occupied until the cycle spaces have been laid out and provided within the site in accordance with the approved drawings, which shall include 5% of all spaces being capable of accommodating larger cycles. The cycle spaces shall be permanently retained exclusively for its designated purpose and thereafter retained in perpetuity.
23. Prior to the use of any part of the car park for parking, a detailed car park management plan shall be submitted and approved in writing by the local planning authority. The development shall only operate in accordance with the details hereby approved.
24. Prior to commencement of the development hereby permitted a detailed School Travel Plan shall be submitted to and approved by the local planning authority. The School Travel Plan shall demonstrate how the school will achieve at least a

bronze STARS accreditation within one year of the first use of the development hereby permitted, achieve a silver STARS accreditation within the second year and a gold STARS accreditation by the third year and maintained thereafter. The School Travel Plan shall include the establishment of a Transport Review Group.

25. Prior to first occupation a full Delivery and Service Plan (DSP) shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented in full for the lifetime of the development hereby approved.
26. No development shall begin, including demolition and site clearance works, until an updated Construction Logistics Plan (CLP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved CLP.
27. The development shall not be occupied until the car parking spaces have been laid out and provided within the site in accordance with the approved drawings. The parking shall be permanently retained exclusively for its designated purpose.
28. The development shall not be occupied until refuse and recycling facilities have been provided in accordance with the approved plans. The facilities shall be retained thereafter for use by the occupiers of the development hereby approved.
29. Within three months of occupation of the development hereby permitted, the construction compound shall be reinstated to its former use as tennis courts and therefore retained.
30. No demolition or construction works, including site excavation or any external site works, the operation of plant and machinery, the erection of scaffolding, the delivery of materials, the removal of materials and spoil from the site and the use of any sound amplification equipment, shall take place outside 0800hours to 1800hours Mondays to Fridays and 0800hours to 1300hours on Saturdays and at no time on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.
31. Prior to occupation of the development hereby approved, full details of the position, design, materials and type of boundary treatments/means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the development and thereafter retained in perpetuity.
32. The school hereby permitted shall be limited to a maximum school roll of 1,606 pupils.
33. Prior to occupation of the development hereby permitted an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall take into account all of the lighting needs associated with the development during operational hours and shall be the minimum required to perform the relevant lighting task. It shall be specifically designed to minimise light spillage beyond the development site boundary onto the adjacent SINC and

into the sky. The development shall be carried out in accordance with the approved lighting scheme and thereafter retained in perpetuity.

34. Prior to commencement of development, save for demolition or site clearance, a construction employment and training strategy shall be submitted to and approved in writing by the Local Planning Authority. The employment and training strategy shall demonstrate how the construction phase of the project will ensure that the following are provided during the construction phase:

- 6 Apprenticeships
- 6 Traineeships
- 6 Work Experience (16+)
- Attendance at 2 Council Events and Employer Encounters
- Delivery of an employment and skills plan on a quarterly basis.

35. The development hereby permitted shall not be occupied until all off-site highway improvement works as detailed in the highway drawings listed below, have been completed. These works shall comprise:

- a) Visibility improvements at the junction of the access with Rose Hill (Drawings: 553096-RWC-XX-A1-DR-D-80100_P3 Section 278 General arrangement & 553096-RWC-XX-A1-DR-D-80101 P1 Car Park Visibility Splays)
- b) Improvements to Bus Stop P (Drawing: 2360 004 T 040 P1 Proposed improvements to the bus stop and footway)
- c) zebra crossing across Rose Hill (drawings: section 278 zebra crossing general arrangement 553096-RWC-XX-A1-DR-D-90100 P1; s278 zebra crossing kerb layout 553096-RWC-XX-A1-DR-D-90200 P1; s278 zebra crossing levels 553096-RWC-XX-A1-DR-D-90300 P1; s278 zebra crossing pavement plan 553096-RWC-XX-A1-DR-D-90400 P1; s278 zebra crossing site clearance plan 553096-RWC-XX-A1-DR-D-90500 P1; s278 zebra crossing construction details 553096-RWC-XX-A1-DR-D-90600 P1).



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

by R Barrett BSc (Hons) MSc Dip UD Dip Hist Cons MRTPI IHBC

Date 26 November 2020

TOWN AND COUNTRY PLANNING ACT 1990
THE COUNCIL OF THE LONDON BOROUGH OF SUTTON
APPEAL MADE BY WATES CONSTRUCTION LTD.

Inquiry held on 9-16 September and 24 September 2020

Former all-weather pitch and astro turf tennis courts, Rosehill Recreation Ground, Rose Hill, Sutton
SM1 3HH

File Ref: APP/P5870/W/19/3241269

Abbreviations used in this report

ASD	Autistic spectrum disorder
BB103	Building Bulletin 103
BB104	Building Bulletin 104
CIL	Community infrastructure levy
CLP	Construction and logistics plan
CEMP	Construction environmental management plan
Council	Council of the London Borough of Sutton
CPMP	Car park management plan
DfE	Department of Education
DMRB	Design manual for roads and bridges
DRP	Design review panel
DSP	Delivery and service plan
EiP	Examination in public
Emerging London Plan	eLondon Plan
GLL	Greenwich Leisure Limited
GSF	Green space factor
GTP	Green travel plan
London Plan- The Spatial Development Strategy for London Consolidated With Alterations since 2011 (2016)	London Plan
MOL	Metropolitan open land
MUGA	Multi use games area
NPPF	National planning policy framework
INNS Plan	Invasive non-native species management plan
NPPG	National planning policy guidance

PTAL	Public transport access level
RfR	Reason for refusal
RSA	Road safety audit
RTD	Round table discussion
SEN	Special educational needs
SINC	Site of importance for nature conservation
SoCG	Statement of common ground
STARS	Sustainable Travel: Active, Responsible, Safe
STP	School travel plan
Sutton Local Plan (2018)	Local Plan
TfL	Transport for London
TVIA	Townscape and visual impact assessment
The Trust	Greenshaw Learning Trust
WMS	Written ministerial statement

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File Ref: APP/P5870/W/19/3241269

Former all-weather pitch and astro turf tennis courts, Rosehill Recreation Ground, Rose Hill, Sutton SM1 3HH

- The application was called in for decision by the Secretary of State by a direction, made under section 79 of the Town and Country Planning Act 1990, on 11 February 2020.
- The application is made by Wates Construction Limited to the Council of the London Borough of Sutton (the Council).
- The application Ref DM2019/00985 is dated 5 June 2019.
- The development proposed is described as 'Erection of a four-storey building creating a new eight form entry secondary school, including a sixth form, a Special Educational Needs (SEN) school for secondary age students and a detached part-one, part-two storey sports hall (Use Class D1), modification of existing access from Rose Hill, provision of areas of hard playing space, car parking, cycle parking and hard and soft landscaping works and other associated works'.

Summary of Recommendation: That the appeal be allowed.

PRELIMINARY MATTERS

1. The address and description of development reflect those on the appellant's application form. As those accurately identify the appeal site and describe the development sought, I have used them in the banner heading and that forms the basis of my formal recommendation.
2. The Inquiry sat for seven days between 9 and 24 September 2020. I carried out unaccompanied visits before and after the Inquiry following a route agreed by the two main parties. Access to the appeal site was provided in both cases. By agreement with the main parties, my visits to various off-site locations referred to in the evidence were also carried out on an unaccompanied basis.
3. The appeal was recovered by the Secretary of State (SoS) by letter dated 11 February 2020 for the following reason:

'... that the appeal relates to proposals for development of major importance having more than local significance.'
4. The Council refused the appeal application on 24 September 2019 for seven reasons, which are summarised below. They are set out in full in the statement of common ground (SoCG) on general matters.¹
 - 1) The proposed development is considered to be unacceptable due to the proposal not utilising the full site allocation as set out in the Site Allocation S98 and as such would result in an overly dominant form of development, due to its design, height, mass and proximity to the edge of Metropolitan Open Land (MOL). The proposal would result in substantial harm to the character and appearance of the area and the visual setting of the MOL. The application is therefore contrary to policies of the London Plan and of the Sutton Local Plan 2018.
 - 2) The proposed development, which includes a four storey building, does not meet the test of exemplar or exceptional design in terms of its external and

¹ KD1

internal arrangements in a location not considered suitable for taller buildings as defined in the Sutton's Local Plan.

- 3) The proposal provides insufficient evidence within its transport assessment to quantify the level of the traffic impacts likely to be associated with the development, and neither does it demonstrate it makes adequate provision for off-street parking and servicing within the shared parking area used by all users of Rosehill and the Sports Village and fails to provide details of mitigation measures including a car park management plan to control parent pick up and drop offs or clarify details of safe pedestrian movement within the area of the shared access and parking areas. As such the proposal is considered to be unacceptable as, without evidence to the contrary, it is likely to give rise to conditions prejudicial to highway and pedestrian safety and overspill parking to the detriment of highway safety and the amenities of adjacent neighbouring properties.
 - 4) The application fails to provide sufficient details to demonstrate that the site can accommodate construction vehicles and parking for staff during the construction of the development. Neither does it demonstrate how site management will operate such that delivery vehicles arrive on-site as required, and do not create any vehicle stacking on the main road. As such, it is considered that the proposed development would result in danger to highway and pedestrian safety and overspill parking into surrounding residential streets to the detriment of the amenities of nearby residents.
 - 5) Insufficient information has been provided to demonstrate how the development would provide net biodiversity gains or mitigate the potential impact on protected species.
 - 6) Without evidence to the contrary, the proposal would result in adverse impact on the surrounding residents' properties in terms of air quality due to insufficient information submitted within the transport assessment. The application is therefore contrary to London Plan and Sutton's Local Plan.
 - 7) The proposed development would fail to provide the appropriate financial and non-financial planning obligations to mitigate the impact of the development in terms of, (but not limited to) improvements on highways and sustainable transport modes, school travel plan, biodiversity accounting and local employment and training, contrary to London Plan and Sutton Local Plan policies.
5. The appellant submitted a unilateral undertaking at the Inquiry². A certified version was submitted in accordance with an agreed timetable after the Inquiry closed, the main provisions of which are summarised below:
- Highways works
 - Travel plan and travel planning monitoring fee
 - Employment and training strategy
 - Biodiversity contribution

² KD10 and IQ29

- Trees contribution
6. There is dispute between the two main parties as to the appropriate mechanism to secure off-site highway works, the travel plan and employment and training strategy provisions. The Council considers that all these aspects of the proposed development should be secured by a planning obligation. To that effect it has submitted a Community Infrastructure Levy (CIL) Regulations compliance statement³ which set out its view that the obligations would accord with Regulation 122 of the CIL Regulations. The appellant, however, considers that off-site highway works, the travel plan and employment and training strategy provisions do not meet the relevant tests and should be secured by appropriately worded planning conditions. The obligations and planning conditions are discussed further within this report.
 7. The SoS issued a screening direction under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, dated 21 June 2019. It clarifies that the proposed development is not EIA development within the meaning of the 2017 Regulations.
 8. Due to unforeseen and exceptional circumstances the Council's highway witness was not able to give evidence at the Inquiry. Alternative witnesses defended the Council's objections in relation to highway and construction logistics; a matter that was agreed between the two main parties.
 9. An application for costs was made by Wates Construction Limited against the Council. That application will be the subject of a separate report.

THE SITE AND SURROUNDINGS

Location and description

10. The site and surroundings are described in the evidence⁴.
11. The appeal site extends to approximately 2.6 Has and sits within the southern end of Rosehill Recreation Ground. It includes a redundant former all-weather football pitch and astro-turf tennis courts. The astro-turf tennis courts are now used as outdoor football pitches as part of the Sutton Sports Village. It includes the existing access to the Sports Village and the Rosehill Recreation Ground, which provides the access to the appeal site and connects with Rose Hill along with a pedestrian link to Rose Hill. It also includes five open tennis courts located in the south-east corner of the Rosehill Recreation Ground. Those tennis courts would accommodate the construction compound with associated access and would be reinstated as tennis courts on completion.
12. The appeal site adjoins the Rosehill Recreation Ground. This is an open grassed area of almost 15.5 Has, which includes a cricket strip, the Rosehill Bowling Club, café, playground, pavilion, changing rooms and shower and toilets. The rear gardens of properties in Cranleigh Gardens sit beyond. It adjoins the railway line on one side, separated by planting and trees. To the north is the complex of buildings and facilities that comprise the Sutton Sports Village.

³ KD11

⁴ CD2.2, APP7 and LPA4

13. The wider area surrounding the Rosehill Recreation Ground comprises mainly residential properties, including the Sutton Garden Suburb Conservation Area. The Rosehill District Centre lies to the north and Sutton Town Centre to the south.
14. The appeal site can be accessed by car, cycle or on foot via three entrances from Rose Hill and one pedestrian access from Reigate Avenue. It has a Public Transport Accessibility level (PTAL) of 3, which is classified as 'moderate'.

Planning history

15. The planning history relevant to the appeal site and surroundings is summarised in paragraph 1.11 of the Officers' Report to the Planning Committee⁵. This confirms that the majority of decisions have concerned the development of the Sutton Sports Village, the bowling club and the café pavilion. A permission granted in July 1989 (89/32922) for a synthetic sports pitch with associated car parking, floodlighting, site lighting and access appears to be the all-weather pitch, later constructed in 1994; a matter undisputed in the evidence before me.

PLANNING POLICY

16. The Development Plan for this appeal comprises the following:

- The London Plan (2016)
- Sutton Local Plan (2018)

The London Plan

17. The London Plan sets out a strategic vision and objectives for London as a whole. The two main parties have highlighted a number of the most relevant policies.
18. Policy 3.18 sets out the Mayor's support for education facilities to meet the demands of a growing population and enable greater educational choice. It also lends strong support for the establishment of new schools, including free schools. Policy 4.12 states that strategic development proposals should support local employment skills development and training opportunities.
19. Policy 6.12 states that proposals for increasing road capacity should show a net benefit across a number of criteria taken as a whole. Those criteria include the contribution to London's sustainable development and regeneration; the extent of any additional traffic and any effects on the locality; the extent to which congestion is reduced; how net benefit to London's environment can be provided; along with any improvement to conditions for other road users including safety. Policy 6.13 states that the Mayor wishes to see an appropriate balance struck between promoting new development and preventing excessive car parking provision that can undermine cycling, walking and public transport use. It states that development must provide electrical charging points, disabled spaces and cycle parking in accordance with standards set out in the document.
20. Policies 7.4, 7.5 and 7.6 promote high quality design, including in respect of the public realm. Policy 7.7 deals specifically with tall and large buildings, setting out a range of criteria. The criteria state that tall and large buildings should only be

⁵ CD 2.2

considered in areas whose character would not be affected adversely by their scale, mass or bulk, and should relate well to the surroundings, and incorporate the highest standards of architecture. They should relate well to the scale and character of surrounding buildings and should improve the legibility of an area by emphasising a point of civic or visual significance. The impact of tall buildings in sensitive locations, which may include the settings of listed buildings, should be given particular consideration.

21. Policy 7.17 states that the strongest protection should be given to London's Metropolitan Open Land (MOL). It should be treated in the same way as Green Belt in the decision making process.

Sutton Local Plan (2018) (Local Plan)

22. Policy 24 relating to Green Belt and MOL sets out criteria against which development will be judged, including preservation of openness of the MOL. Policy 28, relating to character and design of development sets out a range of criteria. It states that development should be attractive, designed to the highest standard, especially with regard to architectural detailing and materials; respects the local context; of a suitable scale, massing and height to the setting of the site and makes a positive contribution to the public realm. Further, it sets out criteria to be applied to taller buildings located within defined areas of taller building potential. This includes a requirement that development is of exemplar design and makes a positive contribution to the quality of the local and wider townscape and skyline.
23. Policy 29 states that planning permission for development will be granted unless it adversely affects the amenities of future occupiers or those occupying nearby properties. Policies 36 and 37 relate to transport impacts of new development. They state that development proposals will be assessed for their impact on the highway and public transport network, as well as the local environment, the need for transport assessments and travel plans for all major development, construction and logistics plans for most developments and delivery and service plans, where significant goods vehicles movements are likely to be generated. Policy 37 requires development to accord with the Council's restraint based maximum car parking standards. Policy 38 states that the Council will seek planning contributions, to ensure the necessary infrastructure to support Local Plan ambitions, delivered through the CIL or planning obligations and refers to its revised Planning Contributions Supplementary Planning Document.
24. Policy 40 states that the Council will grant planning permission in accordance with the land uses set out in its site allocations, subject to the proposed development meeting the other policies in the Local Plan. Site allocation S98 allocates a site larger than but including the appeal site, for a secondary school, sixth form and special educational needs (SEN) provision. It sets out matters that any development should pay particular regard to. These are set out below:
- Providing 8 forms of entry with a sixth form and some SEN provision
 - Providing on-site sports facilities
 - Providing high quality design that respects the open character of the adjacent open space
 - Providing hard and soft play areas and sports pitches

- Ensuring traffic flow on Rose Hill is not unduly affected
- Improving vehicle access from Rose Hill and pedestrian access to the site
- Respecting the amenity of nearby residents
- Safeguarding and enhancing the nature conservation of the surrounding area
- Retaining mature trees within and around the site
- The need to provide flood risk assessment and appropriate sustainable urban drainage system measures.

Emerging London Plan (eLondon Plan)

25. The Mayor is preparing a new London Plan. He published his Intend to Publish London Plan in December 2019, following Examination. He is currently considering the SoS's comments and taking the statutory steps to its adoption.
26. The eLondon Plan includes similar policies, for the purpose of this appeal, to those in the London Plan. This is a matter undisputed in the evidence before me. As that document is still not adopted, although it has been through Examination, I attach limited weight to it.

