



Department for  
Communities and  
Local Government

Ms Grace Manning-Marsh  
Chapel Street Community Schools Trust  
33A Bermondsey Wall West  
London  
SE16 4TQ

Our Ref: APP/G3110/A/13/2195679  
Your ref: Tynedale Community School

11 September 2013

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY CHAPEL STREET COMMUNITY SCHOOLS TRUST  
NUFFIELD SPORTS AND SOCIAL CLUB SITE AT WILLIAM MORRIS CLOSE,  
COWLEY MARSH, OXFORD, OX4 2JX  
APPLICATION REF: 12/02935/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David Morgan BA MA (IoAAS) MRTPI IHBC, who held a hearing on 10 and 11 July 2013 into your appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Oxford City Council to refuse planning permission for the change of use from use class D2 to use class D1, works to external appearance of the existing building, boundary treatments, provision of play areas, access and parking along with associated landscaping, dated 14 November 2012.

2. The appeal was recovered for the Secretary of State's determination on 18 April 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals for development of major importance having more than local significance.

**Inspector's recommendation**

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and planning permission granted. For the reasons given in this letter, the Secretary of State agrees with the Inspector's recommendation. A copy of the Inspector's report (IR) is enclosed. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

## **Procedural matters**

4. The original description of the development is as set out at paragraph 1 above. However the Inspector notes (IR1) that the parties have agreed that the description of the development should be amended to “*change of use from use class D2 to use class D1, works to external appearance of the existing building, boundary treatments, provision of play areas, including Multi-Use Games Area, access and parking along with associated landscaping*”. The Secretary of State agrees with the Inspector that the description of the development should be changed to reflect this agreed revised description, and he is satisfied that no interests would thereby be prejudiced.

## **Policy Considerations**

5. In deciding this appeal, 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. In this case, the development plan comprises the Oxford Local Plan 2001 – 2016 (OLP) and the Oxford Core Strategy 2026 (OCS). The Secretary of State agrees with the Inspector that the development plan policies relevant to the appeal are those set out at IR14 -18.

6. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework – March 2012); the Ministerial Policy Statement - planning for schools development (August 2011); and Circular 11/1995: *Use of Conditions in Planning Permission*.

## **Main issues**

7. The Secretary of State agrees with the Inspector that the main considerations are those set out at IR50.

### *Effect of the proposed development on free-flow of traffic and highway safety*

8. For the reasons given at IR52-56, the Secretary of State agrees that any concerns about the disruption of the free flow of traffic and risk to other road users can be mitigated by the imposition of conditions relating to the provision of a travel plan, the advocacy of sustainable travel modes by the school and active management of drop-off and pick up times. He therefore agrees with the Inspector’s conclusion that there is no significant risk that the operation of the proposed school would result in any significant disruption to the free-flow of traffic or to the safety of highway users.

### *Whether the site is surplus to requirements for sport and recreation in the City and whether or not the proposals are equal to or better than the current provision*

9. The Secretary of State agrees with the Inspector that, for the reasons given at IR57-58, the reduction in open space would not compromise the integrity or viability of the remaining area as open space and elements of the proposed facility would provide slightly lesser, though no less attractive active recreational facilities available to the public.

### *The acceptability or otherwise of proposed play and formal sports areas*

10. Like the Inspector (IR 59-60), the Secretary of State finds that there is no basis for finding against the proposal by reason of inadequate provision of formal play and sport facilities.

### **National and development plan policy**

11. The Secretary of State agrees with the Inspector that the evidence indicates that the appeal scheme would accord with the provisions of the development plan (IR61-65) and national policy (IR66).

### **Conditions**

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions, as set out in IR67-70. The Secretary of State is also satisfied that the conditions recommended by the Inspector and set out in the "*Schedule of conditions*" attached to the IR are reasonable and necessary and meet the tests of Circular 11/95.

### **Overall conclusions**

13. The Secretary of State is satisfied that the appeal proposal accords with the development plan and national policy and, despite considerable local opposition to it, there are no material considerations of sufficient weight to justify refusing to grant planning permission. He is also satisfied that the appeal proposal would not be an inappropriate use for this vacant building and, subject to the imposition of conditions, its implementation would not harm the safety of highway users or the free flow of traffic, nor would there be an inadequate level of outside play and activity space for the pupils. Although there would be a limited loss of open space, the Secretary of State is satisfied that any loss is mitigated by the public access provision to these facilities unavailable at present, and is significantly outweighed by the public benefits the use would bring in broadening primary educational provision in an area where there is significant existing demand. Subject to the imposition of conditions concerning the provision of a Travel Plan, and access to the land and buildings by the public, the Secretary of State is satisfied that the proposed development would not have any other unacceptable adverse impacts.

### **Formal Decision**

14. 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 for *change of use from use class D2 to use class D1, works to external appearance of the existing building, boundary treatments, provision of play areas, including Multi-Use Games Area, access and parking along with associated landscaping*, in accordance with planning application ref: 12/02935/FUL (amended description) dated 14 November 2012, subject to the conditions listed at Annex A of this letter.

15. 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.

16. 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**

17. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

18. A copy of this letter has been sent to Oxford City Council and to those who appeared and gave evidence at the hearing.

Yours faithfully

**Jean Nowak**

Authorised by the Secretary of State to sign in that behalf

## CONDITIONS

## Annex A

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.
2. The development permitted shall be constructed in complete accordance with the specifications in the application and approved plans as set out in appendix 1 of the Statement of Common Ground, unless otherwise agreed in writing by the local planning authority.
3. The materials to be used in the external elevations of the new development shall match those of the existing building.
4. A landscape plan shall be submitted to, and approved in writing by, the Local Planning Authority before development starts. The plan shall include a survey of existing trees showing sizes and species, and indicate which (if any) it is requested should be removed, and shall show in detail all proposed tree and shrub planting, treatment of paved areas, and areas to be grassed or finished in a similar manner.
5. The landscaping proposals as approved by the Local Planning Authority shall be carried out in the first planting season following the first occupation of the building if this is after 1st April. All planting which fails to be established within three years shall be replaced.
6. A plan showing the means of enclosure for the new development and including details of the treatment of all the boundaries of the site shall be submitted to, and approved in writing by, the Local Planning Authority. The approved treatment of the site boundaries shall be completed before first occupation; to the satisfaction of the Local Planning Authority.
7. Before development commences details shall be submitted of a sustainable drainage scheme for the car parking and vehicle manoeuvring area and this shall be approved in writing by the Local Planning Authority and the scheme so approved shall subsequently be implemented in accordance with the approved details prior to the first occupation of the building.
8. Prior to the first occupation of the development a turning area and car parking spaces shall be provided within the curtilage of the site so that motor vehicles may enter, turn around and leave in a forward direction and vehicles may park off the highway. The turning area and parking areas shall be constructed, laid out, surfaced, drained and completed in strict accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The turning area and car parking areas shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times.
9. Before the development permitted is commenced details of the cycle parking areas, including means of enclosure, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall not be brought into use until the cycle parking areas and means of enclosure have been provided within the site in

accordance with the approved details and thereafter the areas shall be retained solely for the purpose of the parking of cycles.