THE PROPOSAL

27. The appeal proposal is described in the design and access statement⁶.
28. It is for a Free School, funded by the Department for Education (DfE) and sponsored by the Greenshaw Learning Trust, which currently operates some 15 schools, including the nearby Greenshaw High School. The application has been submitted on behalf of Wates Construction Limited, the appointed contractor. It includes an 8 form entry secondary school, sixth form and SEN school for secondary school pupils (56 pupils) with moderate autistic spectrum disorder (ASD).
29. The proposed development includes a four storey teaching block and a separate sports hall. The teaching block, which would house both schools, would be orientated north to south, roughly in line with Rose Hill and would be four storeys high, with a maximum height, including roof plant of just over 19 metres. The sports hall would be some distance from the teaching block sited in the area between it and the railway line, near to the Sports Village. It would be part single part two storey.
30. The area to the south of the sports hall between the main teaching block and railway line would accommodate the main school's outside space, including an external dining area, ecological corridor, habitat area, netball courts, hard courts and basketball shooting area. The SEN school would have separate outdoor space between the northern elevation with main pupil entrance and the car parking area.
31. Each school would have a separate entrance. The main pedestrian entrances would front Rose Hill. Vehicle access is proposed from Rose Hill which also serves the Sports Village and separate pedestrian/cycle access for both schools is

⁶ CD1.3; CD 1.4; CD1 includes all the appeal plans and supporting studies

- proposed via the existing pathway near to the bowling green. There would be a separate student pickup/drop off area near to the SEN school pupil entrance on its northern elevation and a staff car park with 63 spaces and servicing area beyond.
32. The main school would incorporate an entrance lobby, reception, meeting rooms, dining hall, classrooms, toilets and ancillary rooms on the ground floor and mainly classrooms on the first and second floors. The third floor would be solely for the main school and would include classrooms, staffroom, toilets and ancillary rooms along with sixth form social and learning rooms.
33. The ground floor of the SEN school would include an entrance lobby, reception, dining hall, main hall, kitchen and ancillary rooms. The first floor would incorporate classrooms, a therapy room, toilets, staff room, library and quiet bays. There would be access to the main school from each floor. The roof would incorporate 22 rooflights, riser housings, boiler flues and condenser units.
34. The main school building would be completed in dark brickwork to the plinth at ground floor with a light brick to the upper floors. The elevation fronting the railway line would have a light coloured render to the upper floors. Coloured panel inserts are proposed within the window reveals to the upper floors of the main school, whilst the SEN school would have individual punched windows with coloured canopies to the school entrances. The main entrance to the secondary school would be emphasised by double height glazing and vertical glazing bands and other glazed areas would break up the elevations on other sides. The SEN facade would use protruding brick detailing along the principal elevation.
35. The sports hall would be a separate building positioned immediately adjacent to the Sutton Sports Village between the main school block and the railway line. It would include an activity studio, physical education and activity store rooms, changing rooms, and a double height sports hall. It would be finished in light brick to the single storey element and the plinth to the two storey element. The remainder of the sports hall would be finished in a grey coloured composite flat panel cladding.

MATTERS AGREED BETWEEN THE MAIN PARTIES

36. A number of SoCG were submitted. The matters covered in each are set out below:

General Matters

37. The matters agreed between the Council and the appellant are set out in the SoCG (General Matters)⁷. They include the following:
- The appeal submission, relevant planning policy, planning history along with the reasons for refusal
 - The appeal site includes part of land identified in Local Plan site allocation S98, which was the culmination of an extensive search and subject to Examination
 - The proposed accesses and a temporary construction compound would be located within the MOL. However, proposed highway works would be

⁷ KD1

considered not inappropriate development were a planning permission in place and the temporary compound would be permitted development

- The appeal site is not located within an area identified in Local Plan policy 28 as an area of taller building potential
- The proposed development is not EIA development, a matter confirmed by the SoS
- It would not impact heritage assets and is acceptable to the London Fire Brigade, subject to compliance with Building Regulations; the crime prevention officer, subject to detail controlled through planning conditions; in respect of waste storage and collection provision, flood risk, sustainable drainage measures, water infrastructure, and impacts on rail infrastructure
- The loss of the redundant former all-weather pitch and underused tennis courts is agreed subject to an acceptable scheme for redevelopment
- No adverse impacts on the living conditions of neighbouring occupiers or future occupiers of the appeal scheme by reason of noise or disturbance, loss of privacy or light would result
- There is a clear and proven need for additional secondary school provision
- The appeal development would retain existing levels of public accessible pathways in Rosehill Recreation Ground
- The proposed level of cycle parking is agreed. Car parking levels and assignment of staff trips are agreed by Transport for London (TfL), subject to a travel plan. The anticipated level of public transport trips generated from the appeal development could be accommodated by existing bus services
- The appeal proposals accord with Local Plan policy 31, in relation to energy efficiency
- The impact on existing trees is acceptable, along with the (invasive non-native species) INNS management plan
- The appeal development is not liable for CIL
- Planning obligations that comply with CIL Regulation 122 can be included within a legal agreement

Character and appearance

38. The matters agreed between the Council and the appellant are set out in the SoCG (character and appearance)⁸. They include the following:

- The Townscape and Visual Impact Assessment (TVIA) methodology, apart from the assumption of a hypothetical secondary school forming the baseline condition for assessment
- The methodology for the visually verified montages

⁸ KD2

- The urban grain of the leisure uses to the north is of a coarser grain than the surrounding residential character
- The Sports Village buildings are not high quality in their character and appearance and do not have a positive visual impact on the MOL
- Building a school on the appeal site would have a visual impact on the setting of the MOL, but that could be mitigated through design
- The height of the proposed schools is in principle acceptable, provided that it does not compromise other considerations

Design and education

39. The matters agreed between the Council and the appellant are set out in the SoCG (design and education)⁹. They include the following:

- It is in principle possible to design a school to meet planning policy standards at the appeal site
- Guidance in Building Bulletin 103 (BB103) and Building Bulletin 104 (BB104) apply to the proposed development
- The general position of the teaching block, provided it does not compromise other considerations
- The proposed materials palette is acceptable, subject to further details controlled by planning conditions

Highways and construction logistics

40. The matters agreed and disagreed between the Council and the appellant are set out in the SoCG (highways and construction logistics)¹⁰. They include the following:

- *Bus stop P*- All matters relating to the footpath widening at bus stop P are agreed and can be secured by a section 278 Highways Agreement.
- *Improvements to the junction with Rose Hill*- Option 3 and 5 (option 5 being the appellant's preferred option which avoids rebuilding the retaining wall) were pursued through to outline design stage and were subject to a stage 1 and 2 Road Safety Audit (RSA). The Council consider stage 2 option 5 RSA to be inadequate and have fundamental concerns regarding the detailed design including the exit kerb radii, junction swept path analysis.
- *Parking for construction workers*- the appellant has submitted a revised Construction and Logistics Plan (CLP) and Green Travel Plan (GTP). This prohibits construction workers parking in the Sutton Sports Village or bowling club car parks, and anywhere within 2 kilometres of the appeal site; a matter addressed in the site rules. If contractually enforceable, this matter is agreed, subject to the provision of a full CLP.

⁹ KD3

¹⁰ KD4

- *Contingency measures including safeguarding against vehicles stacking or circulating on Rose Hill and surrounding roads* - This matter has been addressed in the revised CLP (Rev D) and there are no outstanding matters in dispute.
- *Provisions to ensure that the additional vehicular movements associated with school related traffic do not negatively impact the safety of pupils and other pedestrians given the lack of any pedestrian footpath for traversing the Rosehill car park*- Option 5¹¹ includes footway improvements within the Rosehill car park including a raised table aimed at slowing traffic and facilitating pedestrian movements. As the Council is the local highway authority, this matter remains in dispute.

Biodiversity

41. The biodiversity matters agreed between the Council and the appellant are set out in the biodiversity SoCG¹². This confirms that reason for refusal 5 has been addressed subject to provisions in the legal agreement and appropriate planning conditions.

Air Quality

42. The air quality matters agreed between the Council and the appellant are set out in the air quality SoCG¹³. This confirms that matters relating to reason for refusal 6 have been addressed.

Legal Agreement and planning conditions

43. Statements setting out areas of disagreement between the two main parties relating to the legal agreement provisions and planning conditions were submitted¹⁴. These matters are covered in the relevant section of my report.

THE CASE FOR THE APPELLANT – WATES CONSTRUCTION LIMITED

Introduction

44. In the case of RfR1, the suggestion that the proposed development is unacceptable, due to a failure to utilise the full site allocation is misconceived. In the case of RfR2, the suggestion that the proposal is required to meet a test of exemplar or exceptional design, because it a four storey building outside an area with taller building potential is also misconceived. The appeal should be allowed on these grounds, or, more specifically, on the issues identified by the Inspector as Issues 1 and 2.
45. The Site is allocated in site allocation S98 for schools. The proposed development precisely matches the description of that allocation and satisfies all of the criteria listed in it. A proven need for additional secondary school provision is agreed. The proposed development is, at the very least, of a high quality design for the purposes of site allocation S98, in terms of the internal and external arrangements of the schools. The appellant considers it delivers the

¹¹ drawing 553096-RWC-XX-A1-SK-D-85133

¹² KD5

¹³ KD6

¹⁴ KD7 and 8

highest quality design which clearly respects the open character of the adjacent open space. The appeal should be allowed for all of these reasons.

Failure to utilise the northern part of site allocation S98

46. The issue is whether the school can be accommodated within the appeal site and comply with all relevant policy requirements. There has never been any suggestion by either the appellant or the Council that the northern part of the site allocation would be used for anything other than parking. The TA established that, in providing 68 car-parking spaces, the proposed development was policy-compliant, and that level of provision could be accommodated. The capacity of the northern section of the site allocation has been calculated at approximately 160 car parking spaces, so if the appellant were to use it, that would mean 40% utilisation. Therefore, it is unreasonable to insist that the appellant use it. Further it is common ground that a building on the site would have a visual impact on the setting of the MOL, which could be mitigated by design. This demonstrates even on the Council's own case that it is not necessary for the appellant to utilise the northern part of the site in order to arrive at an acceptable design.

Design and character and appearance

47. Dr Horn assessed the negative impact of the proposed development on the setting of the MOL. She considered whether it was informed by the surrounding built environment, including its history. However, she did not refer at all to the Sutton Characterisation Report, which is up to date and formed part of the evidence base for the Local Plan. This is a material consideration to which she should have had regard in coming to her conclusions. That document refers to Rosehill Recreation Ground as being of 'poor quality'. The Appellant's townscape and visual impact assessment (TVIA) took this into account, along with the fact that the appeal site does not have any local or national designations, and that no heritage assets are visually related to it. Even though the TVIA undertaken by the appellant post-dated the appeal application, it is clear that considerations such as the historic and cultural landscape, settlement patterns, open space, key characteristics of the built townscape etc were all taken into account. The design and access statement refers to Atkins' feasibility report confirming that such considerations informed design development.
48. The methodology and visually verified views in the appellant's TVIA are not disputed. The Council's objection to the use of an 'inevitable school' as the baseline for the assessment rests on a failure to understand how the TVIA arrived at the inevitable school and the role it played in the assessment. The inevitable school derived from site allocation S98 for an 8 form entry secondary school and sixth form with SEN. It makes provision for a certain number of pupils which by reference to BB103 and BB104 generates a certain total site area for the building/buildings. That building could be configured in different ways, but the total site area would not change, hence the 'inevitable school'. The Council took a very similar approach in the Atkins' feasibility report. Therefore, applying an inevitable school as a baseline condition for the TVIA is entirely appropriate. The conclusions of the TVIA should be endorsed. Those are, in terms of landscape effects, that the scheme would integrate the new education facility into the suburban and urban context. The level of harm is not significant when

considered against the current degraded landscape and negligible to neutral when assessed as a site allocated for education.

49. In terms of visual effects, the TVIA concludes that the height and location of the proposed development would have a limited impact on the visual setting of the MOL, concluding that it is policy compliant, both in regard to the applicable policies in the Local Plan and the National Planning Policy Framework (NPPF). It is a high quality design which respects the open character of the adjacent open space, as required by site allocation S98.
50. The examples of schools contained in appendix 2 to Dr Horn's proof are not helpful as they provide no context and any conclusions on design are essentially subjective.

Educational environment

51. No planning evidence was advanced by the Council in respect of this issue. Therefore, Local Plan policy 40 and site allocation S98 received no scrutiny. Mr Chinniah, in his written evidence, confirmed that there was not a moratorium on taller buildings outside a taller building location and that the correct approach was to consider whether other material considerations exist to justify a departure from Council policy. However, in his oral evidence he reverted to insisting that a test of 'exemplar or exceptional design' was appropriate to justify a taller building in this location. However, the appellant's position is that the correct test is that of 'high quality design that respects the open character of the adjacent open space' as set out in site allocation S98. The appellant's case is that the design of the proposal as a whole, both internal and external arrangements is of the highest quality. This is explained by Dr Wright and Mr Will Smith who both consider that the design is of the highest quality.
52. The Council consider that the approach taken by the appellant was 'to meet the requirements of the brief' and that is not sufficient to deliver the requisite standard. However, this alludes to a misunderstanding of the design process undertaken. Design development was in accordance with department of Education (DfE) documents, including a generic design brief and a school specific brief informed by the requirements of the Greenshaw Learning Trust (the Trust). The design was not 'taken off the shelf'. The Trust had an extremely proactive role in generating the design of the proposed development to ensure that the end result would meet its specific requirements; a process that the Trust is extremely experienced at doing.
53. The necessary standards are embodied in the brief. The output specification had input from the Trust, DfE technical advisors and the design team with regard to the views of the Council officers and the DRP. If the resultant design was not of high quality or indeed the highest quality it would not have been accepted by the Trust or the DfE. Accordingly, for these reasons, it is sufficient to produce a school designed to the requisite standard to meet the requirements of the brief. The Council fails to appreciate that it is necessary to produce a scheme that is capable of functioning as a school. Whilst Dr Horn's appendix 2 provides other examples of schools, it fails to provide any information on this matter. Therefore, it is impossible to make any meaningful assessment of the quality of the examples provided. The Trust insisted upon a design that would provide an educational environment of the highest quality.

54. Dr Horn criticised the proposed internal arrangement on a number of counts, including the length of corridors and teaching spaces lacking light. However, the internal arrangements meet the requirements of the brief and the relevant design standards. Dr Wright and Mr Will Smith consider them to be entirely satisfactory, designed to the highest standards with no room for improvement. Regarding the SEN school, Mr Will Smith confirmed that the schools' design would enable the Trust to make some of the best provision for students with autism anywhere in the country; a conclusion he draws from his own experience.
55. The external arrangements comply with BB103 and BB104, which both set out that where a school occupies a restricted site, as in this case, it is not necessary to comply with the area specification for the various kinds of external space covered by them. Rather a hierarchy of provision as described in those documents should be used. The Trust proposes to stagger lunch and break times to maximise the use of available space. In addition, the schools would have the benefit of potential access to the adjacent MOL, subject to the agreement of the Council as well as the ability to use the facilities of the nearby Sports Village. The schools are in an optimal position and will enjoy far better provision than other schools on similarly restricted sites.
56. The Council suggests that the use of proposed management techniques such as staggering referred to above, is indicative of design failings. However, as is clear from the appellants' evidence there is nothing unusual about the Trust's proposals in this regard. Such an approach is standard. One of the benefits of the design is that it would enable the efficient and successful management of the schools on a day to day basis.
57. One design solution put forward by Dr Horn was to increase the schools' total site area, which would make the buildings bigger. However, Mr Brown confirmed that it would not be possible to increase the total site area of the schools for the reasons explained above in relation to the 'inevitable school'. In addition, increasing the footprint of the school would involve building on a flood risk area, which would be wholly impracticable.
58. Dr Horn and the DRP were unconcerned about the height of the main school building, whether in connection with the visual setting of the MOL or otherwise. The DRP agreed that the option taken forward in the final design was the preferable option. There was certainly no suggestion that the total site area of the schools should be increased to alleviate concerns.

Highways and construction logistics

59. An agreed position statement summarises agreement reached with regard to Bus stop P. Regarding the junction with Rose Hill, option 5 is both a safe and practicable improvement to the existing road junction and can be further developed through the s278 agreement process. A highway condition could cover the scenario in which the submitted drawings are found to be unsatisfactory.
60. Regarding mode share data, both main parties agree that the difference in how this data is derived results in little variation between their respective assumptions on this matter. Where they diverge is in respect of staff data. The Council's view is that staff trip generation was underestimated resulting in concern over how trips would be managed and where overspill parking would be provided. The

appellants' position is that the mode share reduction level was already lower at Greenshaw High School than the target in the travel plan, confirming that management through the travel plan measures is the appropriate mechanism. The Trust's track record in reducing staff trips by car in existing schools has been successful and effective. In addition, survey data demonstrated capacity in the existing Rosehill car park in the event that overspill car parking becomes necessary. It was confirmed that this would be by exception for events such as parents' evenings and would not be a day to day operational requirement. In addition, the capacity survey did not include the existing approximate 52 space overspill provision.

61. The Construction and logistics plan (CLP) demonstrates that parking off-site by site operatives would not occur and shows how vehicles can enter the site without stacking on the highway. An updated version of the CLP could be controlled by a planning condition, particularly regarding programming of the proposal. The submitted CLP includes adequate details of deliveries, off-loading and departure to avoid vehicles stacking on the public highway.
62. The car park management plan (CPMP) would manage pupil arrivals to ensure no direct access from the Rosehill car park to the school. However, the Council consider such measures to be insufficient to discourage cars from using the car park. A further detailed CPMP could be controlled by planning condition. Measures are also proposed to facilitate safe access across the car park for the benefit of pupils arriving from the north and a pedestrian crossing in Rose Hill to facilitate safe pedestrian access for pupils arriving from the east, both of which direct pupils to the main school entrance¹⁵. The highways agreement and conditions could facilitate the process of ensuring an appropriate type of crossing with appropriate operation still to be agreed. Consideration of putting a 20mph speed limit could be an additional measure for the area.
63. Both main parties agreed that managing parent behaviour in the public highway would be more difficult. However, the Trust are experienced in such matters and have provided evidence of the measures that would be deployed in the new school. The Trust confirmed also that discussion with Greenwich Leisure Ltd (GLL) was underway and there was mutual agreement on how facilities at the new school and those at the Sports Village could be shared for the benefit of both parties, confirmed in the Memorandum of Understanding submitted. This included the use of the school car park outside school hours by the Sports Village.

The planning balance

64. The planning balance plainly is in favour of the grant of planning permission. The application falls within site allocation S98, the requirements of which are met by the proposed development. If the Inspector accepts the appellant's case on the substantive points at issue then any conflict with policy falls away; a conclusion that Mr Chinniah did not agree with. We have presented a strong case with respect to design and highway and construction logistics issues. Therefore, there is no policy conflict at national, London or local level. Policy 28Q, concerned with taller buildings in areas of taller building potential is not relevant to the appeal

¹⁵ raised ramp on Drawing 553096-RWC-XX-A1-DR-D-80100_P3 Section 278 General arrangement & 553096-RWC-XX-A1-DR-D-80101 P1 Car Park Visibility Splays

proposals. It does not import a test of exemplar or exceptional design. Rather the appropriate test is the third bullet of policy site allocation S98, namely high quality design which respects the open character of the adjacent open space; a test which this proposal meets.

65. The Council takes the view that the proposed development departs from the Development Plan in as much as it is four storeys outside an area with taller building potential. If that is the case then the test is whether there are material considerations that would warrant a grant of planning permission. In this regard, there is strong policy support at both national and London level for the provision of additional state funded school places, which requires local authorities, inter alia, to give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications, including the NPPF¹⁶, the Written Ministerial Statement (WMS)¹⁷ and policy 3.18 of the London Plan. In addition, there is an agreed need for additional secondary school places in Sutton. The proposed development would also deliver benefits outlined in the appellant's evidence¹⁸.

THE CASE FOR THE LOCAL PLANNING AUTHORITY– THE COUNCIL

66. This appeal should be dismissed without delay. The Inquiry has confirmed that the proposals are a poorly thought out, rushed response to a brief which has disregarded the planning policy imperatives of high quality design and the context and character of the surrounding area. This has also led to a highly objectionable scheme in terms of the unresolved and uncertain highways impacts both in relation to the operation and construction phases of the scheme.
67. The obvious solution to the poor design is to prepare a scheme that utilises the full site allocation area. This would enable alternative designs to be brought forward which would resolve many of the flaws in the proposed design. The appellant has put forward no evidence to counter that of Mr Rhodes which makes it clear that there is no impediment whatever to the appellant benefiting from the northern part of the allocation.
68. The design, massing, height and siting of the proposed scheme represent a wholly inappropriate development in this location and conflict with a number of Development Plan policies on education, design and the character and appearance of the local area, in particular Policies 24, 28 and 40 of the Sutton Local Plan and Policies 3.18, 7.4, 7.6, 7.7 and 7.17 of the London Plan. The proposed development also does not accord with design guidance in Section 12 of the NPPF which deals with achieving well-designed places.
69. A policy compliant scheme could come forward in this location. Breaches of the Development Plan are in large part due to the failure to model reasonable alternative options and the failure to utilise the full area of site allocation S98. These failings have led in particular to a design with an overly dominant building sited adjacent to MOL and a large shortfall in external space as compared with DfE minimum recommended standards.

¹⁶ NPPF paragraph 94

¹⁷ CD8.4

¹⁸ Proof of Mr Gunne-Jones para 8.18 APP7

70. It is common ground that the proposed development would introduce a taller building outside an area of taller building potential, as defined in the Local Plan and so represents a conflict with Policy 28. It is therefore necessary for the appellant to demonstrate that other material considerations exist which outweigh this conflict.
71. Policy 28Q requires taller buildings to be of exemplar design and make a positive contribution to the quality of the local and wider townscape and skyline. Whilst it does not strictly apply to the proposed development, it clarifies that the starting point for tall buildings is that they should be of exemplar design. If tall buildings must be of exemplar design in areas where the Local Plan considers them to be appropriate, then it follows that they must be exemplary outside such designated areas. Outside designated areas, taller buildings will have an even greater impact on their surroundings. Design therefore must be of exceptional quality in order to justify a departure from the Development Plan.
72. The need for exemplary or exceptional quality of design for a tall building in this location is further supported by Policy 7.7C(e) of the London Plan, which provides that tall buildings should incorporate the highest standards of architecture.
73. The appellant resists the need for the highest quality design or design of an exceptional quality which strongly suggests it recognises that its own proposal is suboptimal. It should also be noted that the Government's own recent announcements focus on the need for exceptional design.
74. The appellant asserts that it can fit the school and its parking requirements in the constrained site. However, it is this self-imposed constraint that has resulted in the poor design of this scheme. If it relocated the parking to the northern allocation, the school could be more comfortably designed and the layout reconfigured to produce a building of the highest quality design which is not of an unacceptable scale and massing with the resultant harm to the MOL and character of the area.
75. As explained by Dr Horne, the school design is an adaption of the DfE baseline superblock design imposed on an artificially reduced site area with no consideration of the site context and its impact on the MOL and surrounding area. The appellant's witnesses confirmed that following the school brief was their design driver, not site context and planning policy requirements.
76. In addition, each of the appellant's witnesses sought to defend its scheme on the basis that it 'met the brief'. In doing so they failed to distinguish between meeting a functional brief and the separate and distinctive planning requirement for the highest quality design. The NPPF makes clear that design is fundamental to the planning system. The appellant has disregarded the separate need to produce pleasing and pride-inducing buildings. They have fulfilled just their own brief and disregarded the public interest and the interests of the wider community.
77. Dr Wright confirmed that she did not understand or recognise the distinction between good, highest quality, exemplar and exceptional design. This stance is to disregard all planning standards on design quality and undermines the appellant's entire resistance to the Council's reason for refusal on this ground. She was also unable to comment on the space standards for landscape and external space, but is an educational specialist whose remit is to advise on BB103

- and BB104, which includes the space standards for external and internal spaces. She confirmed the importance of external space for schools and the desirability of meeting the relevant standards. But here, due to the full site allocation not being used, the external space is less than a quarter of the recommended minimum.
78. She then noted that her use of the term exceptional meant does it allow the school to deliver its brief. However, she was unable to answer what in the DfE superblock model had been adapted, as set out in the brief, to address the 'tight site'. She later went on to say that the constraints of the site had not compromised the design of the school. But clearly the constraint of the size has compromised the extent of play area and the need for internal classrooms, neither of which are part of the baseline DfE brief.
79. By contrast Dr Horne set out a cogent and knowledgeable explanation of all the areas that had been adapted, notably all to the detriment of the baseline scheme model. None of these points were challenged.
80. The appellant's witnesses were unable to deal with the key issues before this Inquiry – how the imperatives of the highest quality design had informed the scheme. This is because the design has not been fundamental to the scheme as required by policy. Meeting the functional brief and the requirements of the client have been the only driver.
81. The TVIA post-dated the design phase. Despite claiming his firm had been involved in the design, it was later confirmed by Mr Brown that he had been the architect and Fabrik had not been involved. The purpose of a TVIA is to inform design but this one adopted a baseline of an inevitable' school. However, a policy compliant school is not inevitable; a point agreed by the appellant's planning witness. The correct baseline is the existing site and MOL. No credence can be given to a baseline which Mr A Smith was unable to describe to the Inquiry. The TVIA has compared a wholly undisclosed or conceptualised scheme with the proposal and concluded that no impact would arise. In the absence of a masterplan or conceptual diagram it is impossible to know what the proposal has been assessed against. Mr A Smith admitted that if his approach was wrong then his entire evidence was meaningless. No conclusions can be drawn from the TVIA since the details of his baseline are unknown to the decision maker.
82. The evidence of Dr Horne demonstrates the problems with the scheme's bulk and treatment, with no modulation or articulation in form or detail to raise it above an uninspiring utilitarian, institutional looking block and not a civic building that engenders pride and a sense of identity and belonging. The adaptations to the superblock have eroded its essential qualities of openness, legibility, and efficiency and have produced a scheme that is sub-optimal.
83. The appellant has opted to restrict the site, without any options evaluations on the unrestricted full site allocation, and so unable to meet the minimum DfE recommended external space requirements for both schools. If the full site allocation had been taken the recommended minimum areas and categories of external play area could have been met for both schools.
84. Mr Brown totally dismissed the character of the area, stating it did not warrant any contextual analysis or response. The qualities and characteristics of the nearby conservation area were not studied to inform the design. This approach is contrary to London Plan 7.4 and to the National Design Guide.

85. Mr Brown suggested that he had responded to the Sports Village. It is common ground that the Sports Village is not high quality and does not have a positive visual impact on the MOL¹⁹. A comparison with the grain and scale of these buildings is obviously unhelpful in the context of producing the highest quality design. In any case, the proposal is of a much larger scale than the Sports Village, being 3 to 4 times the parapet height of the neighbouring buildings. This is clear in the existing and proposed views in the design and access statement²⁰.
86. He has paid no regard to the impact of the school on the MOL and local area and has taken no consideration of how to mitigate the visual impact other than by setting the superblock back by a few metres and planting trees in front of part of it. The screening required will take many years to grow tall enough to hide parts of the facade until which time the sheer façade will have a significant visual impact on the MOL, abruptly terminating the views and sense of openness. High quality architecture does not require screening with vegetation.

Internal arrangement

87. The appellant was not guided by best practice in designing the SEN school, but simply by the brief and the Trust. The design is too narrowly focussed on the needs of this Trust, who do not represent all of the future users and their needs.
88. Mr Brown suggested it was not possible to increase the size of the school due to it being in a flood risk zone, but that would be possible through thoughtful structural design. Therefore, flood risk does not appear to be an impediment to a more fitting design.
89. There are numerous problems with the internal arrangements, lack of windows, narrow corridors and congestion at break to name a few. The design has clearly not followed best practice. There are many examples of schools which have met best practice such as Harris Academy²¹, which is similar in size and on a smaller site. There are no internal classrooms in the Stirling prize winning 4 storey Burntwood School for 2000 pupils²². There are many other examples of schools of this size without internal classrooms.
90. There would be likely congestion at break times at the central exit next to the dining area. There is one primary exit near the dining room and a secondary one at the far south end of the building. The risk of pinch points and congestion in the main exit and at the junction of corridors and staircases has not been discounted through people movement modelling. Mr Brown contended that there was not enough space allowance in the brief to have wider corridors or daylight in them. However, Dr Horne explained that through the baseline superblock design it is possible to design decent circulation spaces. The problem is that the proposed design has not used the space budget well, resulting in very poor quality circulation spaces.

¹⁹ KD2

²⁰ CD1.3 pages 32&33

²¹ LPA1 appendix 2

²² LPA1 appendix 2

External arrangement

91. The habitat area is squeezed for the most part between a fence to the railway land and the back of the sports block or the tall MUGA fence²³. This along with the area around the bike parking are leftover space and not designed for the benefit of the school for ease of access and security and would likely require staff supervision. Using the full site allocation would give over 10,000sqm of additional area, which is more than twice the total net play area in the proposal.
92. BB103 and 104 recommendations for external space are recent standards, revised in 2014 and 2015 respectively. The DfE would not apply these figures if they were rarely able to be met. The full site allocation would have allowed for the minimum areas to be met. External space is of particular value for SEN schools as integral to the learning experience. BB104 suggests that a covered external area for arrival and departure and outdoor space for cooling off may be appropriate.
93. Mr Will Smith considers that the SEN school would likely provide some of the best provision for students with autism anywhere in the country. This claim was not corroborated through evidence. He was not talking about the design of the school, but the provision of an educational facility, from having visited many schools across the country in the last 15 years. He cites specialist rooms, the internal and external spaces and access, and the connectivity of the SEN school with the Secondary School. However, Dr Horne raised many issues with the internal classrooms and staff room and with the poor access from class spaces to the outside and the entry sequence that is not covered and designated for sole use of arrival and exit; the external space is less than half of the recommended area and does not provide for different kinds of spaces that are recommended. These issues were not disputed rather dismissed as having to be lived with due to the constraints on the site.
94. Regarding the entrance arrangement and the concern, there could be lingering smells in the dining area, Mr Will Smith admitted that there may be some children with an aversion to smell and they would manage them as required. A good design will take account of these possibilities and not leave some out to be managed by the school which is both inefficient and potentially more stressful for the child.
95. The need for a window in the staff room is vital for unwinding given the demanding and challenging working environment of a special school (and secondary school). However, the appellant prefers staggered breaks in their schools. Dr Horne explained that staggered breaks result in disruption from noise in the playground adjacent to learning environments, particularly in the summer when windows are open. There is also more potential for distraction in movement in corridors and noise in the building, such as the open plan, central dining area, particularly in wet weather. The Trust may have management systems to deal with this, but future operators may not. The need for such measures could be avoided if the full site allocation was used which would increase the external play area. Mr Will Smith asserted in oral evidence that the local education authority was very happy with the SEN design proposals, but this is not raised in his proof.

²³ CD 1.3 landscape plan p 43

96. The scheme went through the design review panel (DRP). The second review did not find the design even to be acceptable – let alone high quality. The Council's serious concerns mirror those of the DRP.
97. The summary of the DRP outcome is as follows²⁴:
- An over emphasis on constraint, rather than opportunity, preventing the scheme becoming a quality civic building and inspiring learning environment.
 - Issues fundamental to the operational success of the schools need to be explored further e.g. parking on the contaminated land to the north; formal agreement as to the use and management of the adjacent park; rooftop play space to reduce the triple-phased play rota required to meet minimum external playspace guidelines.
 - Massing options appear to focus on demonstrating why volume could not be removed rather than seeking creative solutions to articulate buildings and reduce footprint, which might allow for better internal and external environment. Connection of the two schools is supported, to create a potentially positive learning environment and sharing of resources and presents further opportunity for definition and identity to the elevation of the main building.
 - Internal planning includes suboptimal areas such as classrooms without direct access to daylight or opening windows, and unrealised potential to add interest and long views to corridors.
 - It would benefit from further work to address inadequacies and secure opportunities, to provide an exemplar learning environment.
98. Mr Gunne Jones confirmed that the appellant has never considered the need for good or high quality design in planning policy terms. It has merely considered it in functional terms, which is inconsistent with the Development Plan and importantly the Government's own design policies in the NPPF²⁵.
99. He was unable to explain why design advice from the DRP had been discounted. He separated the issue as to whether the scheme enabled the Trust to operate from whether it would engender civic pride, function well and add to the overall quality of the area for the lifetime of the development.
100. The proposal fails to meet the requirements for good design let alone high quality design. The appellant simply chose to disregard the DRP's advice. The NPPF requires the outcome of the DRP to be taken into account in the decision making and furthermore where opportunities are not taken to improve design the scheme must be refused. It is clear that all design policies must be interpreted in the light of the NPPF and that the Council's Local Plan policies would have had to take this into account to meet the soundness tests.
101. Refusal on poor design is consistent and in accordance with the requirements of the Development Plan and the NPPF. To grant planning permission in the face of the objective conclusions of a properly constituted DRP, substantiated by the Council would be to permit functionality to over-ride the need for high quality

²⁴ CD10.2

²⁵ paragraphs 124 -130

design especially in circumstances where the larger site area could be explored and opportunities taken to improve design are available. High quality design is a key component of sustainable development. The scheme fails to deliver high quality design and fails to take available opportunities to improve the design.

Traffic impacts of the construction and operational phases

102. The unique location of the proposed development, next to a large, free public car park, means that it is particularly susceptible to the generation of traffic impacts by car. The lack of detail provided by the appellant on transport impacts and mitigation measures for both the construction and operational phases of development means that it cannot be ruled out that the proposed development will result in an unacceptable risk to pedestrian safety, and a severe impact on traffic flow, highway safety and amenity. The proposed development therefore conflicts with policies 6.12 and 6.13 of the London Plan and Policies 29, 36 and 37 of the Local Plan and NPPF paragraph 109.

Impacts during the operational phase

103. The TA is based on data from the 2011 Census which is considerably out of date and significantly underestimates the likely car mode share of pupils travelling to the proposed mainstream school. No TRICS trip rate data has been used as an additional check on mode share assumptions. As a result, the TA is not robust and cannot be relied on to justify a lack of impact on the amenity of neighbouring residents caused by drop off and pick up of pupils by car. The large unrestricted car park would encourage travel to the schools by car and the Council remains unconvinced that measures proposed would be a successful deterrent for staff parking or parent drop off and pick up. Further concerns also remain regarding the lack of certainty around which site access option will be brought forward and the assessment of pedestrian movements in the school travel plan.

104. While TfL is satisfied in relation to the impact of the proposed development on the strategic London Road Network, it considered that other issues were matters to be resolved between the appellant and the Council. It remains the Council's responsibility to satisfy itself that there will be no unduly negative effects on its own public highway network.