10. Prior to the commencement of the development hereby approved, details of bin storage, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The bin stores shall be provided in accordance with the approved plans prior to the first occupation of the dwellings and shall thereafter be so retained and maintained.
11. A Travel Plan, incorporating a Safe Routes To School (SRTS) detailed appraisal shall be provided for the encouragement of the use of sustainable modes of transport for this educational development and the promotion of highways safety. The Travel Plan shall be implemented upon beneficial occupation and thereafter used to promote the use of sustainable transport and avoidance of the single occupancy use of the private car. The measures contained in the SRTS shall be implemented prior to beneficial occupation of the development. The plans shall remain live-documents for the life of the school and be used to respond to the on-going needs of the school in the respects of safe routes and sustainable transport, with year on year improvements to targets, in line with travel planning guidance.
12. The school shall open on a basis of a school roll not exceeding 60 with no more than 60 additional pupils per year from 2013 to 2019 (constituting: 60, 120, 180, 240, 300, 360 and 420 in 2019).
13. Subsequent to the school roll reaching 120 no more than 60 additional pupils shall be permitted each year (or such other number as may be agreed in writing by the local planning authority from time to time) from 2013 to 2019. Each year the current roll shall be maintained until such time as the impact of the traffic and parking generated by the school on the local highway network has been assessed, and a review of the implementation and effect of the Travel Plan and SRTS documents has been carried out. Additional pupils may be allowed subject to the agreement in writing by the local planning authority of any necessary resulting highway works or other mitigating actions and a programme for their implementation.
14. Prior to commencement of development a Construction Traffic Management Plan (CTMP) and a Service Delivery Management Plan (SDMP) shall be submitted to and approved by the Local Planning Authority. The approved CTMP & SDMP shall be implemented prior to any works being carried out on site.
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or enacting that Order) no additional windows shall be placed in the west, south or east elevation(s) without the prior written consent of the Local Planning Authority.
16. Noise emitted from the building as a result of use of mechanical plant shall not exceed 45dB LAeq 15min when measured at the site boundary between the 0800 hours and 2300 hours and 40dB LAeq 5min at any other time.
17. Before the use hereby permitted begins, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with a scheme to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated

and maintained in accordance with that approval and retained for so long as the use continues.

18. Prior to the commencement of the development the following details of biodiversity enhancements shall be submitted to and approved in writing by the Local Planning Authority: a reptile survey; details of precautions regarding breeding birds; details of external lighting and the means by which this takes account of bat use of trees; details of bat and bird nest boxes to be installed on the mature trees; and details of a heated maternity roost for bats incorporated into the roof space on the south facing roof, built with camera access. These biodiversity enhancements shall be installed in accordance with the approved details and shall thereafter be so retained and maintained.
19. No development shall take place until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.
20. Prior to commencement of the development hereby approved, detailed drawings showing the design of the entrance canopy (including materials), shall be submitted to and approved in writing by the local planning authority. The canopy shall be constructed in accordance with the drawings so approved and shall thereafter be so retained and maintained.
21. Details of the methods and means by which members of the public may gain access to the land and buildings which are part of this planning application, for the purposes of engaging in community based activities, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include identification of the land and buildings to which the community may have access; and the days of the week and the periods of time to which such access shall relate. This shall be known as the Tyndale Community School Community Access Plan. After 1st September 2014, the land and buildings to which the planning application relates shall only be occupied and used in accordance with the approved details of that Plan or in accordance with such other details as may from time to time be submitted in substitution thereof and approved in writing by the local planning authority thereafter.

End



---

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

by David Morgan BA MA (IoAAS) MRTPI IHBC

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

Date: 8 August 2013

---

Town and Country Planning Act 1990

Oxford City Council

Appeal by

Chapel Street Community Schools Trust

Hearing held on 10 and 11 July 2013

William Morris Close, Cowley Marsh, Oxford OX4 2JX

File Ref(s): /G3110/A/13/2195679

---



---

CONTENTS	PAGE
Procedural matters	1
The site and surroundings	2
The proposed development	2
Planning policy	3
Planning history	4
The case for Oxford City Council	5
The case for the appellant	7
Written representations	8
Conditions and obligations	9
Conclusions	9
Free-flow of traffic and highway safety	10
Loss and replacement of open space	11
Provision of outdoor play and sport space	11
Development Plan	12
National Planning Policy Framework	13
Conditions and obligations	13
Overall conclusions	14
Recommendation	15
SCHEDULE OF CONDITIONS	16
APPEARANCES	19
HEARING STATEMENTS AND WRITTEN REPRESENTATIONS	19
DOCUMENTS SUBMITTED AT HEARING	20

**File Ref: /G3110/A/13/2195679**

**William Morris Close, Cowley Marsh, Oxford OX4 2JX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Dr Russell Rook, Chapel Street Community Schools Trust, against the decision of Oxford City Council.
- The application Ref 12/02935/FUL, dated 14 November 2012, was refused by notice dated 18 March 2013.
- The development proposed is change of use from use class D2 to use class D1, works to external appearance of the existing building, boundary treatments, provision of play areas, access and parking along with associated landscaping.

**Summary of Recommendation:**

The appeal is allowed, and planning permission granted subject to conditions.

---

**Procedural Matters**

1. It is recommended that the description of development and site address be taken from the signed and dated Statement of Common Ground, rather than that set out above, as this more accurately describes the development proposed and more definitively identifies the site. The revised description is: "Change of use from use class D2 to use class D1, works to external appearance of the existing building, boundary treatments, provision of play areas, including Multi-Use Games Area, access and parking along with associated landscaping". The address has been revised to "Nuffield Sports and Social Club site at William Morris Close, Cowley Marsh, Oxford OX4 2JX".
2. The appeal was recovered for determination by the Secretary of State by letter, dated 18 April 2013, because the appeal involves proposals for development of major importance having more than local significance.
3. The Council refused the application, against officer recommendation, for the following reasons.
  - 1: That having regard to the traffic generation arising from the development, and the design of the proposed school access and pupil drop-off facility, the proposed development would have a detrimental impact upon the free-flow of traffic and general safety of other road users such as pedestrians and cyclists in Barracks Lane, William Morris Close and at the busy junction of Barracks Lane/Hollow Way/Horspath Driftway. This would be contrary to guidance in the NPPF, and to Policies CP1, CP10 and TR1 of the adopted Oxford Local Plan 2001-2016.
  - 2: The application site has been in use for formal and informal sport until recently. Although the site is now fenced it has not been clearly shown that the site is surplus to requirements for sport or recreation. The site retains the potential to provide for types of open air sport and recreation for which there is a need in the City. The replacement sports facilities in the form of community access to the proposed school's external areas and facilities are not equal to or better than retaining the potential of the site to provide for open air sport and recreation. For these reasons the proposal does not accord with the NPPF, Policy CS21 of the Core Strategy, or Policy SR2 of the Oxford Local Plan.