Impacts during the construction phase

105. Adequate information regarding the capacity of the site compound and traffic management is not provided. In addition, there is a failure to set out any measures, targets or monitoring details to encourage non-car travel by construction workers in the GTP. Due to this, the Council cannot be confident that there would not be an unacceptable impact on highway safety, the road network or the amenity of local residents during construction. The particular nature of the proposed development, its location next to MOL and a large free public car park, as well as its means of access from the public highway are such that these details should be provided at application stage. As the contractor responsible for delivering the construction of the proposed development has already been appointed, there is no justification for leaving the further detail of the CLP to be secured by condition.

106. The refusal by the appellant to provide robust and detailed information at application stage and its reliance on securing further detail by condition, does not provide the Council with confidence that its concerns will be resolved before construction work begins. Matters relating to traffic impacts would be difficult to resolve retrospectively once the design and layout of the development is determined. There is no good reason why the necessary information and mitigating measures could not be provided and worked out in advance of a grant of planning permission. The proposed development therefore conflicts with Development Plan policies on transport impacts, protection of local amenity and parking.
107. These concerns are also highlighted in the evidence of the local councillor and the local residents who have the best experience of using the area.

Conclusion

108. The provision of additional secondary school provision in the borough is a benefit to which weight must be given. However, this does not override the other planning policy imperatives. The proposal conflicts with the requirements of the site allocation policy as it does not meet the requirements for high quality design. It conflicts with the transport policies and would cause an unacceptably severe impact. It conflicts with the policies in the NPPF and in particular the emphasis on high quality design in paragraphs 124 -130. Design is not merely a function of meeting a brief. High quality design is fundamental to the improvement of the quality of the area and a building such as a school must instil civic pride for future generations in order to be sustainable development.
109. The Council can demonstrate that it has sufficient secondary school places at present and has undertaken feasibility work to ensure that the quality of teaching and student experience would not be compromised for those schools taking on additional pupils. As such, there is time for the appellant to revise the design of the proposed development and bring forward a policy-compliant scheme. The proposed development is not the only option for the site and all the benefits of the proposed development would be carried forward in a policy compliant scheme.
110. Permanent harm would be caused to the local area by the proposal. A redesigned proposal utilising the full extent of site allocation S98 and taking inspiration from its surroundings would be capable of delivering a building that would provide a high quality educational environment for future generations and would represent significant civic pride for Sutton.
111. The Council's evidence has confirmed the unacceptability of this scheme. This proposal conflicts with the Development Plan and there are no material considerations capable of outweighing that conflict. Planning permission should therefore be refused in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004 to enable an acceptable and high quality scheme to come forward in the public interest.

OTHER PARTIES WHO APPEARED AT THE INQUIRY

Mr Wachuku Johnson (Local resident)

112. This development would totally destroy Rosehill Park's peace and quiet. It would remove the tennis courts which would be disastrous for those of us who

enjoy them at present. The proposed building would be out of place. Residents would no longer be able to enjoy a peaceful and quiet walk or run in the park. There would be increased traffic and congestion problems and the habitat of many beautiful birds would be destroyed. Bats may reside on the appeal site and they are a protected species by law in the UK. The many beautiful trees are at risk of being destroyed particularly the pine trees. Whilst the area was being surveyed trucks and heavy machinery were driven across the park and damage resulted.

Councillor Steve Penneck (Sutton North Ward)

113. Speaking for three ward councillors for Sutton North, we oppose the appeal on the basis of poor quality design, road safety and traffic impacts. We accept the need for a second new school in the Borough, and Local Plan support for this site. However, we are very concerned that the current proposal falls a long way short of what is required, given the open nature of the site, the congested traffic already experienced in Rose Hill, and the use of Rose Hill by pupils from nearby Greenshaw High School.
114. The appeal site has a significant heritage including its relationship with the adjoining St. Hellier Estate and the Sutton Garden Suburb. The appellant concludes that it is not a valued landscape. Even if this were the case, it is not a reason to perpetuate a poor environment. Rather a reason that development should enhance and improve the area with a high standard design.
115. The appellant also describes the site as 'poor quality' referring to the Council's 2008 characterisation study, which is based on assessments made in townscape/landscape appraisals undertaken even earlier in 1995-97. This predates many features that now make the park valued; the expanded Sports Village, the revitalised café, shrubberies and upgraded childrens' playground. Whilst the park's landscape value may be less than that of other municipal parks, it is not of low quality and its value to local people comprises its amenity value.
116. There are significant views into the park as identified in the 1998 townscape/landscape assessment. Rosehill Park marks the beginning of Sutton town centre on a historic highway that linked London to the south coast. The new school would be visible to those entering the Borough and we need a landmark building that signifies the entrance to the town displaying architectural excellence. We are providing a superb landscaped setting for the school and we need a building that respects our heritage, that inspires students. The box structure, uniform height and flat elevations could be an office block anywhere. It does not respect its context. Using the whole of the site allocation would have given more options for the design. If the appeal is successful, park improvements and community use of the school should be secured.
117. The TA is flawed and out of date. It underestimates the total number of journeys by car, numbers of pupils approaching from the north and west and those walking from the south. Modal share assumptions are inaccurate and below the averages of Sutton schools. (It is set at 12.2% travelling by car and Sutton schools are 2.3%-21%. Greenshaw is at 16.4%, which adds another 50 car journeys to each end of the day).
118. The TA only assesses one scenario for pupils walking from the north and none for pupils walking from the south hence no impact on crossing facilities by Sutton

Common Road/Angel Hill junction are included. All traffic impacts could not have been understood when the site was allocated, and TfL's changed approach is based on its responsibilities rather than the traffic impact in the more immediate vicinity of the school. The impact of recent initiatives to reduce traffic in residential roads would be likely to increase traffic on Rose Hill. The pavements are very narrow, which is a safety concern. We are not convinced that the pavement widening scheme proposed at bus stop P would be feasible given the changes in levels and need to reinstate the hedges and park railings. We are concerned about pupil safety generally and do not consider the management of stationing staff at various points to be an effective strategy. A zebra crossing is required on Rose Hill, along with a 20 mph restriction and restrictions on waiting to prevent parents dropping and picking up pupils.

119. The TA did not model staggered hours for the new school. It has been confirmed that staggered hours would be synchronised with those of Greenshaw School. This should be conditioned and amount to more than a 5 minute delayed finish.
120. Insufficient parking spaces would be provided for staff. Staff would be likely to use the Sports Village car park and crowd out other users. This would be unlikely to be controlled effectively through the STP or CPMP. There would be conflict between pupils and cars in the shared public car park. Suggested management measures would not effectively deter pupils from using this entrance, particularly those entering from the north. It is suggested that parking/drop off issues be managed through a transport review group, including the school and community. We remain unconvinced that this would be a suitable model for the complex issues of traffic and car park use as pupils would be using pedestrian paths surrounding the school.
121. We are concerned that construction workers will park on residential roads in the locality, in addition to parents and staff and that this will not be effectively managed. For all these reasons, the TA is not a sound basis for assessing the traffic impacts of the appeal development.
122. Primary school rolls are now likely to start falling and a 6 form entry school may be sufficient, which would have less traffic and safety impacts. Dismissal of this appeal would allow time to reassess the design and size of a new school on this site.
123. If the proposal is allowed, conditions should be included to ensure community use of the school; a ban on construction workers parking on residential roads; staggering the start and finish of the school day; a 20 mph zone and waiting and loading restrictions; improvements to footpaths in the locality; and a zebra crossing at Rose Hill and review of that at Sutton Common Road/Angel Hill; pavement widening at bus stop P; greater separation between pedestrians and vehicles in the shared car park; waiting and loading restrictions within Aultone Way; and repainting of the park railings.

Mr Gerald Tasker (Local resident)

124. The building would be out of character with the surroundings. It would detract from the natural beauty of the park and the skyline. There would be inadequate parking and it would increase vehicular traffic to dangerous levels for pedestrians, particularly people entering and leaving the site. Increased traffic

would delay public and private transport, cause idling and increases in air pollution. It would result in a loss of recreational parkland. The area is already served by a number of secondary schools and as it would be sited close to the borough border, it would encourage the migration of students from other boroughs, thus reducing spaces for Sutton children.

Mr Charlie Mansell (Chair of Sutton and Cheam Labour Party)

125. This development would reduce the open green and flat appearance of the park. It would be too high and appear like a big slab. It would look like a prison. The proposed car park would be shared with the Sports Village, overcrowded and insufficient to cater for the development. Traffic would all come on a busy road and that generated by the development would result in significant congestion on Angel Hill, especially if it were later to be a tram route. 1500 pupils would impact on the local area. The proposed fencing of part of the Sports Village on three sides would be a fire trap. The construction compound on the tennis courts would have a narrow access on to a very busy road. The bowling green is close by and would suffer all the dust from the site. Construction would run for approximately 96 weeks and result in substantial air pollution.

126. The proposed development would be near other secondary schools and generate all sorts of congestion. Whilst the catchment area would be to the south, Merton parents would want to apply. The Council has alternative educational land sites such as the Sutton West site which was a former secondary school in the past. The Trust will apply for funding if the planning application is approved and it is quite likely a temporary school would be set up in any case. The DfE insisted on a SEN school. It could have been linked to another local school rather than this proposal.

Ms Mercedes Scott (Local resident and parent)

127. The Council is failing children with special needs. Children requiring additional support are increasing, yet options for them decreasing. My son, with special needs, is currently in reception at Green Wrythe and I am concerned that the support he has received at Green Wrythe will not be matched at secondary school. The life skills they are teaching him are having a big impact. Therefore, I would like him to continue his education at a Greenshaw Learning Trust school and support this appeal.

128. In reference to the Council's objections to the proposed development, traffic impact would not be material, design is subjective and whilst acknowledging some classrooms do not have windows, those with rooflights will benefit from twice as much natural light compared to those with vertical windows.

Mr Rob Yuille (Sutton Garden Suburb Residents Association)

129. Although a small number of our members who commented in writing on the scheme were in support, the Association overall objects. We recognise the urgent need for secondary school places and that the Council considers this site to be the least worst option. We also recognise that this appeal is considering the planning application and not the decision to allocate the site. However, some of the impacts on amenity and traffic are inescapable consequences of the site allocation. It may be impossible to overcome the planning challenges involved.

130. The Recreation Ground is highly valued. It is used by all members of the community for all sorts of activities including exercise/dog walking and community activities. A building on the site would mean we can no longer access parts of the park to enjoy these activities. In the short term residents would experience acute loss of amenity during construction. They would be unable to use the tennis courts and surrounding areas.
131. Residents would face irreparable harm due to the proposed design, height and massing. A four storey cuboid building would be overwhelming for the park, unattractive and out of place. Its proximity to the park as MOL would result in harm as it would diminish our day to day experiences. Proposed changes to the car park layout would make the cafe and playground less pleasant to use. It remains the case that many residents do not want a building on the site at all. However, if it is built, the degree of harm could be reduced with a design which is more appealing, less institutional, less dominant and in keeping with the area. A good example is the new school in south Sutton. Using the space to the north of the site for car parking may have merit if it can enable a more attractive and less imposing design and making the site greener through additional tree planting and enhancements to biodiversity.
132. The TA generally is not detailed enough and is based on faulty assumptions. It assumes that not a single student from the north would come by car or bus and that vehicles coming from the south would all return south. However, the school would not have complete control over its catchment. Glenthorne High School recently consulted on admissions criteria. The results would mean some students from the north and west of Rosehill who would otherwise have attended Glenthorne would be more likely to attend school on this site. This would give rise to more congestion on Rose Hill roundabout.
133. The TA identifies the impact of over 1000 students arriving at the same time. Widening the pavement at the bus stop would be helpful but no consideration has been given as to whether those measures would be sufficient, to the impact on road users, and to whether in practise students or others would use different access routes or simply walk along the road. Very little detail is provided on safe routes to school or the car park environment for this volume of pedestrians and cyclists.
134. Some on-street parking as well as pick up/ drop off on surrounding streets is assumed, but little detail provided. None of the surrounding streets are suitable for increased congestion which, in this quiet area, would further harm residential amenity. There are already traffic problems particularly around Greenshaw High School, associated with open evenings. The equivalent for any new school should be considered in much more detail. It is now confirmed that a parking permit area will be in place in the locality so the assumptions underpinning the TA should be revised.
135. The Rose Hill junction is a recognised problem. Widening it would help but the access road to the car park would still be narrow allowing only one car to pass. This would increase congestion on the site and on the road. If the proposal goes ahead mitigating measures should be strictly enforced but are unlikely to be sufficient. There would need to be significant improvements to the cycle access especially from the south and improved pedestrian access to and

through the park. Traffic and parking restrictions on Rose Hill should also be explored.

Mr David Buchanan (Local resident)

136. The objections regarding the building being out of place and failing to provide an exemplary learning environment are very vague, subjective and without merit. The massing is similar to Greenshaw and Glenthorne schools. The Trust's Chief Executive has confirmed that the proposed school is excellent, similar to others that it runs. There has been insufficient consultation with authoritative expert people. The existing site is an eyesore and attracts anti-social activities. Other proposals nearby have been more harmful such as the dome over the tennis courts. The construction industry would have to mitigate any disruption during construction and fire legislation would ensure a safe environment would result. There is a desperate need for school places. Therefore, I support the appeal.

Mr Elliot Colburn MP

137. I represent the constituency bordering the appeal proposal and wish to support the appeal.

138. The site is not MOL. It is allocated for education use in the Local Plan. At that Examination, the impact on the MOL was considered. If more of the allocation were used it would have a greater impact on the MOL. DfE makes it clear that its decision to exclude the northern part of the site from the appeal proposals was made to allow more funding to be spent on the main buildings where the pupils would spend most time. The SoS screening direction stated that there were no concerns with the setting or visual impact of the development.

139. The Council defines buildings in the region of 4-6 storeys as mid rise buildings. They are considered to be tall in the context of relatively low rise development. Therefore, as some parts of the building are four storeys, the height of the proposed development falls within the lower end of the taller building spectrum. There is no policy which prohibits tall buildings from being built outside areas with potential for tall buildings. A precedent has been set to reflect this within the Borough. No contravention of London Plan or local policy results therefore.

140. There is no evidence that the proposed development would have an unacceptably harmful impact on the surroundings. Site allocation S98 expresses no requirement for development to pay particular regard to height considerations. When considering an education facility there is a presumption in favour of the development of state funded schools and a refusal of any application for a state funded school or the imposition of conditions will have to be clearly justified by the local planning authority as per the 2011 joint ministerial statement. Any proposed impact of the height of the proposed development does not outweigh the presumption in favour of development in the Written Ministerial Statement (WMS). Furthermore, the Council has not clearly justified the reason why it has judged the proposed development to be too tall, especially as it has also critiqued the appellant for not using the entire site allocation. The WMS encourages local authorities to employ a collaborative approach for these types of planning applications to mitigate any issues. This is strengthened by the NPPF. The appellant conducted a pre application consultation of development design with the Council's DRP review, which

confirmed a building of four storeys does not raise concern, due to generous separation distances. In spite of the site lying in an area not designated for tall buildings, altogether the proposed development complies with both local and London plan policies.

141. The locality is served by bus, and train with a public transport access level (PTAL) of 3. The TA's approach was agreed by TfL. The Council's concern that parents would use the Sports Village car park to drop off and pick up is addressed in the car park management plan. The proposal includes a policy compliant quantum of parking and the appellant's TA and subsequent information submitted provides adequate information to quantify the traffic impacts associated with the proposed development. It would not result in severe cumulative impacts necessary to refuse the development on highway grounds, as set out in paragraph 109 of the NPPF.
142. The appellant has addressed the Council's concerns in its updated CLP and draft delivery and servicing plan. Details are provided of how vehicles will access the site, where they will be loaded and unloaded. TfL confirmed that the CLP was in line with TfL guidance.
143. Air quality and biodiversity impacts have been resolved. Had the Council raised the need for financial contributions during its consideration of the appeal application, the requirement for obligations could have been assessed against the CIL Regulations.
144. In conclusion, the Council has a legal duty to ensure sufficient school places to meet demand. Increased birth rates since 2000 will translate into increased demand for secondary school places. Without this development there will be a deficit of 2,047 secondary school places between 2020/21 and 2026/27. The Council has been enlarging existing schools that are already over capacity. This is not a sustainable strategy. It does not accord with paragraph 94 of the NPPF, which places great weight in the need for local authorities to create a sufficient number of schools. The WMS is even stronger. Rejecting this appeal on the basis of weak grounds as suggested by the Council would be unsound.

WRITTEN REPRESENTATIONS

145. The Council officer's report lists the responses from statutory consultees, other relevant bodies and members of the public²⁶. In terms of the public responses, the report notes that there were 67 objections from third parties along with 10 letters of support. The objectors concerns mostly regarded traffic, highway safety and parking, the need for new schools, choice of site, loss of green space/tennis courts, inadequate outdoor space, the size of the site, the design of the main building and impact on the MOL and locality, ecological and environmental impacts, air quality, noise and disturbance, fire hazard for the Sports Village, impact on services and facilities and the living conditions of those living nearby, increase in anti-social behaviour along with the inadequacy of public transport in the locality. The material grounds of objection are generally related to matters that have been covered above.

²⁶ CD2.2

146. Matters raised in letters of support focussed on the requirement to meet a demonstrated need in the right location, providing the benefit to pupils of large areas of open green space and the Sports Village, support for the general massing and height in relation to the MOL, and the traffic solutions proposed.

147. Just under 20 written representations were received in relation to the appeal, the vast majority of which objected. Some have been summarised by the appellant²⁷. They include many of the issues already addressed focussing on:

- The need for the appeal proposal
- Design of the proposals
- Loss of park
- Traffic and highway and pedestrian safety
- Impact on living conditions of nearby residents
- Loss of tennis courts and all weather pitch
- Impacts on air pollution and biodiversity

PLANNING CONDITIONS

148. A list of suggested planning conditions was agreed between the two main parties at the Inquiry²⁸. I accept the need for imposition of most of these subject to refinement and simplification to improve clarity and ensure consistency with national policy and guidance.²⁹ A list of planning conditions to be imposed is set out in Annex C.

149. Standard time and plans conditions are necessary to ensure certainty and clarity. Having canvassed opinion from the two main parties, I have amended the suggested plans condition to refer just to the agreed appeal plans. I have therefore altered other suggested conditions to refer to specific supporting documents as necessary. All supporting documents form part of the evidential base for the appeal and I have considered them all carefully and dealt with them elsewhere as necessary.

150. Conditions controlling all external materials, hard and soft landscaping, boundary features and tree protection associated with the junction improvements to Rose Hill will help to deliver high quality design that blends into the locality; the latter requiring submission pre-commencement to ensure adequate protection. Given the previous conditions and that controlling the proposed Rose Hill junction improvements, a separate condition requiring details of the materials for the access road, parking areas and other hard surfaced areas is not necessary.

151. Conditions to secure an appropriate sustainable drainage scheme including improved green space factor score and its timely completion are necessary to avoid flooding impacts; the former prior to development commencing as those matters could influence design development. Conditions to secure appropriate

²⁷ APP7

²⁸ IQ25 and KD9

²⁹ Paragraph 55 of the Framework and PPG including paragraph 21a-003-20190723

- biodiversity protection, nesting features, bat activity surveys, and a biodiverse and biosolar roof are necessary to ensure ecological protection and a sustainable development [112]; all matters except nesting features are required pre-commencement to ensure ecological protection and appropriate design. In addition, a construction environmental management plan (CEMP) is required to avoid or mitigate environmental or nuisance impacts during construction.
152. To deliver an energy efficient development, conditions requiring timely compliance with the relevant BREEAM standards and submission of evidence to demonstrate compliance with the submitted energy statement, along with requirements if there is a shortfall in required CO2 reductions, are necessary. A condition requiring compliance with the cooling and ventilation aspects of the energy statement, for the same reason is also necessary.
153. To deliver a safe environment, a condition to ensure compliance with secured by design principles is necessary. A condition requiring compliance with the submitted flood risk assessment is required to prevent flooding impacts. A condition to address previously unidentified contamination and secure necessary timely remediation is necessary to avoid risks to human health and the environment. As no substantive evidence of unacceptable risks to controlled or groundwater is before me, conditions to restrict or control infiltration of surface water drainage and piling into the ground are not required.
154. To protect the living conditions of nearby residents, a condition controlling operational plant noise and hours of working is necessary. For the same reason, measures to control the use and detailed design of the multi use games area (MUGA) are required. As insufficient information is before me to fully understand the implications of community weekend use of the MUGA, in terms of noise and disturbance, I have preferred the Council's suggestion of use limited to week days. Conditions would ensure the cycle and car parking provision is provided, in a timely manner to avoid any harmful impacts on highway safety. For the same reason, given the proximity of a public shared car park and potential for pupil drop-offs and pick-ups, and to prevent inconvenience to neighbouring residents, the submission of a detailed school travel plan, setting out the requirement for a transport review group, is necessary. As that could influence design development it should be submitted prior to development commencing. In light of that condition, separate conditions setting out the requirements of a detailed school travel plan are not necessary. Given those same concerns, a detailed CPMP and full delivery and service plan are also required. A revised CLP would provide additional detail to ensure highway safety and protect the living conditions of nearby residents during construction.
155. A condition to ensure timely completion of refuse and recycling facilities is required to support good practice in waste disposal. The reinstatement of the former tennis courts would be controlled to deliver the policy requirements of the site allocation. Pupil numbers need to be controlled to ensure an acceptable development including educational environment, and to protect the living conditions of nearby residents. An external lighting scheme is required to protect the character and appearance of the locality, the living conditions of nearby residents and ecology. The submission of an employment and training strategy is required to ensure appropriate job opportunities for local people. Conditions to secure off-site highway improvements delivered through a s278 Highway Agreement are required to ensure highway safety.

156. Third parties have requested conditions to control other matters. As the appeal proposals include for community use of the school, a condition in this regard is not required. Construction workers parking would be controlled through the CLP and GTP. The Trust intends to stagger the start and finish of the school day. However, conditions to control that aspect would be difficult to enforce and would not pass the relevant tests. Any necessary off-site highways works would be controlled through conditions and further assessment through a s278 Highway Agreement. Improvements to the pedestrian paths and adequate separation between pedestrians and vehicles in the shared car park would be already controlled by condition. I have limited substantive evidence to suggest that further improvements to paths and cycle routes in the locality are required. Whilst the detail of new boundary treatment would be controlled by a planning condition, other off-site works such as repainting the park railings would not pass the relevant tests for conditions. In any event I have limited substantive evidence to indicate it would be necessary. [123]

INSPECTOR'S CONCLUSIONS

The numbers in square brackets [n] refer to earlier paragraphs in this report.

157. Taking account of the oral and written evidence, the Secretary of State's reasons for recovering the appeal and my observations on-site, the main considerations are:

- The effect of the design, massing, height and siting of the development proposed on the character and appearance of the surrounding area and on the visual setting of the adjacent MOL;
- The effect of the design, massing, height and siting of the development proposed on the quality of the working/learning environment for future users/occupiers;
- The effect, both during construction and once the development is operational, of the proposed parking/servicing/access arrangements on the safe and efficient operation of the local and strategic highway network, including pedestrian safety, and on the amenity of the occupiers of neighbouring properties.

Design and character and appearance

158. The proposed development would be located outside an area of taller building potential as defined by Local Plan policy 28Q. Rising to four storeys, the appeal scheme would be taller than most development in the locality, which is generally two or three storey suburban residential development. However, the locality does include taller and larger buildings of four storeys or more, including the apartment blocks on Cleeve Way, some of which front onto Rosehill Recreation Ground. The appeal development would relate well in height to those buildings, along with the adjacent buildings which form part of the Sport's Village. As the proposed main school building would be a public civic building, its proposed use would justify a modest departure from the height of the surrounding mainly residential development. [85; 112; 124]

159. I note that the proposed main building would be large, roughly rectangular in shape with limited modulation. I also note that it would appear institutional.

However, its proposed use is that of a school, which is an institutional use. Further, it would incorporate two separate volumes, with a slight difference in parapet heights, which would help to break up the bulk and differentiate the two schools. The incorporation of some set backs, along with full height vertical glazed elements, and other large areas of glazing, would break up the mass and provide some transparency and relief. A limited pallet of materials, including dark brick at the base and lighter brick above, along with curtain walling, would help to integrate the elevations and add some depth, colour and interest. At ground floor level, the accentuated separate entrances, use of colour and large areas of glazing, would introduce a human scale. The regular fenestration pattern on the main school and more vertical emphasis on the SEN school would provide interest and further help to visually differentiate the two schools, such that they would read as separate entities. On balance it would have an acceptable appearance, that would draw on its parkland urban setting. [68;82;112;113;125]

160. The proposed school building and sports hall would be near the MOL. However, they would be visually contained by the existing mature trees, set back from the MOL and orientated to address and frame it. The proposed buildings would be separated from the MOL by estate type railings and planting. The incorporation of new trees and landscaping would help to integrate the building into its context over time. The areas of glazing would provide some transparency and together with other design elements described above would help the proposed building relate to its parkland setting. It would have a roughly similar relationship to the MOL as the apartment blocks on Cleeve Way referred to earlier. For all these reasons it would not appear overly dominant. [68;82;86;112;113;124-125]
161. I acknowledge that the sheer size of the proposed school building, along with its mass and bulk, located adjacent to the MOL would diminish the openness of that space. However, any building to deliver the requirements of site allocation S98 would be likely to impact on the openness of the MOL. The resultant impact on the MOL would be reduced by the matters outlined previously, and in this regard, it would generally respect its open character. In coming to this conclusion, I have had regard to the value to the community of the Rosehill Recreation Ground and its facilities, along with the conclusions of the Sutton Characterisation Study report which categorises this part of the MOL as poor quality landscape. [82;112-113;115;124;125;130]
162. The appellant has carried out a TVIA, which sets out how previous Council studies have influenced the scheme's design approach. Whilst I acknowledge that this post-dates the design process, it does provide some form of objective analysis of the scheme's impact on the character and appearance of the locality, including the landscape and visual impacts on the setting of the MOL. On the basis of my previous findings, I generally concur with the study's conclusions and the approach taken to assess any impact taking account of the requirements of site allocation S98, using the space requirements of BB103 and BB104. I note that the Atkins feasibility study which supported site allocation S98 used a similar approach. Taking all matters into account, I conclude that the proposed development would not harmfully impact the visual setting of the MOL. [78]
163. The appellant accepts that design development principally responded to the educational brief. However, that brief was designed in accordance with a number

of DfE documents, a school specific brief informed by the requirements of the Trust and the site specific and contextual requirements; the latter set out in Council documents that underpinned the Local Plan site allocation S98 and the educational brief. There are some failings in the appellant's design development audit trail. However, it was confirmed that the contextual studies rely on the Sutton Characterisation Study report, which underpinned the Local Plan and site allocation S98. Although aged, that document sets out an urban design analysis of the whole borough, including the appeal site as part of site allocation S98. Further, the Atkins feasibility study undertaken investigated the potential for a roughly similarly sized site to accommodate an eight form entry school and SEN school. Therefore, in meeting the requirements of the brief, the appeal proposal went further than just meeting the requirements of the proposed operator and delivering the functional need of the proposed schools. [75-76;84;108;116]

164. Local Plan policy 28Q is headed 'areas of taller building potential'. Therefore, I take the view that the criteria set out within it, relate to development within those areas. They do not relate to the appeal development therefore, including the requirement for exemplar design. Whilst the policy may be taken to imply that the consideration for tall buildings is that they should be of exemplar design, that point is not set out in the policy. [70-71]

Conclusion

165. I conclude that the proposed design, massing, height and siting of the development proposed would not harmfully impact the character and appearance of the surrounding area. Further, it would not have a materially harmful impact on the visual setting of the adjacent Metropolitan Open Land. For these reasons, it would generally accord with London Plan policies 3.18, 7.4, 7.6, 7.7 and 7.17. Together, those policies support the establishment of new schools, including free schools, in terms of development that has regard to the form, function and structure of the area, maintains the openness of the MOL and is of the highest architectural quality. London Plan policy 7.7 requires tall building development to incorporate the highest standards of architecture and materials, including sustainable design and construction practices.
166. The appeal development would also accord with Local Plan policies 24 and 40. Together those policies, support development that is designed to the highest standard, protects the open feel of the borough particularly in relation to the MOL, and delivers the land uses set out within its site allocations. Further, it would deliver the requirements of site allocation S98.
167. However, the appeal proposal, rising to four storeys, would be a taller building, as defined by Local Plan policy 28. It would be located outside an area of taller building potential. A conflict with part Q of that policy would therefore result. However, the weight that I attach to that conflict is significantly reduced by my findings on this matter. The appeal development would accord with all other parts of Local Plan policy 28 in respect of its impact on the character and appearance the locality. [70]

Design and educational environment

168. The proposed main teaching block is derived from the Education Funding Agency Baseline School Design superblock 1,200 place secondary school. However, that baseline design includes a smaller three storey building with no

SEN. The proposed building is roughly 50% larger in area. The appellant confirms that the deviations from that baseline design meet the specific requirements of a school specific brief which embed the requirements of the DfE, the end user, the Trust, along with the site and its context. In this respect the baseline design has been interpreted and it is not an 'off the shelf design' as suggested by the Council. [78]

169. The Council consider that amendments from that baseline design and internal arrangement would result in a substandard educational and teaching environment. I will address its concerns in relation to each school.

The main school

170. The corridors would be longer and narrower than those in the baseline design. However, they would be clear open spaces and would enable good surveillance throughout. There would be some void space above the dining area and hall, which would alter the nature of the circulation spaces nearby and the corridors would generally be flanked by classrooms and other rooms. They would have some modulation and overall, they would not appear monotonous spaces. Given the void space above the dining room and main hall, some borrowed light and outside views from the stairwells, the circulation spaces generally would be sufficiently light and provide some visual interest. As the corridors would generally have classrooms/learning spaces on one side only, they would be unlikely to result in an overcrowded feel. Whilst classrooms/learning spaces would be sited either side of the corridors on the third floor, those would be specialised teaching areas likely to accommodate fewer pupils. That the corridors meet the relevant standards in terms of width and lighting gives me confidence on this aspect of the proposal. [89]
171. The main staircases would lie perpendicular to the corridors and issue directly onto those circulation spaces. They would also include a number of doors at the head of the stairs and within the corridors. The Trust confirms that doors around the staircases would be held in the open position and that congestion would not result. I am unconvinced that such a measure could be effectively controlled. Regardless of this, given the circulation space at the head of the stairs, and that within the corridors, I consider that the proposed arrangement would be unlikely to result in congestion. Whilst I acknowledge that people modelling studies are not before me, the proposed arrangement would generally meet the necessary standards, the management requirements of the Trust and would be able to cater for the number of pupils involved whilst avoiding congestion. [89]
172. There would be four exits on the ground floor which would provide access to the outside areas. All could be used by pupils. Those are well positioned on each side of the main school block and would relate well to the outside spaces. Even though some are shown as fire exits and that number includes the main school entrance, I see no reason why they would or should not be used on a day to day basis by pupils to access the outside space. [90]
173. The toilet blocks would be centrally positioned, near to the dining room and void above and would be overlooked by the main circulation spaces nearby, which would be well used. Some management of those areas may be required, and the Trust has confirmed that this could be accommodated, such that it would result in a safe space for pupils. [89]

174. Classrooms would generally be positioned around the edge of the building with windows that would provide views to the outside, and a source of natural light. However, the main school would include roughly 16 internal classrooms, which would not have windows. Most would be lit by roof lights or borrowed light. In addition, they would be used for subjects such as drama, media and science, which lend themselves to teaching environments without windows. However, the proposed layout would result in a small number of classrooms, with no natural light and used for subjects such as ICT, history and English, which do not lend themselves to such conditions. However, this is a small number in relation to the school as a whole. The Trust confirms that its timetabling would enable a regime to ensure that no children or teachers would spend prolonged periods of time in classrooms with no natural light or view to the outside. Given the small number of teaching spaces involved, I consider it likely that the proposed and any future operator could accommodate a similar regime without placing an overly onerous burden on timetabling. [89]
175. Outside space would be limited and some spaces would be positioned so as to require management in order for them to function effectively. However, the quantum provided would meet the requirements of BB103, which indicates that where a school occupies a restricted site, it should provide for a hierarchy of provision. The main school would provide hard sports provision and social and dining areas, which, taking account of a regime of staggered lunch and break times proposed, would be appropriate in size and design and well related to the main school building. The ecological and habitat areas near to the railway line are located so as to capitalise on the ecology of the site. However, they would require some management in order to provide safe and overlooked spaces, which the appellant confirms would be included in the Trust's management regime. Given that the open space in the Rosehill Recreation Ground and the sports facilities in the Sports Village are so close and there is potential for them to be used by the school, subject to Council approval, and that management measures such as staggering of break times would take place, I consider the outside spaces would provide a suitable learning and working environment. [77;91-92]
176. Further, I am aware that the DfE assessed the educational environment proposed and judged that it merited funding. Moreover, the proposal was assessed by experts in the field of secondary education and SEN provision and considered adequate.