- 3: The external areas proposed for school use are insufficient to serve the needs of the proposed number of pupils. This would be contrary to Policy CP10 of the adopted Oxford Local Plan 2001-2016.
4. I made an accompanied site visit to the area as part of the Hearing on the 11 July 2013, but also visited the locality unaccompanied on the afternoon of Monday 9 July and on the morning of the 11 July at the nearby St Christopher's Primary School at the time that children were arriving.

### **The Site and Surroundings**

5. The former Lord Nuffield Sports and Social Club is located at the junction of William Morris Close and Barracks Lane, Cowley, Oxford. The site comprises the existing sports and social club building along with areas of open space sports pitches located to the east and south of the building. The proposed site area is 0.59 hectares.
6. The site is located to the south of the footway along the south side of Barracks Lane. To the north of Barracks Lane is Southfield Golf Course. The eastern boundary of the site is formed by the rear garden fences of houses fronting on to Hollow Way to the east of the site. The western boundary of the site is formed by the footway on the eastern side of William Morris Close and an area of car parking. The southern boundary of the site is formed by the remainder of the playing fields associated with the sports and social club. Beyond this to the south are the residential areas of Beresford Close, Crescent Court and neighbouring properties in Crescent Road. There is a footpath linking William Morris Close with Crescent Road to the south of the site. The building is a two storey brick built (with a basement) building with internal floor space of approximately 2,704m<sup>2</sup>. The site has 15 car parking spaces.
7. The building is self-contained and includes WCs and wash facilities on the ground and first floors and a lift installed for DDA access. Kitchens are located on both floors. The existing building is at present vacant as the previous owner has gone into administration. When operational it functioned as a private sports and social club with external space for gatherings and social functions. It is understood that the sports and social club went into administration in July 2009 and that the building has been out of use for approximately 24 months. The existing hard landscaping on the site is 1221m<sup>2</sup> with soft landscaping being 3519m<sup>2</sup> giving a total area of 4740m<sup>2</sup>.

### **The proposed development**

8. The school will be operated by Chapel Street Community Schools Trust under the auspices of the Government's Free Schools programme. Pupil ages will range from 4 - 11 years and they will be taught in mixed classes. It is proposed that class sizes are no greater than 30 pupils with a target number of 28. It is therefore envisaged, when at full capacity, there will be a total 420 pupils. It is anticipated there will be 29 full-time and 16 part-time employees at the site during the school day. The school facilities would be made available to the local community through a Community Access Package to provide a hub for local education and community activities. The school is planned to open in year one with 60 pupils, with the roll growing by this number annually over a six year period.

9. The proposal is to bring the former Lord Nuffield Sports and Social Club building and part of its adjacent land back into use as a school for reception and primary aged children. This necessitates a change of use from the current D2 to that within D1 as a non-residential educational use within this Use Class.
10. The proposed area of hard surfacing is 2787m<sup>2</sup> and the proposed area of soft landscaping is 1953m<sup>2</sup>. Thus there will be a loss of soft landscaped areas on the site of 1566m<sup>2</sup> and a gain of 1566m<sup>2</sup> of hard surfacing. Access to the site will be from William Morris Close with the school entrance located at the west side of the building. This site entrance will provide access to the school teachers' car park and provide an in-out looped pupil drop off area 43 metres long with a pupil drop-off zone 16.5 metres in length. A total of 18 staff parking spaces, two disabled parking bays and two visitor car parking spaces will be provided. A total of 38 cycle parking spaces for pupils, staff and visitors will be provided in a purpose-built facility to the west of the building. The remainder of the site to the east will provide a large playground area with the existing hard surfaced area to the south of the building along with a smaller area immediately to the east of the building being used as hard surface play areas. The remainder of the site, currently predominantly occupied by a disused bowling green, is proposed to be retained as a grassed soft play and sports area. The bin enclosure to the rear of the building will be relocated to the North West.
11. The site boundary to Barracks Road to the north is formed by a solid stone wall along its length and the boundary to the east of the site is formed by rear boundaries of properties on Hollow Way. The western and southern boundaries are to be secured by 2m high fencing. Landscaping within the site will include a nature area used for educational purposes as well as enhancing biodiversity on the site.
12. The site will be in use for school activities between 07.30 and 18.00 with the inclusion of breakfast and after school clubs with the expectation that the site will be available for community access as required between 18.00 and 21.00 and also all day during school holidays and weekends. The school intends to facilitate the use of the building and external areas by the local community. It is intended that the Site Manager will be responsible for access to the school building for out of hours clubs.

### **Planning Policy**

13. The development plan for the area includes the Oxford Local Plan 2001 – 2016 (OLP) and the Oxford Core Strategy 2026 (OCS).
14. The OLP makes clear that the Council expects new development to enhance the quality of the Environment; Policy CP1 is central to that purpose and will be applied to all development. With regard to the first main issue, criterion (c) is the most relevant, stating that planning permission will only be granted for development which is acceptable in respect of access, parking, highway safety, traffic generation, pedestrian and cycle movements including, where appropriate, links to adjoining land.
15. Policy CP10 and TR1 of the OLP are also relevant to the first main issue. CP10 states planning permission will only be granted where proposed developments are sites to ensure that: inter alia access to the site is practicable, with priority given to pedestrians and cyclists. Policy TR1 indicates that planning permission

will be granted if the City Council is satisfied that adequate and appropriate transport-related measures will be put in place.