SEN

177. The proposed SEN school would have a separate entrance and drop off and pick up facility to that of the main school. That would be closely related to the main outside space and pupil school entrance and would provide for a necessarily tightly managed process of pupil arrival and departure. Whilst it would not include a covered area, given the short distance involved from the vehicle drop off/collection point and the school pupil entrance, I consider this would be acceptable. However, if found necessary in the future, as it would be a limited addition to the overall elevation and outside space, a covered area could be included without compromising the overall architecture or the amenity or character of the outside space. Whilst there would not be an area exclusively designated for arrival and exit, an area for that sole purpose would be provided at arrival and departure times. This would be sufficient to ensure a high quality arrival and departure environment for pupils. [94]

178. From the arrival point pupils would be escorted through a designated entrance into a main reception area. This would be a large and roomy space providing an environment to enable children to settle as required. However, that room would also function as the main dining area with the kitchen close by. The presence of lingering cooking smells cannot therefore be discounted. Children with autism may have a strong sensitivity to smell and noise and may struggle with changes in the use of spaces from one activity to another. However, the kitchen would need a compliant ventilation system and would be separated from the dining room, which would reduce the impact of noise. I acknowledge that this arrangement may result in stress for some children and would require active management. However, the Trust has confirmed the resultant environment would enable effective management. [94]
179. The staff room would be an internal room on the first floor with no windows or designated access to outside space. In a stressful teaching environment, views to the outdoors and designated access to outside space would be preferable. However, access to outside space would be easily available elsewhere. Further, due to the amount of glazing on stairwells and in classrooms, the environment would be light and airy. Overall, given these matters, the internal character of the staff room would not critically harm the teaching environment created. [95]
180. Classrooms would be positioned on the first floor and therefore would not have designated access to outdoor space. I recognise that some autistic children would benefit from ready access to outside space and nature and that may help with their management. However, access from the main classrooms to secure outdoor space would be available via the stairwell or lift. There would be quiet areas associated with each classroom and a soft play area which could be used by children needing time out of the classroom. All classrooms would have good levels of natural light and views to outside space. Taking all factors into account, reasonable access to outdoor space and nature would be provided. [93]
181. Specialist teaching spaces would be clustered together on the second floor. This would include two internal rooms with no windows which would include a life skills room with no natural light and a science room with borrowed light. As these would be specialist teaching areas as opposed to classrooms and pupils and teachers would not be expected to spend prolonged times in them, this would not compromise the overall quality of the teaching and learning environment. [93]
182. In a similar way to the main school, the outside space, would not meet the minimum guideline areas for open space set out in BB104. However, it would meet the hierarchy of provision set out in that document, appropriate for a school on a restricted site. The open space would be well related to the school pupil entrance and main dining area, would include an external dining area and would be safe space separated from the main school. Taking all matters into account, including the nearby open space and Sports Village facilities and the number of pupils, this seems to be reasonable provision. [77]

Conclusion

183. I have found some disadvantages in the internal and external arrangement of the schools and I acknowledge that some of the Council's concerns could have been addressed with a different scheme design. A remodelled scheme to include the whole site allocation could have provided more and possibly better quality outside spaces in particular. However, the impacts of a different design have not

been demonstrated. The matter in question here is whether the proposed scheme would provide acceptable learning and teaching environments. [67;69; 74;82;93;116]

184. Overall, the ways in which the school building would function well in providing an effective and flexible layout, communal and specialist space, connectivity between the two schools and the potential to use extensive open space and sports facilities nearby outweigh the deficiencies identified. Further, the design deficiencies could be addressed through effective school management. Understanding the way in which the schools would operate and ensuring that they function effectively is part of achieving a design solution of the highest quality. The resultant school environment would enable effective management. Taking everything into account, including the disruption of staggered break and lunch times, surveillance of toilet areas, corridors, outside spaces and arrivals and departures, I find the suggested reliance on management of spaces and pupils is proportionate and reasonable in ensuring the quality of the teaching and learning environment that would be created. [93;94;95]
185. Further, I consider that the appeal development also strikes an appropriate balance between meeting the needs of the present and future operators. Later changes can be achieved easily and cost effectively due to the layout, which enables teaching spaces to be expanded/altered as necessary. [87]
186. Overall, for the reasons set out above, I find that the design, massing, height and siting of the development proposed would not adversely impact the quality of the working/learning environment for future users. For this reason, the appeal proposal would generally accord with London Plan policies 7.4, 7.6 and 7.7 and Local Plan policy 28 in this regard.

Traffic, highways and construction logistics

Bus stop P

187. An amended plan was submitted to the Inquiry, showing pavement widening improvements to Bus Stop P, designed to accommodate the additional pedestrian activity that would be generated³⁰. It was agreed that any extension to the bus waiting area would be adopted by the Council as public highway under a s38 Highway Agreement. Therefore, I agree with the main parties that the necessary improvements would be sufficient and could be effectively delivered by a s278 Highway Agreement. In addition, even though off-site, I consider that this could be effectively controlled by an appropriately worded planning condition, rather than a planning obligation. Such an approach accords with NPPF paragraph 54, which advises that planning obligations should only be used where it is not possible to address the unacceptable impacts of development through a planning condition. [41;124;129;133]

Rose Hill Junction

188. Option 5 is the appellant's preferred option to improve the appeal site's existing junction with Rose Hill³¹. It has been the subject of a stage 1 and 2 road

³⁰ Drawing 2360/004/T/040P1

³¹ Drawings: 553096-RWC-XX-A1-DR-D-80100_P3 Section 278 General arrangement & 553096-RWC-XX-A1-DR-D-80101 P1 Car Park Visibility Splays

safety audit, which identified a number of deficiencies that needed to be addressed. Both parties agree that it is possible to improve the junction to an acceptable and safe standard in principle. However, the Council has some concerns with this option. [135;103]

189. I consider that the proposed access arrangements represent an improvement on the existing situation. The access would be significantly wider and street furniture removed, thereby improving pedestrian visibility overall. The swept path analyses indicate that large vehicles would overrun the right turn lane into the appeal site and the main south bound traffic lane on Rose Hill. However, the existing access is used by large vehicles and no evidence of a safety issue is before me. There would be a small number of additional large vehicles as a consequence of the proposed development but no substantive evidence that pedestrian or highway safety would be at risk is before me. Taking all considerations into account, I consider that the proposed arrangement would not compromise the safety of road users. Ultimately the new access would require a s278 Highway Agreement prior to construction. Design development would continue at that stage and there would be an auditing process post construction. As part of that process the local highway authority would need to assess the detailed construction design of all aspects of the works. [103;135]

TA and mode share data

190. Whilst the TA is based on 2011 census data, the appellant has provided sound justification for this, demonstrated why it is more appropriate than the TfL STARS (Sustainable Travel: Active, Responsible, Safe school travel plan scheme) data sets and provided a sensitivity check against the available TRICs data. The methodology adopted for the TA therefore represents a robust approach to assessing trip generation for both staff and pupils. In any event, it is agreed between the two main parties that the difference between them on how trip generation and mode share data is derived results in little variation between their respective assumptions on this matter³². [102;103;117-119;132-133]

191. Notwithstanding the above, the Council still has concerns regarding the staff trip generation. It is concerned that staff car parking provision falls short and overspill car parking would impact the Sports Village car park. In this regard, the TA identified the need for 93 staff car parking spaces. The appellant has submitted a school travel plan (STP), which sets out measures to discourage private vehicle trips and encourage of more sustainable forms of transport. The appellant argues that the application of those measures reduces the staff car parking requirement to 68 spaces; a quantum accommodated within the appeal scheme's staff car park. [120;124]

192. The targets set in the STP are in keeping with other schools assessed and are less challenging than those set for Harris Academy Sutton, which is the most recent and comparable school in Sutton. The Trust has signed up to the STP targets. It has previous experience of reducing staff trips by car at its other schools and provided evidence that they have generally been effective and successful, despite recent staff requests for parking permits at the Greenshaw High School. Overall, given the public transport availability, cycle routes in the locality, the quantum of car parking provided, along with the measures set out in

³² KD4

the STP and the Trusts' track record in this regard, I consider the targets set to be achievable and the associated reduction in staff parking provision justified. There would be capacity within the Sutton Sports Village Car park and overspill car parking available for use until the STP targets in staff mode share reduction are reached (anticipated to be 2026). This would also provide for times that staff car parking demand exceptionally exceed staff parking provision, expected to be on parent's evenings and school special events. In any event, as those public car parks are Council owned, it would be possible for management measures to be put in place, should a problem arise in the future. Whilst the STP submitted gives me assurance that the measures could be effective, a suitably worded planning condition requiring more detail in relation to both the STP and car park management plan (CPMP) would be appropriate. [103; 130]

193. All in all, I am persuaded that the appeal scheme provides adequately for staff car parking which would not adversely impact on car parking capacity in the adjacent shared Sutton Sports Village car park or on street parking in the surrounding streets. In addition, the proposed staff car parking would accord with the Council's restraint-based, maximum car parking standards; a matter that is undisputed in the evidence before me.

Car park management

194. The nub of the Council's concern is the adequacy of the design and management of the shared car park to avoid its use for staff parking and pupil pick ups and drop offs. In addition, it is concerned about possible conflicts between pedestrians and vehicles. [103]

195. In this regard, the SEN school would have a designated drop off point near to its main entrance. The main pedestrian access to the schools would be via a path leading from Rose Hill, near to the existing bowling green car park. This would be a segregated pedestrian/cycle access. Pupils would also access by the pedestrian route that crosses the Rosehill Recreation Ground leading to Reigate Avenue and a crossing point within the shared car park, would enable a safe pedestrian route through to the school main entrances. Further, the proposed adaptations to the Rose Hill access, including pedestrian paths, along with adaptations to the shared access road, including a one way system, generally would provide a safe and segregated pedestrian environment. In addition, parents and pupils would be discouraged from dropping off and picking up within the shared car park area through management measures within the STP and CPMP. This would include teacher supervision to prevent pupil pedestrian access from the shared car park to the main school entrance. This would be likely to discourage parents from using the shared access for drop offs. Together with embedded design features discussed, those management measures would be likely to provide a safe environment for both pupils and vehicles. [103; 106]

196. The appeal proposal also includes off-site highway improvements to Rose Hill, controlled through an appropriately worded planning condition and a s278 Highway Agreement. It is acknowledged by both main parties that adapting pupil and parent behaviours off-site is very difficult. However, evidence was provided of the Trust's past success in this regard. [103-106]

197. A Memorandum of Understanding is provided between the Trust and Greenwich Leisure Limited (GLL), setting out the principles of shared use of facilities, including community out of hours use of the school car park and its

sports facilities. However, it has been demonstrated that both the schools and the Sports Village would have sufficient car parking provision to meet their needs. In this context, I have limited substantive evidence before me to indicate that sharing facilities in the way suggested would be likely to increase car parking demand beyond the provision proposed. [103]

Construction logistics

198. The appellant submitted a revised construction logistics plan and green travel plan³³ (CLP and GTP). On that basis, it is common ground that traffic management provisions would be in place to ensure that vehicles do not stack on the main road or circulate within the local area. Given the additional traffic management measures suggested, I have no reason to take an alternative view. [105; 121]

199. Moreover, the revised CLP provides adequate provisions to demonstrate that parking by site operatives within the bowling club and Sports Village car parks or off-site elsewhere could be controlled. It provides details of site rules, which the appellant confirmed in oral evidence could be contractually enforceable. Some details of monitoring are also provided. The measures set out are sufficient to give me confidence that during the construction phase, even though there is a free public car park close by, unacceptable impact on highway safety, the road network or the convenience and living conditions of neighbouring occupiers could be avoided. I consider that the information provided at this stage is consistent with that expected by an appointed contractor. Further detail, such as programming of works, the mechanisms by which contractual provisions would be enforced and monitoring details are necessary and could be provided by the imposition of a suitably worded planning condition. [106]

Conclusion

200. I conclude that the proposed parking/servicing/access arrangements would not adversely impact, during construction and once the development is operational, the safe and efficient operation of the local and strategic highway network, including pedestrian safety, nor the amenity of the occupiers of neighbouring properties. It would therefore accord with London Plan policies 6.12 and 6.13 and Local Plan policies 29, 36 and 37. Those policies, together seek development that provides safe and secure access, that does not cause disturbances to neighbouring residents, development that is located to minimise impacts on the local highway network and maximise the use of sustainable transport modes, appropriately assesses any impacts through a TA, effectively secures any necessary transport improvements, and provides car parking in accordance with the Council's restraint-based, maximum car parking standards. Development is also required to demonstrate a net benefit for London's sustainable development including conditions for pedestrians, cyclists, public transport users, freight and local residents. It should also strike an appropriate balance between promoting new development and preventing excessive car parking provision that can undermine cycling, walking and public transport use.

³³ CLP and GTP Rev D

201. Furthermore, there would not be an unacceptable impact on highway safety, nor would the residual cumulative impacts on the road network be severe. It would therefore accord with NPPF paragraph 109. [125; 129]

Other Matters

202. I note that the appellant did not amend the proposed design in response to all comments made by the DRP. However, I am satisfied they were taken into account and some influenced design changes. Generally, the approach taken by the appellant would accord with paragraph 130 of the NPPF, which states that permission should be refused for poor design that fails to take the opportunities available for improving the character and quality of the area and the way it functions. [96-99]

203. It is common ground³⁴ that the anticipated level of public transport trips generated by the appeal proposal could be accommodated on the existing bus services. On the basis of bus and train services available in the locality and the anticipated additional trips on public transport, I have no reason to take an alternative view on this matter. [145]

204. It is also common ground³⁵ that there is a clear and proven need for additional secondary school provision within the Borough of Sutton. Whilst provision has been made for 2020/21, there would still be an identified longer term need. Whilst it is suggested that a 6 form entry school may be sufficient due to falling primary school rolls, I have very limited substantive evidence in this regard. [122; 126] In any event, development of an 8 form secondary school, sixth form with SEN provision on Local Plan policy S98 site, which includes the appeal site, is necessary to deliver the strategic aims of the Local Plan. Very limited substantive evidence that school place shortages could be addressed by bringing Sutton's grammar schools into the comprehensive system is before me. The need identified would be there regardless of any influx of children from other boroughs and whether a temporary school were to be provided until this one is operational. The proximity of other schools does not change the situation. [124; 126]

205. The Local Plan is recently adopted, has been through the rigour of Examination and found sound. Deliberations as part of that process included the suitability of Local Plan site allocation S98, the loss of some underused sports facilities, its size and consideration of other available and brownfield sites. It therefore is not my role to revisit those matters. [112; 122; 124; 126; 129; 146]

206. Site allocation S98 includes development of a school which would involve the loss of the all weather pitch and tennis courts. [112] The tennis courts near Cranleigh Gardens would be used for storage of construction material during the course of works. Within three months of completion of works they would be restored to their former use and made available. There would therefore be limited loss of that facility. Given the width, position and road conditions in the locality, I am satisfied that the tennis courts would provide a safe access for construction traffic. [125]

207. It is common ground that the appeal development would not result in adverse impact on the surrounding residents in terms of air quality and consequently

³⁴ KD1

³⁵ KD1

there would be no conflict with London Plan policy 7.4 or Local Plan policies 29 and 34³⁶. On the basis of the supplementary air quality modelling underpinning the appeal, I have no reason to take an alternative view in this respect. [124,125,145]

208. Some noise and disturbance to nearby residents would result during construction. However, this would be for a limited time period. [112;130] In addition, the CLP and GTP, associated with appropriately worded planning conditions, would ensure that any adverse impacts on the living conditions and convenience of local residents would not be unacceptable. [112] Given the separation distance from nearby homes and proposed planting, there would not be an unacceptable loss of privacy. These matters are agreed between the two main parties and for the above reasons, I have come to the same conclusion³⁷. [126]
209. Whilst some additional noise and disturbance would result from pupils arriving and departing, this would be for a limited period each day. In any event, given the proximity of a busy road, the mix of uses in the locality and ambient noise levels, this would not result in undue additional noise and disturbance for local residents. [126]
210. Whilst the appeal development would diminish views of the tree line along the railway, some reduction in those views would be a likely consequence of any development of Local Plan site allocation S98. In any event, the appeal development includes additional planting, including a strong tree line to the Rosehill Recreation Ground edge which would adequately compensate for the loss identified. Additional planting would compensate for any tree loss that would be a result of the appeal proposal and details of measures to protect existing trees during construction support the appeal. [112;145]
211. The appeal development includes a living roof, habitat provision, tree planting including a woodland mix within the habitat areas and retention of an ecological corridor near to the railway line. Bird and bat boxes are proposed within the habitat areas and provisions to protect bats and provide for other ecological enhancements could be controlled by an appropriately worded planning condition. It is common ground that the development would deliver a biodiversity net gain³⁸ and that the Council's concern in respect of this matter has now been addressed. The legal agreement provides for a scenario where that would not be the case. Overall, I have no reason to take a different view to the Council on this matter. [112;145]
212. Concern is raised regarding the impact of fencing around the school which could inhibit emergency exit in the event of a fire at the Sports Village. Some boundary treatment around the school is considered necessary in principle for safe guarding and security reasons. However, details of boundary treatment would be controlled at a later stage, by a planning condition. In addition, any proposal for fencing would need to be assessed and controlled through the Building Regulations regime. At this stage however, I note that the London Fire

³⁶ CD11.5

³⁷ KD1

³⁸ CD11.4

- Brigade has not raised objection. For the above reasons, I am satisfied that undue danger to those using the Sports Village would not result. [125]
213. The appeal development does not utilise all of Local Plan site allocation S98. However, due to on-site constraints, including flood risk constraints and impact on the MOL, I cannot be assured that inclusion of that land would result in a design of a higher quality, even if used just for parking. Further, I cannot be assured that it would result in a development which would be less imposing, more attractive or greener. In any event I have found the appeal development acceptable in its current form, so I have no reason to consider this matter further. [67;69;74;88;116]
214. I have very limited substantive evidence to demonstrate that Rosehill Recreation Ground would become an intimidating place or that there would be an increase in anti-social behaviour in the locality as a consequence of this development. An appropriate planning condition would ensure that principles and practices of the Secured by Design Scheme are incorporated into the development. [145]
215. I have concluded that the proposed alterations to the Sports Village car park would result in a safe environment for pedestrians and vehicles. In that regard, I am not persuaded that they would render the playground and café less pleasant to use. [136] Pedestrian and cycle routes through the Rosehill Recreation Ground to the school would be enhanced and separate pedestrian access to the school provided. [141]
216. In coming to my conclusions on this appeal, I have had regard to the Public Sector Equality Duty. I have taken into account that the proposed development would have a positive impact on those with protected characteristics of age and disability.

Planning obligation

217. An executed unilateral undertaking is before me. Whilst the Council has confirmed that it is satisfied with its contents, for its provisions to be given weight in the determination of this appeal, I am required to assess whether they are necessary to make the proposed development acceptable in planning terms, directly related to the proposed development and fairly and reasonably related in scale and kind.³⁹
218. The submission of a biodiversity and enhancement management plan is required by a planning condition. In the event that the development would result in a net loss to biodiversity, a biodiversity contribution would be required and is included in the legal agreement. This requirement would accord with Local Plan policy 26, which seeks no net loss in biodiversity value and the incorporation of biodiversity enhancement where possible. I have before me details of the way in which the contribution has been calculated and in all other respects, I consider that those provisions meet the above tests and therefore weigh in favour of the appeal.
219. The appeal proposal would result in the loss of a prominent landscape strip along the boundary of the site including a small section of the adjacent park. As

³⁹ Regulation 122 Community Infrastructure Regulations 2010 (as amended) (CIL Regulations)

the planting is low level trees and shrubbery, a financial contribution is required to secure acceptable replacement trees on land outside the appeal site, provide screening and new landscaping. This provision is necessary to ensure an acceptable form of development that blends into the locality. The provisions would further the aim of Local Plan policy 28, which seeks development that makes suitable provision for new planting, trees and boundary treatments. For all these reasons, those provisions meet the above tests and therefore weigh in favour of the appeal.

220. The planning obligation also includes provisions to secure off-site highway works, including improvements to the Rose Hill junction, submission and monitoring of a travel plan and submission and compliance with an employment and training strategy. Even though the highway works would be on highway land, would require a s278 Highway Agreement and some would relate to land with third party interests (the access road and shared car park), this would not be an impediment to its control through an appropriately worded Grampian planning condition. In relation to the travel plan, whilst I appreciate that the establishment of a transport review group is required, I see no reason why this cannot be set out and therefore secured by a planning condition. I am aware that the Council's Planning Obligations Supplementary Planning Guidance, at paragraph 5.7 sets out that the Council will seek to secure planning obligations relating to employment and skills training. However, that is guidance only and I see no reason why this matter could not be dealt with by condition.
221. I have already concluded that the three matters above could be secured through the imposition of appropriately worded planning conditions. Therefore⁴⁰, those provisions would not pass the above tests, as they would not be necessary. This approach accords with NPPF paragraph 54, which states that planning obligations should be used where it is not possible to address unacceptable impacts through a planning condition. Such an approach would also accord with the PPG in this regard⁴¹, which sets out a similar approach.
222. Monitoring of the travel plan is required to ensure that it is effective. A one-off sum, based on the Council's previous experience, is included in the legal agreement. Such a financial contribution should rightfully be secured by a planning obligation and would therefore pass the relevant tests.

Planning Balance

223. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out, 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. In this case, I have no reason to determine that regard should not be had to the Development Plan.
224. Whilst I have identified some deficiencies in the design of both the external appearance and internal and external arrangements, overall, I consider that the proposed design would strike an appropriate balance between creating beauty, providing a high quality learning and teaching environment, working with the

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⁴¹ Paragraph: 011 Reference ID: 21a-011-20140306

constraints of the appeal site, appropriately relating to the locality and delivering the requirements of Local Plan policy S98. Whilst there would be a conflict with Local Plan policy 28Q, the weight that I attach to that conflict is reduced by my findings on that matter. It would accord with all other parts of that policy. No other conflicts with Local Plan or London Plan policy in this regard are identified.

225. I have found, subject to appropriate planning conditions and a highway agreement, no harm would arise in terms of its traffic, highways and construction logistics impacts. As there are no other outstanding conflicts with the Local Plan or London Plan found, I conclude that the appeal development accords with the Development Plan when read as a whole. [108]
226. Turning to other material considerations, even if the whole of Local Plan site allocation S98 were to be utilised, due to the constraints of flood risk and proximity to the MOL, on the basis of the evidence before me, I am not convinced that a policy compliant higher quality design alternative development which would deliver the requirements of Local Plan site allocation S98 could be delivered. [67-69; 74; 110; 116] Further, due to the significant public interest in the appeal development, I am unconvinced that a revised scheme would deliver within a time frame which would meet the identified need. I make this judgement mindful that the Council has sufficient school places at present and has undertaken feasibility work to ensure that the quality of teaching and student experience would not be compromised. I have had regard to section 12 of the NPPF dealing with achieving well-designed places, but I find nothing to indicate a decision should be made other than in accordance with the Development Plan.
227. Overall, I consider that the other material considerations, indicate that this appeal should not be determined other than in accordance with the Development Plan. I therefore recommend that the appeal succeeds. [111]

RECOMMENDATION

228. I recommend that the appeal be allowed, subject to the conditions set out in annex C to this report.

R. Barrett

INSPECTOR

ANNEX A APPEARANCES**FOR THE COUNCIL:**

Ms Saira Kabir Sheikh instructed by the Council She Presented:	
Dr Gillian Horn BA (Hons) MA (Cantab) RIBA	Chair of Council's Design Review Panel
Mr Christopher Rhodes MRICS	Head of Asset Management Council
Mr Gavin Chinniah BSc (Hons) MSc MRTPI	Planning Manager Council
Mr Chris Smith	Team Leader Highways Council
Mr Ian Price	Team Leader Highways Council
Mr Andy Webber	Head of Development Management and Strategic Planning Council
In respect of the RTDs only:	
Mr Chris Smith	Team Leader Highways Council
Mr Ian Price	Team Leader Highways Council
Mr Andy Webber	Head of Development Management and Strategic Planning Council

FOR THE APPELLANT:

Ms L Busch QC instructed by Womble Bond Dickinson She presented:	
Mr Andrew Smith BSc (Hons) MSc CMLI	Managing Director Fabrik Ltd
Mr Tim Brown BA (Hons) Dip Arch	Director Ellis Williams Architects
Mr William Smith BSc PGCE NPQH	Chief Executive Officer Greenshaw Learning Trust
Dr Sharon Wright BSc (Hons) MSc EdD	Senior Associate the-learning-crowd
Mr Paul Freeman	Project Director Wates Construction Ltd

Mr David Hurren BA (Hons) CMS DMS MBA	Director of Transport Planning and Infrastructure Robert West Consulting Ltd
Mr Gunne-Jones BA (Hons) MRTPI MIOD	Planning and Development Associates Ltd
In respect of the RTDs only:	
Steve Bradford	Director of Resources, Greenshaw Learning Trust
Harold Laker BSc (Hons) AMCIHT	Transport Planner Robert West Consulting Ltd
Ms Rachel Sykes LLP Solicitor	Associate, Womble Bond Dickinson (UK)
Stephen Dagg LLP Solicitor	Managing Associate, Womble Bond Dickinson (UK)

OTHER PEOPLE WHO SPOKE OR SUBMITTED WRITTEN STATEMENTS AT THE INQUIRY

Mr Wachuku Johnson	Local resident
Councillor Steve Penneck	Sutton North Ward
Mr Gerald Tasker	Local resident
Mr Charlie Mansell	Chair of Sutton and Cheam Labour Party
Ms Mercedes Scott	Local resident and parent
Mr Rob Yuille	Sutton Garden Suburb Residents Association
Mr David Buchanan	Local resident

ANNEX B DOCUMENTS LISTS***Documents submitted during the Inquiry***

IQ 1	Cllr Penneck Statement
IQ2	Appellant's opening submission
IQ3	Council's opening submission
IQ4	Agreed list of drawings for determination
IQ5	Additions to CDs CD8.3
IQ6	Paula Hayward statement
IQ7	Appellant's updated costs application
IQ8	Updated agreed schedule of suggested planning conditions v1
IQ9	Additional CDs ESFA baseline design links
IQ10	Revised and updated agreed schedule of suggested planning conditions v2
IQ11	List of drawings for discussion at highways RTD
IQ12	Mr Mansell statement and map
IQ13	Council's response to Appellant's costs application
IQ14	Copies of transport and planning obligations SPDs as additions to CDs
IQ15	Revised Inquiry timetable
IQ16	Revised list of suggested planning conditions V3
IQ17	Email 14/9 2106 confirming suggested items, to date, to view on Inspector's site visit
IQ18	Official copy of title plan from appellant (planning obligation)
IQ19	Appellant's email dated 15/9 1250 re outline fire strategy
IQ20	Appellant's email dated 16/9 0836 re revised suggested highway conditions
IQ21	Planning obligations RTD position statement (appellant's draft)
IQ22	Council's response to appellant's costs application (summary)

IQ23	Appellant's costs application (summary)
IQ24	Planning obligations RTD position statement
IQ25	Agreed schedule of suggested planning conditions V4
IQ26	Highways RTD position statement
IQ27	Council's closing submissions
IQ28	Appellant's closing submissions
IQ29	Certified copy of unilateral undertaking

Other key documents

KD1	Signed SoCG (general matters) between Council and appellant
KD2	Signed SoCG (character and appearance) between Council and appellants
KD3	Signed SoCG (design and education matters) between Council and appellant
KD4	Signed SoCG (highway and construction logistics matters) between Council and appellant
KD5	Signed SoCG (biodiversity) between Council and appellant
KD6	Signed SoCG (air quality) between Council and appellant
KD7	Signed statement setting out areas of disagreement relating to the legal agreement
KD8	Schedule of suggested planning conditions (setting out areas of disagreement)
KD9	Certified unilateral undertaking
KD10	CIL compliance statement

Proofs of Evidence

Appellant	
APP1	Summary, proof appendices and rebuttal of Mr Andrew Smith (landscape, townscape and visual impact)

APP2	Summary, proof, appendices and rebuttal of Mr Tim Brown (design)
APP3	Summary, proof and appendices of Dr Wright (education and design)
APP4	Summary, proof appendices and rebuttal of Mr William Smith (education)
APP5	Summary, proof, appendices and technical note addressing Council's proof of evidence of Mr Hurran (highways)
APP6	Summary, proof, appendices and rebuttal proof of Mr Freeman (construction logistics)
APP7	Summary, proof, appendices and rebuttal proof of Mr Gunne-Jones (planning) Rebuttal proof on matters relating to lease arrangements
APP8	Appellant's costs application dated 9 September

Council	
LPA1	Summary, proof, appendices and rebuttal proof of Dr Horn (design)
LPA2	Summary, proof and rebuttal proof of Mr de Catro
LPA3	Proof of evidence and rebuttal proof of Mr Rhodes (lease arrangements)
LPA4	Summary, proof, appendices and rebuttal proof of Mr Chinniah (planning)
LPA5	Council's response to costs application

Core Documents (as agreed between the parties)

CD1	Application Documents and Plans
CD1.1	Planning Application reference DM2019/00985
CD1.2	Appeal Form (Reference APP/P5870/W/19/3241269) dated 15 November 2019
CD1.3	Design and Access Statement (July 2019)
CD1.4	Design and Access Addendum (Landscape Addendum)
CD1.5	Transport Assessment (553096-RC-ZZ-XX-RP-D-85000) Part 1
CD1.6	Transport Assessment (553096-RC-ZZ-XX-RP-D-85000) Part 2 (Appendices A – C)

CD1.7	Transport Assessment (553096-RC-ZZ-XX-RP-D-85000) Part 3 (Appendices D – I)
CD1.8	Transport Assessment (553096-RC-ZZ-XX-RP-D-85000) Part 4 (Appendices J – K)
CD1.9	Transport Assessment (553096-RC-ZZ-XX-RP-D-85000) Part 5 (Appendix L)
CD1.10	Transport Assessment (553096-RC-ZZ-XX-RP-D-85000) Part 6 (Appendices M – P)
CD1.11	Air Quality Impact Assessment (May 2019)
CD1.12	Car Park Management Plan (553096-RWC-ZZ-XX-RP-D-85002)
CD1.14	Coach Strategy (553096-RWC-ZZ-XX-RP-D-85008)
CD1.15	Planning Statement 1029 Rev 02 (June 2019) and Addendum
CD1.16	School Travel Plan – Secondary School and sixth form (553096-RWC-ZZ-XX-RP-D-85004)
CD1.17	School Travel Plan – SEN School (553096-RWC-ZZ-XX-RP-D-85005)
CD1.18	Pre application letter (PRE2018/00176) dated 11 June 2019 from the Council to the appellant
CD1.19	Detailed response to pre application letter (dated 24 June 2019) on behalf of the appellant to the Council.
CD1.20	DfE redacted letter (undated)
CD1.21	Delivery and Servicing Plan dated June 2019
CD1.22	Secretary of State's Environmental Impact Assessment Screening Direction 21 June 2019
CD1.23	Response to TfL comments Technical Note submitted 22 August 2019 (PA093)
CD1.24	Response to HA comments Technical Note dated 27 August 2019 (PA101)
CD1.25	Response to Council's Environmental Health Comments Technical Note dated 29 August 2019 (PA105)
CD1.26	Highways Technical Note to TFL dated 10 September 2019 (PA113)
CD1.27	Design Team response to DRPs comments
CD1.28	PDA Technical Response 01/2019 dated 18 August 2019
CD1.29	Councils' Highways response to the Application dated 19 August 2019
CD2	Committee Report and Decision Notice
CD2.1	Decision Notice (reference DM2019/00985) dated 24 September 2019
CD2.2	Report to Planning Committee (10 September 2019)
CD2.3	Planning Committee Meeting Minutes (10 September 2019)
CD2.4	Transcript of Planning Committee Meeting (10 September 2019)
CD3	Planning Appeal Documents
CD3.1	Appellant's Statement of Case (November 2019) including appendices 1 - 7
CD3.2	Council's Statement of Case (January 2020) including appendices A - H

CD4	London Borough of Sutton Local Plan, adopted 26 February 2018
CD4.1	Policy 24 Green belt and metropolitan open land
CD4.2	Policy 26 Biodiversity
CD4.3	Policy 28 Character and design
CD4.4	Policy 29 Protecting amenity
CD4.5	Policy 33 Climate change adoption
CD4.6	Policy 34 Environmental protection
CD4.7	Policy 35 Transport proposals
CD4.8	Policy 36 Transport impact
CD4.9	Policy 37 Parking
CD4.10	Policy 38 Infrastructure delivery
CD4.11	Policy 40 Site allocations
CD4.12	S98 Tennis Centre, Rosehill Recreation Ground, Rose Hill, Sutton
CD4.13	Appendix 11
CD5	London Plan March 2016
CD5.1	3.18 Education facilities
CD5.2	4.12 Improving opportunities for all
CD5.3	6.12 Road network capacity
CD5.4	6.13 Parking
CD5.5	7.4 Local character
CD5.6	7.6 Architecture
CD5.7	7.7 Location and design of tall and large buildings
CD5.8	7.14 Improving air quality
CD5.9	7.17 Metropolitan open land
CD5.10	7.19 Biodiversity and access to nature
CD5.11	8.2 Planning obligations
CD5.12	6.10 Walking (added at the Council's request)
CD6	Intend to Publish London Plan (IPLP)
CD6.1	D1 London's form, character and capacity for growth
CD6.2	D3 Optimising site capacity through the design led approach
CD6.3	D4 Delivering good design
CD6.4	D9 Tall Buildings
CD6.5	DF1 Delivery of the plan and planning obligations
CD6.6	E11 Skills and opportunities for all
CD6.7	G3 Metropolitan open land
CD6.8	G6 Biodiversity and access to nature
CD6.9	SI 1 Improving air quality
CD6.10	S3 Education and childcare facilities
CD6.11	T3 Transport capacity connectivity, safeguarding
CD6.12	T5 Cycling
CD7	Relevant appeal decisions
CD7.1	Inspectors Decision in Application Ref: 17/501471, Land at Valley Park School, at New Cut Road, Maidstone

	(19 June 2018)
CD8	Other
CD8.1	Building Bulletin 103 (June 2014)
CD8.2	Building Bulletin 104 (June 2014)
CD8.3	Understanding Sutton's Local Distinctiveness: Characterisation Report of Studies July 2008 Parts 1,2 and 3
CD8.4	Written Ministerial Statement (August 2011)
CD8.5	Community Infrastructure Levy Regulations – Regulation 122
CD8.6	Report to People Committee 16 January 2020 "Pupil Place Planning Update"
CD9	Legal Authorities Cited
CD9.1	Tiviot Way Investments Limited and Secretary of State for Communities and Local Government and Stockton-on-Tees Borough Council [2015] EWHC 2489 (Admin)
CD9.2	Gladman Developments Limited and Canterbury City Council [2019] EWCA Civ 669
CD10	Council's Documents
CD10.1	DSE Design Review: Sutton Free Schools 1 and 2 - March 2019
CD10.2	DSE Design Review: Sutton Free Schools 1 and 2 – May 2019
CD10.3	ESFA Baseline design: superblock 1,200 place secondary school (March 2014) – plans, sections, and features
CD10.4	National Design Guide (October 2019)
CD10.5	Assessing Secondary School Design Quality, CABE (2006)
CD10.6	Better Places for Learning, RIBA (2016)
CD10.7	DQI for Schools, Briefing question overview, CIC and DCSF (2008)
CD10.8	Design Quality Indicator for Schools in the UK, OECD (2006)
CD10.9	Monitor of Engagement with the Natural Environment: a pilot for an indicator of visits to the natural environment by children – NECR166, Natural England (January 2015)
CD10.10	'Impact of Views to School Landscapes on Recovery from Stress and Mental Fatigue', Li and Sullivan, Landscape and Urban Planning (April 2016)
CD10.11	'40-second Green Roof Views Sustain Attention: the role of mini-breaks in attention restoration', Lee et al, Journal of Environmental Psychology (June 2015)
CD10.12	'The Health Benefits of the Great Outdoors: A systematic review and meta-analysis of greenspace exposure and health outcomes', Twohig-Bennet and Jones, Environmental Research (July 2018)
CD10.13	'The Urban Environment for Learning', Dianne Western in Urban Schools: Designing for high density ed Taylor and Wright, RIBA (2020)
CD10.14	'At Home with Nature: Effects of "Greenness" on Children's Cognitive Functioning', Wells, Environment and Behaviour (November 2000)