16. In respect of the second issue, policy CS21 of the OCS states that planning permission will only be granted for development resulting in the loss of existing sports and leisure facilities if alternative facilities can be provided and if no deficiency is created in the area. Policy SR2 states that planning permission will not be granted for development that would result in the loss of open-air sports facilities, also indicating that permission will only be granted where there is no need for the development or, inter alia, where there is a need for the development or where the facility can be replaced by either an equivalent or improved facility or the upgrading of an existing facility.
17. Policy CP10 of the OLP is also relevant to the third main issue. Criterion (c) states, inter alia, that planning permission will only be granted where proposed developments are sited to ensure that outdoor needs are properly accommodated.
18. Section 5.3 'Education' of the OSC states at paragraph 5.3.1 that 'Education is a crucial part of people's lives; it includes early years, primary and secondary learning, further and higher education, special educational learning, adult learning courses and extra-curricular activities. Access to all types of education is an important factor in achieving a high level of qualifications and skills'. Policy SC16 of the OCS supports this aim.
19. The *Planning statement – planning for school development*, published by the Department for Communities and Local Government in 2011, sets out principles for the planning system when dealing with proposals for schools. These include the following; there should be a presumption in favour of the development of state-funded schools, and the Secretary of State will attach significant weight to the need to establish schools; local authorities should foster a collaborative approach to applications, where necessary using planning obligations to mitigate adverse impacts; clear and cogent evidence would be necessary for refusal or imposition of conditions.
20. The *National Planning Policy Framework* (hereinafter referred to as the *Framework*) makes clear that the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities, and that great weight should be given to the need to create, expand or alter schools.

## **Planning History**

21. In the past the site was part of a larger recreational open space associated with the Morris Motors Social Club. The Club was located in a building fronting Crescent Road which operated as indoor sports and social facilities. The adjoining sports fields to the north were used primarily for cricket (to County standard), tennis and bowls.
22. Full planning permission was granted in 2004 for the demolition of the Morris Motors Social Club and 2 houses on the Crescent Rd frontage, the retention of sports ground and bowling green, the erection of a new sports and social club and 63 dwellings, contrary to planning policy aimed at protecting recreational open space. However, this was regarded as expedient as the social club use

would be retained but upgraded, the main area of playing pitches would not be developed, and other benefits, including social housing and community access, would also be secured. Minor amendments to the scheme were sought and approved in 2006 and 2007.

23. In relation to the appeal proposal, after the closure of the club due to insolvency, a pre-application meeting was held in October 2012 at which the Council was made aware for the first time of the Free School initiative on the site with a subsequent meeting in late October to confirm submission the planning application. Public consultation was undertaken in November 2012 prior to the submission of the planning application and then subsequently in December 2012 after submission. The planning application was submitted on the 14 November and registered on 15th November 2012.
24. The application to which this appeal relates was first considered by the Oxford City Council East Area Planning Committee on 5 February 2013 with a recommendation that the Committee support the proposals in subject to a legal agreement/undertaking and conditions. The decision was deferred with a site visit made on 7 March 2013 and the application was considered for a second time by the same Committee on 7 March 2013. The committee resolved to refuse the planning application for the three reasons set out above.

### **The Case for Oxford City Council**

The main points are as follows.<sup>1</sup>

25. The applicants' estimate of car journeys likely to be made by parents bringing their children to the proposed school is seriously low, and the actual higher number of parental car-borne journeys would cause additional traffic and so congestion around the school and create safety issues at the Barracks Lane/Hollow Way/Horspath Driftway junction. The attraction of a proposed free school would draw pupils from a wider range than normal for state-funded institutions and consequently more car-borne journeys by parents/pupils would result. Such a conclusion is supported by comparison with three Roman Catholic faith schools in the city (St John Fisher, St Gregory the Great and St Josephs) and more analogously with the profile of a Rye St Anthony, private school in the City. Examples of both are cited, with the private school recording numbers of car-borne attendees reaching levels of 75.3%. Moreover, observational studies at St Josephs indicate a chronic pattern of traffic related behaviours that serve as a much closer model for what will occur at the appeal site.<sup>2</sup>
26. The proposed circulation of cars via the drop-off loop is unworkable and would exacerbate congestion in and around Barracks Lane. Parents will attempt to turn their cars round in the Barracks Lane cul-de-sac, adding to confusion and road safety issues on a busy cycle route. The County Council has not taken proper account of the particular nature of the proposed free school and its likely catchment in coming to a view of the highways/traffic impact.

---

<sup>1</sup> Based on HS1.1 and submissions at the Hearing.

<sup>2</sup> HS1 and appendix 4 thereof.

27. In respect of recreational open space, of which this application site is a part, this comprises a remnant of an historically much larger recreational area. The 2004 permission for redevelopment of the former Morris Motors Social Club allowed development on a large area of hard standing and, some squash courts but was designed to retain an area suitable for pitch sports and specifically to continue to accommodate a cricket pitch.
28. The appeal proposal represents a further significant reduction in the available area of recreational open space from that which existed prior to the 2004 permission. As the drawings illustrate, the appeal site as a whole constitutes 34% of the remaining recreation area, and aside from the building, the open space being taken by the school is 27% of the remaining recreation area. Sport England has raised an objection to the loss of this part of the larger playing field and the ancillary parking and building which provided changing rooms for the sports pitches.
29. The site not only has an important role in meeting the City's needs for sports pitches but is also the only open space serving this local community: people living south of Hollow Way between Barracks Lane and Crescent Road. There is no other local open space provision serving this local community: the Southfield Golf Course is a private facility with no public access; and the Hollow Way Playing Field is located north of properties on the north side of Hollow Way serving that local community.
30. In relation to national and local policy it is important to establish whether the land is redundant for recreational use. The applicants did not submit evidence to that effect. Local people made active use of the land prior to its being fenced in November 2012 when the current planning applications were submitted. The space is not surplus to sport and recreation requirements or redundant for sports and recreation use. Although in private ownership and fenced off, the site retains the potential to be brought back as high quality provision for active formal or informal outdoor recreation.
31. The level and type of community access proposed through the Community Access Agreement is not regarded as being an acceptable alternative to the retention of the former sports club playing field as a single entity. It does not offer the wider community the opportunities for large scale sport and recreation which the site is still capable of sustaining, and which is needed to fulfil sport and recreation needs in the City.
32. The Council considers that the need for the school to be located on this site is not so great that it should outweigh its protection as valued open space. While there is a need for additional school places in the OX4 postcode area, the appellant has not submitted evidence of other sites which they have investigated to meet this need or other strategies that could be employed by them to help meet the need.
33. In respect of external space provision, the statutory position regarding the provision of school playing fields is as set out in Standards for School Premises Regulations 2012 which came into force on 31 October 2012. In May 2013 the Department for Education issued non-statutory advice on SSPR 2012. In relation to external school space this requires provision for games in accordance with the school curriculum and for outdoor play and socialising. Advice on the size of

outdoor spaces is given in BB99<sup>3</sup> which, for a two form entry school (as in the appeal proposal) on a non-confined site, is a range between 17,320m<sup>2</sup> and 19,300 m<sup>2</sup>.