CD10.15	Proposed Alternative Staff Car Park Layout, Drawing No. DD/1264/01 Rev A
CD10.16	Access to Proposed Alternative Staff Car Park, Drawing Number DD/1264/02
CD10.17	London Cycle Design Standards, Chapter 4
CD10.18	Pedestrian Comfort Guidance for London, Version 2; 2019
CD10.19	Revised Bus Stop P Footway Widening Proposal, Drawing No. 2360-004-040 P1
CD10.21	Transport for London 'Construction Logistics Planning Guidance'
CD10.22	Mayor's Transport Strategy, 2018
CD11	Documents submitted since the Inquiry was postponed
CD11.1	Agreed Site Inspection route map drawing D2717_427 date March 2020 (submitted 7 May 2020)
CD11.2	Wates Technical Response Construction Logistics Plan dated 7 May 2020
CD11.3	Schedule of Issues 7 May 2020 (submitted 7 May 2020) without Appendices (the appendices to this schedule are not appended as they have largely been superseded - the schedule has been amended to cross refer to the relevant core documents which are the most up to date versions of these appendices)
CD11.4	Signed Statement of Common Ground relating to RfR 5 (Biodiversity) dated 14 August 2020
CD11.5	Signed Statement of Common Ground relating to RfR 6 (Air Quality) (Appending Technical Note) dated 14 August 2020
CD11.6	Signed Statement of Common Ground relating to RfR 7 (planning obligations) dated 14 August 2020
CD11.7	Signed Updated Statement of Common Ground relating to Highways and Construction Logistics dated 12 August (signed 18 August)
CD11.8	Signed Statement of Common Ground relating to Design, Character and Appearance dated 14 August 2020
CD11.9	Signed Statement of Common Ground relating to Design and Education dated 14 August 2020
CD11.10	Signed draft agenda for Highways and Construction round table session dated 14 August 2020
CD11.11	Signed draft agenda for Planning Obligations round table session dated 14 August 2020
CD11.12	Final draft Unilateral Undertaking (including appendices) and official copies of title
CD11.13	Updated Council's CIL Compliance Statement 2 September 2020
CD12	Documents added at Inquiry
CD12.1	Additions to CD8.3 characterisation study parts 1,2 and 3
CD12.2	Additions to CD10.3 ESFA baseline design links 1-7

List of Plans (as agreed between Council and appellant at the Inquiry)

Plan name	Plan number
Block Plan	2470_04040 Rev P1
Location Plan	24702_04000 Rev P2
Scope of Works Plan	2470_04050 Rev P1
Site Sections 1	2470_AP05020 Rev P1
Site Sections 2	2470_AP05021 Rev P1
Proposed Facade Sections 1	2470_AP05008 Rev P1
Proposed Facade Sections 2	2470_AP05009 Rev P1
Typical Bay Elevations	2470_AP05004 Rev P1
Sports Hall Sections	2470_AP05007 Rev P1
Sports Hall Elevations	2470_AP05006 Rev P1
Sports Hall Ground Floor Plan	2470_AP04010 Rev P1
Sports Hall Roof Plan	2470_AP04011 Rev P1
Teaching Block Sections	2470_AP05005 Rev P1

Teaching Block Elevations	2470_AP05001 Rev P1
Teaching Block Elevations	2470_AP05002 Rev P1
Teaching Block Ground Floor Plan	2470_AP04001 Rev P1
Teaching Block First Floor Plan	2470_AP04002 Rev P1
Teaching Block Second Floor Plan	2470_AP04003 Rev P1
Teaching Block Third Floor Plan	2470_AP04004 Rev P1
Teaching Block Roof Plan	2470_AP04005 Rev P1
Landscape Sections	553096-FAB-ZZ-00- DR-L-11400
Combined Hard and Soft Landscape General Arrangement Plan	553096-FAB-ZZ-00-DR- L-11250
Combined Hard and Soft Landscape General Arrangement Plan	553096-FAB-ZZ-00-DR- L-11251
Exceedance Flow 1 in 100 Year + 40% CC Critical Storm Surcharged Outlet to Culvert plan	553096-AKSW-XX-XX-DR-C-52010 Rev P1
External Lighting Lux Levels plan	553096-MET- TB-ZZ-DR-M-91006 S2 P05 submitted 23.08.2019

Green space factor plan	D2717 553096-FABZZ-00-DR-L-11150
Sports Hall- Roof Plan	553069-EWA-SH-RF-DR-A-04011 Rev P1

ANNEX C CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Block Plan - 2470_04040 Rev P1

Location Plan - 24702_04000 Rev P2

Scope of Works Plan - 2470_04050 Rev P1

Site Sections 1 - 2470_AP05020 Rev P1

Site Sections 2 - 2470_AP05021 Rev P1

Proposed Facade Sections 1 -2470_AP05008 Rev P1

Proposed Facade Sections 2 - 2470_AP05009 Rev P1

Typical Bay Elevations - 2470_AP05004 Rev P1

Sports Hall Sections - 2470_AP05007 Rev P1

Sports Hall Elevations - 2470_AP05006 Rev P1

Sports Hall Ground Floor Plan - 2470_AP04010 Rev P1

Sports Hall Roof Plan - 2470_AP04011 Rev P1

Teaching Block Sections - 2470_AP05005 Rev P1

Teaching Block Elevations - 2470_AP05001 Rev P1

Teaching Block Elevations - 2470_AP05002 Rev P1

Teaching Block Ground Floor Plan - 2470_AP04001 Rev P1

Teaching Block First Floor Plan - 2470_AP04002 Rev P1

Teaching Block Second Floor Plan - 2470_AP04003 Rev P1

Teaching Block Third Floor Plan - 2470_AP04004 Rev P1

Teaching Block Roof Plan - 2470_AP04005 Rev P1

Landscape Sections - 553096-FAB-ZZ-00- DR-L-11400

Combined Hard and Soft Landscape General Arrangement Plan - 553096-FAB-ZZ-00-DR- L-11250

Combined Hard and Soft Landscape General Arrangement Plan - 553096-FAB-ZZ-00-DR- L-11251

Exceedance Flow 1 in 100 Year + 40% CC Critical Storm Surcharged Outlet to Culvert plan 553096-AKSW-XX-XX-DR-C-52010 Rev P1

External Lighting Lux Levels 553096-MET- TB-ZZ-DR-M-91006 S2 P05 submitted 23.08.2019

Green space factor plan D2717 553096-FABZZ-00-DR-L-11150

553069-EWA-SH-RF-DR-A-04011 Rev P1 Sports Hall- Roof Plan

2. The development must be begun not later than the expiration of three years beginning with the date hereof.
3. Prior to the commencement of development above ground level, the type and treatment of the materials, including samples, to be used on the exterior of the buildings shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the construction of the development hereby approved, completed prior to its occupation/use and retained thereafter.
4. Prior to commencement of works (excluding site investigations and demolition), the applicant must submit a final detailed sustainable drainage scheme including drawings to the Lead Local Flood Authority for review and approval and to show that the development will achieve an improved Green Space Factor (GSF) score of at least +0.1 compared to the baseline GSF score for the site prior to redevelopment. The Council's GSF scoring system set out in the Council's 'Technical Guidance Note - Building a Sustainable Sutton' (June 2018) must be used for this purpose. Where the applicant has made changes to the approved drainage strategy defined in Drainage Strategy and Water Quality Management Report dated August 2019, revised calculations, updated drainage pro forma and management and maintenance plan that demonstrate compliance with the original drainage strategy must be submitted to support the detailed design. The development shall be carried out in accordance with the approved details and thereafter retained in perpetuity.
5. Prior to the occupation of the development, full details of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping and tree planting shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards (in particular, BS 3882: Specifications for Topsoil, Recommendations (2015) and BS 8545: Trees from Nursery to Independence in the Landscape, Recommendations (2014) or other recognised codes of good practice). The works shall be carried out prior to the occupation of any part or relevant phase of the development or in accordance with the timetable agreed with the Local Planning Authority. Any tree(s) or plants that (within a period of five years after planting) are

removed, die, or (in the opinion of the Local Planning Authority) are damaged or defective shall be replaced as soon as is reasonably practicable with others of a similar size/species/number as originally approved.

6. Prior to the commencement of works to improve the junction with Rose Hill (including demolition and all preparatory work), a scheme for the protection of the retained trees, restricted to those not already covered in the submitted arboriculture method statement dated May 2019 and tree protection plan within the arboriculture impact assessment report dated March 2019, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with agreed details and the above documents in all other respects.
7. Prior to the commencement of development hereby approved, a scheme for biodiversity protection (including protected species) and enhancements shall be submitted to and approved in writing by the Local Planning Authority. This will take the form of a Biodiversity Enhancement and Management Plan (BEMP), with full No Net Loss and Net Gain evaluation, working to the LPA's provided methodology and in accordance with BS42020:2013. Work shall be undertaken in accordance with the approved scheme and thereafter retained in perpetuity.
8. Prior to the occupation of the development hereby approved, a Statement of Conformity, provided by a suitably qualified ecologist shall be submitted to and approved in writing by the Local Planning Authority, to ensure compliance with the habitat creation and landscaping approved through the BEMP.
9. Prior to the commencement of development hereby approved, a scheme for the delivery of an extensive substrate-based biodiverse roof and an extensive substrate-based biosolar roof shall be submitted to and approved in writing by the Local Planning Authority. Work shall be undertaken in accordance with the approved scheme and thereafter retained and managed, following the BEMP in perpetuity.
10. Prior to rising above the damp proof course of the development hereby permitted, a scheme for integrated nesting features on buildings shall be submitted to and approved in writing by the Local Planning Authority. Features shall be undertaken in accordance with the approved scheme and thereafter retained in perpetuity.
11. Prior to the commencement of development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, in line with the recommendations contained within the submitted ecological information (Preliminary Ecological Assessment and supplementary documents). All work shall be undertaken in accordance with the approved CEMP.

12. Prior to the commencement of development hereby approved a plan for baseline bat activity surveys shall be submitted to and approved in writing by the Local Planning Authority. The plan shall outline the timings, within the first available survey season after granting of planning permission, of at least two bat activity surveys, to be undertaken away from the extant lighting of the adjacent sports facility along the adjacent site of importance for nature conservation (SINC). The bat surveys will accord with available best practice guidelines and seek to sample a broad swathe of the survey season. The applicant shall establish the existing ambient lighting of the site and surrounds, the additional impact of any construction phase lighting and refine the proposed post- development lighting levels, in accord and alignment with Condition 35.
13. Within 6 months of the commencement of development, a BREEAM New Construction 2018 Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE) or equivalent authorising body, must be submitted to the Local Planning Authority and approved in writing to show that an 'Excellent' rating will be achieved with a minimum score of 74%.
14. Within 9 months of the occupation of the development, a BREEAM New Construction 2018 Final (Post-Construction) Certificate, issued by the BRE or equivalent authorising body, must be submitted to the Local Planning Authority and approved in writing to demonstrate that an 'Excellent' rating has been achieved. All the measures integrated shall be retained for as long as the development is in existence.
15. Prior to first occupation of the school buildings, 'as-built' BRUKL outputs prepared under the Simplified Building Energy Model (SBEM) and details of the installed solar PV array, including product specifications, output, layout and orientation must be submitted to the Local Planning Authority and approved in writing to demonstrate that the development has been carried out in accordance with the approved Energy Statement (Method Consulting, April 2019). If the development as a whole is unable to meet at least a 35% reduction in CO2 emissions below the target emission rate (TER) based on Part L2A of the 2013 Building Regulations and achieve at least a 20% reduction through on-site renewable energy generation through the approved energy strategy, then any shortfall shall be made up through the application of further sustainability measures or by reference to the Council's Carbon Offset Fund.
16. The development hereby approved shall be constructed in accordance with the overheating strategy described in Section 10 and Appendix E of the approved Energy Statement (Method Consulting, April 2019) and thereafter retained. If any changes are proposed to the cooling and ventilation measures arising from the detailed design stage, a revised Energy Statement, incorporating amended dynamic thermal modelling outputs as appropriate must be submitted to the Local Planning Authority and approved in writing prior to the commencement of ground works and thereafter retained in perpetuity.

17. Prior to the commencement of the development above ground, a full and detailed application for the Secured by Design award scheme shall be submitted to the Local Planning Authority and the Metropolitan Police SW Designing Out Crime Office, setting out how the principles and practices of the Secured by Design Scheme are to be incorporated. Once approved in writing by the Local Planning Authority development shall be carried out in accordance with the agreed details and thereafter retained in perpetuity.
18. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) dated June 2019 and the following mitigation measures detailed within the FRA:
- Provision of a new compensatory flood storage in the lower games area / secondary playground space in accordance with paragraph 5.2.3 and appendix D.
 - Finished floor levels are set no lower than 34.15m above Ordnance Datum (AOD). The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority and thereafter retained in perpetuity.
19. If, during development, contamination not previously identified is found to be present at the site then no further development in the area where contamination is found (unless the contamination is considered to be widespread), shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.
20. The noise level from the cumulative sound emissions from any operational plant shall be at least 5dBA lower than the existing background noise level measured or predicted 1m externally to any window at the nearest residential facade. Measurements and assessment shall be made according to British Standard 4142: 2014.
21. The MUGA pitches hereby approved shall only be used between the hours of 8 am to 8 pm Monday to Friday.

Before the use hereby permitted commences to minimise sound levels from ball impacts on fencing surrounding the MUGA pitches all perimeter weld mesh fencing panels shall be securely clamped with resilient fixings to damp impact noise and minimise vibration and shall be retained in perpetuity.

Before the use hereby permitted commences a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority, setting out measures to be implemented to minimise noise from users of the MUGA pitches and any spectators.

22. The development shall not be occupied until the cycle spaces have been laid out and provided within the site in accordance with the approved drawings, which shall include 5% of all spaces being capable of accommodating larger cycles. The cycle spaces shall be permanently retained exclusively for its designated purpose and thereafter retained in perpetuity.
23. Prior to the use of any part of the car park for parking, a detailed car park management plan shall be submitted and approved in writing by the local planning authority. The development shall only operate in accordance with the details hereby approved.
24. Prior to commencement of the development hereby permitted a detailed School Travel Plan shall be submitted to and approved by the local planning authority. The School Travel Plan shall demonstrate how the school will achieve at least a bronze STARS accreditation within one year of the first use of the development hereby permitted, achieve a silver STARS accreditation within the second year and a gold STARS accreditation by the third year and maintained thereafter. The School Travel Plan shall include the establishment of a Transport Review Group.
25. Prior to first occupation a full Delivery and Service Plan (DSP) shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented in full for the lifetime of the development hereby approved.
26. No development shall begin, including demolition and site clearance works, until an updated Construction Logistics Plan (CLP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved CLP.
27. The development shall not be occupied until the car parking spaces have been laid out and provided within the site in accordance with the approved drawings. The parking shall be permanently retained exclusively for its designated purpose.
28. The development shall not be occupied until refuse and recycling facilities have been provided in accordance with the approved plans. The facilities shall be retained thereafter for use by the occupiers of the development hereby approved.
29. Within three months of occupation of the development hereby permitted, the construction compound shall be reinstated to its former use as tennis courts and therefore retained.
30. No demolition or construction works, including site excavation or any external site works, the operation of plant and machinery, the erection of scaffolding, the delivery of materials, the removal of materials and spoil from the site and the use of any sound amplification equipment, shall take

place outside 0800hours to 1800hours Mondays to Fridays and 0800hours to 1300hours on Saturdays and at no time on Sundays or Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

31. Prior to occupation of the development hereby approved, full details of the position, design, materials and type of boundary treatments/means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to occupation of the development and thereafter retained in perpetuity.

32. The school hereby permitted shall be limited to a maximum school roll of 1,606 pupils.

33. Prior to occupation of the development hereby permitted an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall take into account all of the lighting needs associated with the development during operational hours and shall be the minimum required to perform the relevant lighting task. It shall be specifically designed to minimise light spillage beyond the development site boundary onto the adjacent SINC and into the sky. The development shall be carried out in accordance with the approved lighting scheme and thereafter retained in perpetuity.

34. Prior to commencement of development, save for demolition or site clearance, a construction employment and training strategy shall be submitted to and approved in writing by the Local Planning Authority. The employment and training strategy shall demonstrate how the construction phase of the project will ensure that the following are provided during the construction phase:

- 6 Apprenticeships
- 6 Traineeships
- 6 Work Experience (16+)
- Attendance at 2 Council Events and Employer Encounters
- Delivery of an employment and skills plan on a quarterly basis.

35. The development hereby permitted shall not be occupied until all off-site highway improvement works as detailed in the highway drawings listed below, have been completed. These works shall comprise:

a) Visibility improvements at the junction of the access with Rose Hill (Drawings: 553096-RWC-XX-A1-DR-D-80100_P3 Section 278 General arrangement & 553096-RWC-XX-A1-DR-D-80101 P1 Car Park Visibility Splays)

b) Improvements to Bus Stop P (Drawing: 2360 004 T 040 P1 Proposed improvements to the bus stop and footway)

- c) zebra crossing across Rose Hill (drawings: section 278 zebra crossing general arrangement 553096-RWC-XX-A1-DR-D-90100 P1; s278 zebra crossing kerb layout 553096-RWC-XX-A1-DR-D-90200 P1; s278 zebra crossing levels 553096-RWC-XX-A1-DR-D-90300 P1; s278 zebra crossing pavement plan 553096-RWC-XX-A1-DR-D-90400 P1; s278 zebra crossing site clearance plan 553096-RWC-XX-A1-DR-D-90500 P1; s278 zebra crossing construction details 553096-RWC-XX-A1-DR-D-90600 P1).



Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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