34. In light of this statutory advice a Standard Primary School Brief following BB99 requires provision equivalent to the upper end of the non-confined sites requirement (19,300m<sup>2</sup>) plus Nursery space and extended schools space. This gives a likely normal requirement in the county for external space for a two form entry school of some 22,241m<sup>2</sup> or 2.22ha
35. The total external space around the building is some 0.475ha. This includes the parking area and circulation space and so a significant proportion is not available for play. Even if it is assessed that the areas available for formal and informal play in the appeal proposal extend to 0.4 hectares (taking into account that the MUGA counts for double) this would be only 20% of the statutory and local requirement. This provision is unacceptably low in comparison with statutory and local requirements. The school will not be able to provide the amount and type of outdoor play, formal sport provision and space for socialising which will help to lead its pupils to engage in sport and embrace healthy lifestyles.

### **The Case for the Appellant**

The main points are as follows<sup>4</sup>.

36. The Framework, joint Ministerial Statements, the Council's Corporate Plan, and the County Education Authority, all support the increased provision of parental choice in the education system. These proposals will support those aims in an area of the City where there is increased demand for such school places.<sup>5</sup>
37. The impact of travel to and from the school has been assessed in a Transport Assessment considered to be 'robust' by the Oxfordshire County Highways Officer. The County Highways Officer considers it not unreasonable to predict that 70% of pupils will arrive at this school by sustainable means, given that in this location there is a high resident population within walking distance.<sup>6</sup>
38. The proposed school would provide additional school places and at the same time reduce the need to travel by car, thereby assisting the provision of sustainable forms of travel and importantly, accord with the fundamental principle of the NPPF to deliver sustainable development. The professional officers assessing the proposals concluded that there was no material impact on the traffic at the site.
39. The green space retained by the proposal is a more flexible space than currently exists. Therefore, there is no loss of open-air sports facilities as a result of the proposed development and the proposal will provide a green space available to local residents. There is no material loss of green space and sport and leisure facilities as a result of the proposed development.

---

<sup>3</sup> Building Bulletin 99: Briefing Framework for Primary School Projects produced by the Department for Education and Skills (BB99).

<sup>4</sup> Based on HS2.1, HS2.2, HS2.3, HS2.4, HS2.5 and submissions made at the Hearing.

<sup>5</sup> HS2.1 paragraphs 10 – 14.

<sup>6</sup> HS2.2 paragraph 2.4.



40. Population projections for the county indicate that the level of growth is greatest in five wards that surround the proposed school site. This need is accepted by the County education department, who are under the formal view that, were the proposal for Tyndale Community School approved, it would view this as compatible with meeting the growing demand for school places in Oxford City.
41. The proposal would bring the appeal site back into use and enable it to be accessible to the public outside of school times and this would allow access to a new MUGA facility on the site as well as the landscaped open space. As such the proposed development would not create a deficit of sports and leisure facilities- rather it would provide a new facility for use by the community.
42. There is no guidance that pertains to the amount and type of external spaces required for Free Schools. From a comparison of the external areas proposed and those set out in BB99 for constrained sites it is evident that the area of hard play space proposed, exceeds that in the BB99 guide. The area of the proposed MUGA is less than the guidance figure in BB99. However, the proposed MUGA has been agreed with Oxford Council as being acceptable for the site. In addition, the proposal includes an external learning area at first floor level for which there is no guideline figure in BB99. The external area of soft play and habitat both exceed the guideline figures in the BB99.
43. The proposed outdoor areas total 3360m<sup>2</sup> whereas the BB99 guidance indicates a figure of 3270m<sup>2</sup> for outdoor areas. It is therefore concluded that the Appeal proposals provide sufficient space for the number of pupils. There has been no objection from the County Education Authority in respect of the provision of such external play and sport space in their formal consultation on the proposals.

## **Written Representations**

### *Application stage*

44. The Council has received a significant amount of correspondence in relation to this case, both for and against it. Objections focus mainly on the impact of the proposal on highway safety as a result of anticipated vehicular movements associated with it in both morning and afternoon. The other main focus is over the loss of the open space, though a number of these objections combine concerns with the parallel proposals for the development of the remaining part of the playing field site for residential development the subject of a separate application. A number of objections also expressed concern over the level of play space provision.
45. There are also considerable numbers who support the application, indicating there is very strong demand for additional primary school places in the locality.

### *Appeal stage*

46. Written representations were received from 30 individuals in response to the appeal, 11 in support and 19, including one from the local Member of Parliament, objecting.<sup>7</sup> These generally raised similar concerns and areas of support set out at the application stage and were reiterated at the Hearing itself. These focused again on concerns over traffic generated by the use and its impact on the local

---

<sup>7</sup> Red folder.

highway network<sup>8</sup> and the loss of the public open space and the progressive loss of other green space in the locality.<sup>9</sup>

## Conditions and obligations

47. There was agreement between the Council and the appellant concerning suggested conditions in the event the appeal succeeds and planning permission is granted.<sup>10</sup> In addition, the parties agreed at the Hearing that conditions would be necessary to secure the details of the entrance canopy and a comprehensive, consultation-referenced Community Access Agreement. These were also considered with regard to Circular 11/95 *The Use of Conditions in Planning Permissions*. Possible conditions are dealt with in more detail in the Conclusions to this report.
48. No obligation pursuant to section 106 of the 1990 Act has been submitted. There was anticipation, both prior to the determination of the planning application and prior to the Hearing, that such an obligation would be forthcoming to secure community access to the building and its associated facilities. However, as was discussed at the event and by mutual agreement between the parties, it was concluded that this matter could be dealt with by means of an appropriately worded condition; this is addressed below.

## Conclusions

### *Preliminary matters*

49. The following conclusions are based on the evidence given at the Hearing, the written representations and my inspection of the site and its surroundings. In this section the figures in parenthesis [ ] at the end of paragraphs indicate source paragraphs from this report.

### *Planning and policy considerations*

50. In the absence of any matters set out about which the Secretary of State particularly wishes to be informed for the purposes of considering this appeal, the evidence indicates that the main considerations are:
- (1) Whether, by virtue of the traffic generated by the proposed development, the proposals would have a materially detrimental impact upon the free-flow of traffic and on the general safety of other road users in the area of the site;
  - (2) Whether or not the site is surplus to requirements for the provision of sports and recreation in the city and whether or not the proposed replacement sports facilities in the form of community access to the facilities external areas are equal to or better than the retention of the existing site as potential open air sport and recreational facilities;
  - (3) Whether or not the external play and sport areas proposed use are sufficient to serve the needs of the pupils;

---

<sup>8</sup> HD3 and HD5.

<sup>9</sup> HD1.

<sup>10</sup> HS2.5.

- (4) The extent to which the proposed development would be in accordance with the development plan for the area;
  - (5) The extent to which the proposed development would be in accordance with the *National Planning Policy Framework*;
  - (6) Whether any permission should be subject to any conditions and if so, the form that these should take;
51. The remainder of this report addresses these matters and my recommendations are based on these findings.
- (1) Effect of the proposed development on free-flow of traffic and highway safety*
52. The factor critical governing the impact the school on the free-flow of traffic and highway safety is the numbers of pupils who would arrive and leave the facility by car. The expectations of the travel plan submitted by the Appellant, and considered 'robust' by the highway authority, anticipates 30% of pupils arriving by car, slightly below national averages, but consistent with the school's proposed location in a residential area and adjacent to sustainable transport opportunities. [37,38]
53. The Council and other parties argue this is very optimistic, asserting that the type of school proposed should expect a considerably wider catchment area, thus anticipating a much higher percentage of car-borne attendees. The basis of this approach is that the proposed Free School is more analogous to a Roman Catholic faith school or even closer to the profile of a private school, Rye St Anthony. Examples of both are cited, with the private school recording numbers of car-borne attendees reaching levels of 75.3%. [26, 44, 46]
54. The appellant has identified five schools in the Oxford area, the closest being St Christopher's, as comparators. The average percentage of car-borne attendees in these examples is 24.4%. St Christopher's, a Church of England Primary school within the same neighbourhood, records 30% car-borne attendees. Although no detailed statistical recording was made at my site visit, this assessment broadly accords with my perception of the modal split at this time. Data from the school submitted at the Hearing showing a breakdown of those parents expressing an interest in sending their pupils to the school illustrates 93% within a 1.5 km post code catchment; exceeding the expectations of the travel plan forecasts. [4, 37, 38]
55. The Council's assessment, and the figures on post code data, has to be treated with a degree of caution, there are significant differences between the profile and age of pupils at Rye St Anthony, for example, and those at the proposed school. Similarly, the post code analysis does not give an indication of actual numbers expressing interest. However, there is no comparative evidence of modal preferences for Free School attendance presented by the Council. Nor is there firm evidence, based on professional technical input, to suggest the pupil profile, catchment or transport modal split at the proposed school will be significantly different to that of others in the area, the most proximate and analogous being St Christopher's, considered by the appellant in their transport evidence. Although the school will espouse a Christian ethos, there are no faith-based

criteria for selection and the evidence, such as it is from expressions of interest, strongly suggests a local interest in securing a place, with a high percentage anticipating non-car dependent modes to travel to the school. [4, 38]

56. It may be the case that unanticipated, unplanned and unregulated, even the 30% car-borne arrivals to the school may have a limited capacity to disrupt the flow of traffic and potentially increase the risk to other road users, as the Council asserts from its observations at other schools. However, with a travel plan in place, advocacy of sustainable travel modes by the school and the active management of drop-off and pick up times, where appropriate, secured through condition, such concerns can be mitigated. Moreover, with the annual increase in pupil numbers controlled through condition, and contingent on compliance with the travel plan, these sustainable patterns of travel can be maintained and fully embedded. With a confident expectation that up to 70% of attendees will arrive by sustainable transport modes, and that those borne by car will be actively managed, there is no significant risk that the operation of the proposed school would result in any significant disruption to the free-flow of traffic or to the safety of highway users, let alone any thing of a magnitude of severe disruption, the threshold identified in paragraph 32 of the Framework. [25, 37, 38, 69]

*(2) Whether the site is surplus to requirements for sport and recreation in the City and whether or not to proposals are equal to or better than the current provision*

57. It is the case that the appellant has not set out in analytical terms that the site is no longer required for sport or open space provision, nor do they challenge the view expresses by Sport England that there is a shortage of cricket and football pitches in the City. However, the site is, and apparently always has been in private ownership, and the club, in its last incarnation, was for the use of private members. Insofar as it served the local community, it did so on the same basis as the adjacent, fully operational Southfield Golf Club, which excludes access for non-subscribing members, as the Council notes. The club and associated facilities have been closed, and subsequently marketed under the terms of the current use for over two years, apparently with no interest in it being reopened for its former purpose. This lack of market interest must, of itself, beg the question as to whether there is indeed a sustained demand for the facility. [29, 30, 31,41]
58. The proposal would result in the reduction in the current area of greater open space in gross terms by approximately 34%, and omitting the school building, 27% of the whole. A considerable element of this area will be given over to play space and the MUGA play pitch (a more flexible all-weather facility), all of which will be made available to local people through the community access agreement. Moreover, there is an accepted need for primary school places in the area and the County education authority accepts the proposed school would help address that need; there is therefore a need for the development. The loss of this component of the open space is not such of itself to compromise the integrity or viability of the remaining area as open space and elements of the proposed facility would provide slightly lesser, though no less attractive active recreational facilities available to the public. Whilst it is accepted the greater site was appreciated by local people after the closure of the club and prior to it being fenced-off, such access appears contingent on the absence of active management of the private land rather than active provision.[30, 39, 41, 69]

*(3) The acceptability or otherwise of proposed play and formal sports areas*

59. The judgement here turns very much on whether it is considered the appeal site constitutes either a *confined* or an *unconfined* site as referred to in BB99. The Council maintain their understanding of the former is that of an inner urban school. BB99 however offers no such definition, this is left to interpretation. The appeal site may not offer the initial impression of physical constraint; it is seen in visual juxtaposition with the remaining open space of the former sports club. However, it is physically constrained by the metal fence that now demarks the ownership of both sites. This ownership, limiting the area of land under the control of the appellant, also acts to constrain the site in the same way. The site is within an urban area, though it abuts open space, and it is constrained by the extent of its ownership. Certainly there are no opportunities for increasing the extent of the site as this would be self-evidently opposed by the Council. [5, 6, 33, 34, 35, 42, 43]
60. On this basis the site may legitimately be considered constrained, and therefore reasonably be subject to the reduced outdoor space provision anticipated by BB99 on such constrained sites. With these standards applied such provision is only deficient in respect of the MUGA, and this is in part mitigated by the provision of outdoor teaching space not accounted for in the BB99 provisions but included in the school proposals. There has been no objection from the County Education Authority in respect of the provision of such external play and sport space in their formal consultation on the proposals. There is no basis for finding against the proposal by reason of inadequate provision of formal play and sport facilities. [43]

*(4) The development plan*

61. Pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004 this appeal should be decided having regard to the development plan, and the determination made in accordance with it, unless material considerations indicate otherwise. [13]
62. In respect of consideration (1) the proposal would achieve an acceptable access (which would be practicable), provision of parking, assure highway safety, limit traffic generation and encourage pedestrian and cycle movements. This being the case, the proposals would not be in conflict with policy CP1, criterion c and policy CP10 of the OLP, criterion a thereof. With a Travel Plan in place and appropriate measures secured through condition, the proposal would also accord with policy TR1 of the same. [14, 15, 69]
63. In respect of consideration (2) the development would result in an area of open space being developed. However, this area would be relatively limited and would in greater part be mitigated by the provision of more flexible facilities and that would be accessible to members of the local community. On this basis there is no conflict with policy SC21 of the OSC. Insofar as there is a demonstrated need for the school and that there is an on balance equivalent provision of accessible facilities on the site, there is also no conflict with policy SR2 (criteria a and c thereof) of the OLP. [16]
64. In respect of consideration (3) the Council and others object to the proposal because of the deficiency of play and sport facilities and that the outdoor needs of the development are not properly accommodated. However, as set out above,

children would have access to such facilities in accordance with published Government Department advice for such constrained sites in urban areas and there is therefore no conflict with policy CP10 (criterion c thereof) of the OLP. The proposals would also accord with Section 5.3 of the OSC relating to educational provision and with policy SC16 which supports this aim. [17, 18]

65. On the basis of all the above, the evidence indicates that the appeal scheme accords with the provisions in relation to each of the main considerations, of the policies of the development plan.

*(5) National Planning Policy Framework*

66. The proposal gains substantial support from the *Framework* because the school would help to ensure that a sufficient choice of school places is available to meet the needs of existing and new communities. There is a broadly acknowledged need for such educational facilities in the locality that the school would help address. Insofar as the development would not result in severe residual cumulative impacts on the local highway network, the proposals are also consistent with the aims of the policies on sustainable transport set out in section 4 of the *Framework*. Having regard to the *Framework* as a whole, the proposed development would be sustainable development to which the presumption in favour set out in the *Framework* would apply. [20, 36, 38]

*(6) Conditions*

67. The need for conditions and their wording should properly be considered in the light of the advice contained in Circular 11/95 *The Use of Conditions in Planning Permissions*. The Condition numbers in this section refer to the Schedule of Conditions attached to this report. [47]
68. The standard three year commencement period was not disputed (Condition 1). Otherwise than as set out in any decision and conditions, it would be necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning (Condition 2). Ensuring that materials used in the alterations of the building match those of the existing would be necessary in order to secure a satisfactory appearance to the development (Condition 3). Similarly a landscape plan would also be necessary to ensure a satisfactory appearance to the wider context to the building (Condition 4). It is also necessary that this landscaping plan is secured and implemented within the first planting season to rapidly establish the landscape and so securing a satisfactory appearance to the development (Condition 5). It is also necessary that the means of enclosure to the site along its boundaries is appropriately treated, again to ensure a satisfactory appearance to the development (Condition 6). It is also necessary that the hard landscaped areas of the site are managed through a sustainable drainage scheme to optimize drainage of the site and ensure the safety of highway users (Condition 7). It is also necessary that provision is made within the site for the safe turning and parking of vehicle associated with the proposed use, in the interests of the safety of highway users (Condition 8). It is also appropriate that suitable provision is made for the secure and safe storage of bicycles on the site, to promote the use of such a sustainable transport mode, thereby reducing dependence on the car as a means of travel (Condition 9). It is also necessary that refuse bin storage on the site is appropriately secured also to achieve a satisfactory appearance to the development (Condition 10).

69. A Travel Plan, incorporating a Safe Routes To School detailed appraisal, would be necessary to minimise the need to travel to the school by car, and this being a 'live-document' would be capable of being reviewed periodically, so ensuring it remains up to date (Condition 11). It is also necessary that the school shall open on the basis of a roll not exceeding 60 pupils initially and then with an annually increasing roll by that number over the six year period to allow for the embedding of the provisions of the travel plan (Condition 12). In the same regard it is necessary that this incremental roll-increase is appropriately regulated, again to ensure compliance with the travel plan (Condition 13). It is also appropriate that a Construction Management Plan is in place during the course of the construction of the development in order to ensure the safety of highway users and the living conditions of adjacent occupiers (Condition 14). It is also necessary that the opportunity to create any new windows in the west, south and east elevations in the building is controlled through the withdrawal of permitted development rights in this regard in order that the living conditions of adjacent occupiers are safeguarded (Condition 15). It is also necessary that any noise emitted from the building as a result of the use of mechanical plant shall be limited to reasonable levels, again so that the living conditions of adjacent occupiers may be safeguarded (Condition 16). For the same reasons it is necessary that cooking odours and fumes emitting from the building shall be rendered innocuous prior to release into the atmosphere (Condition 17). It is also necessary that opportunities for the enhancement of the biodiversity of the site are taken to consolidate and broaden the range of species in the vicinity of the site (Condition 18). It is necessary, given the archaeological potential of the site, that a scheme of archaeological investigation is secured, to safeguard any such remains that may otherwise be harmed as a result of the development (Condition 19). It is also appropriate that details for the entrance canopy on the eastern elevation of the building are provided, to ensure a satisfactory appearance to this structure (Condition 20). Given the significance of open space in relation to this proposal it is also very necessary that provision is made to facilitate access to the school facilities by members of the local community in the form of a Community Access Plan (Condition 21).
70. The conditions set out in the Schedule of Conditions attached to this report would be necessary to mitigate the impact of the proposed development. They would reasonably relate to the proposed development and would appropriately address some of the issues raised by other parties.

### **Overall conclusions**

71. There is considerable local opposition to the proposed school, which is apparent from the written representations submitted to the local planning authority and from the contributions made at the Hearing. One of the aims of national planning policy is to strengthen local decision making and there has indeed been a very active involvement of elected Councillors, local representatives and interested residents in this case.<sup>11</sup> However, a key general principle of the planning system is that local opposition for a proposal does not in itself establish a substantive ground for refusing planning permission, unless it is based on sound and valid planning reasons.<sup>12</sup>

---

<sup>11</sup> *National Planning Policy Framework Annex 1: Implementation.*

<sup>12</sup> *The Planning System: General Principles*, ODPM, 2005.

72. The proposed school gains substantial support from local and national policies concerning education. The proposed use is not an inappropriate one for this vacant building and its implementation would not have a materially deleterious effect on the safety of highway users or the free flow of traffic, nor would there be an inadequate level of outside play and activity space for its users. Although there would be a limited loss of open space contrary to development plan policy, this is mitigated by the public access provision to these facilities unavailable at present, and is significantly outweighed by the public benefits the use would bring in broadening primary educational provision in an area where there is significant existing demand. Subject to the imposition of the conditions considered above, the proposed development would not have any other unacceptable adverse impacts. The proposed development would comply with the provisions of the development plan, and would accord with the *Framework*.
73. All other matters raised in evidence have been taken into account, but there is nothing to outweigh the main considerations that lead to the conclusion that the appeal should be allowed.

### **Recommendation**

74. It is recommended that the appeal be allowed, and planning permission be granted for change of use from use class D2 to use class D1, works to external appearance of the existing building, boundary treatments, provision of play areas, including Multi-Use Games Area, access and parking along with associated landscaping at the Nuffield Sports and Social Club site at William Morris Close, Cowley Marsh, Oxford OX4 2JX subject to the conditions set out in the attached Schedule of Conditions.

*David Morgan*

**Inspector**



## **Schedule of conditions**

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.
2. The development permitted shall be constructed in complete accordance with the specifications in the application and approved plans as set out in appendix 1 of the Statement of Common Ground, unless otherwise agreed in writing by the local planning authority.
3. The materials to be used in the external elevations of the new development shall match those of the existing building.
4. A landscape plan shall be submitted to, and approved in writing by, the Local Planning Authority before development starts. The plan shall include a survey of existing trees showing sizes and species, and indicate which (if any) it is requested should be removed, and shall show in detail all proposed tree and shrub planting, treatment of paved areas, and areas to be grassed or finished in a similar manner.
5. The landscaping proposals as approved by the Local Planning Authority shall be carried out in the first planting season following the first occupation of the building if this is after 1st April. All planting which fails to be established within three years shall be replaced.
6. A plan showing the means of enclosure for the new development and including details of the treatment of all the boundaries of the site shall be submitted to, and approved in writing by, the Local Planning Authority. The approved treatment of the site boundaries shall be completed before first occupation; to the satisfaction of the Local Planning Authority.
7. Before development commences details shall be submitted of a sustainable drainage scheme for the car parking and vehicle manoeuvring area and this shall be approved in writing by the Local Planning Authority and the scheme so approved shall subsequently be implemented in accordance with the approved details prior to the first occupation of the building.
8. Prior to the first occupation of the development a turning area and car parking spaces shall be provided within the curtilage of the site so that motor vehicles may enter, turn around and leave in a forward direction and vehicles may park off the highway. The turning area and parking areas shall be constructed, laid out, surfaced, drained and completed in strict accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The turning area and car parking areas shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times.
9. Before the development permitted is commenced details of the cycle parking areas, including means of enclosure, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall not be brought into use until the cycle parking areas and means of enclosure have been provided

within the site in accordance with the approved details and thereafter the areas shall be retained solely for the purpose of the parking of cycles.

10. Prior to the commencement of the development hereby approved, details of bin storage, including means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The bin stores shall be provided in accordance with the approved plans prior to the first occupation of the dwellings and shall thereafter be so retained and maintained.
11. A Travel Plan, incorporating a Safe Routes To School (SRTS) detailed appraisal shall be provided for the encouragement of the use of sustainable modes of transport for this educational development and the promotion of highways safety. The Travel Plan shall be implemented upon beneficial occupation and thereafter used to promote the use of sustainable transport and avoidance of the single occupancy use of the private car. The measures contained in the SRTS shall be implemented prior to beneficial occupation of the development. The plans shall remain live-documents for the life of the school and be used to respond to the on-going needs of the school in the respects of safe routes and sustainable transport, with year on year improvements to targets, in line with travel planning guidance.
12. The school shall open on a basis of a school roll not exceeding 60 with no more than 60 additional pupils per year from 2013 to 2019 (constituting: 60, 120, 180, 240, 300, 360 and 420 in 2019).
13. Subsequent to the school roll reaching 120 no more than 60 additional pupils shall be permitted each year (or such other number as may be agreed in writing by the local planning authority from time to time) from 2013 to 2019. Each year the current roll shall be maintained until such time as the impact of the traffic and parking generated by the school on the local highway network has been assessed, and a review of the implementation and effect of the Travel Plan and SRTS documents has been carried out. Additional pupils may be allowed subject to the agreement in writing by the local planning authority of any necessary resulting highway works or other mitigating actions and a programme for their implementation.
14. Prior to commencement of development a Construction Traffic Management Plan (CTMP) and a Service Delivery Management Plan (SDMP) shall be submitted to and approved by the Local Planning Authority. The approved CTMP & SDMP shall be implemented prior to any works being carried out on site.
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or enacting that Order) no additional windows shall be placed in the west, south or east elevation(s) without the prior written consent of the Local Planning Authority.
16. Noise emitted from the building as a result of use of mechanical plant shall not exceed 45dB LAeq 15min when measured at the site boundary between the 0800 hours and 2300 hours and 40dB LAeq 5min at any other time.
17. Before the use hereby permitted begins, equipment to control the emission of fumes and smell from the premises shall be installed in

accordance with a scheme to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.

18. Prior to the commencement of the development the following details of biodiversity enhancements shall be submitted to and approved in writing by the Local Planning Authority: a reptile survey; details of precautions regarding breeding birds; details of external lighting and the means by which this takes account of bat use of trees; details of bat and bird nest boxes to be installed on the mature trees; and details of a heated maternity roost for bats incorporated into the roof space on the south facing roof, built with camera access. These biodiversity enhancements shall be installed in accordance with the approved details and shall thereafter be so retained and maintained.
19. No development shall take place until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.
20. Prior to commencement of the development hereby approved, detailed drawings showing the design of the entrance canopy (including materials), shall be submitted to and approved in writing by the local planning authority. The canopy shall be constructed in accordance with the drawings so approved and shall thereafter be so retained and maintained.
21. Details of the methods and means by which members of the public may gain access to the land and buildings which are part of this planning application, for the purposes of engaging in community based activities, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include identification of the land and buildings to which the community may have access; and the days of the week and the periods of time to which such access shall relate. This shall be known as the Tyndale Community School Community Access Plan. After 1st September 2014, the land and buildings to which the planning application relates shall only be occupied and used in accordance with the approved details of that Plan or in accordance with such other details as may from time to time be submitted in substitution thereof and approved in writing by the local planning authority thereafter.

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr Patrick Duffy	Technical Director Temple Environment Planning Management
------------------	---

Mr N A Weeks Bsc, FConE	Stirling Maynard Transportation Consultants
-------------------------	---

### **FOR THE LOCAL PLANNING AUTHORITY:**

Councillor Mr R Darke	Oxford City Councillor
-----------------------	------------------------

Mrs E Bartholomew	Principal Planning Officer
-------------------	----------------------------

### **INTERESTED PERSONS:**

Councillor Mr J Sanders	Oxford County Councillor
-------------------------	--------------------------

Ms J Harley	Planning Representative, Old Temple Cowley Resident's Association
-------------	---

Mr R Smitham	Local resident
--------------	----------------

Ms E Rosso	School Principal
Mrs Shabnam Sabir	Prospective Parent

## **Hearing Statements (HS) and Written Representations (WR)**

Oxford City Council

HS1.1	Hearing Statement and 8 Appendices
HS2.2	Response to Appellant's Clarification statement

Appellant

HS2.1	Hearing Statement on planning issues and 7 Appendices
HS2.2	Hearing Statement on Highway issues and 3 Appendices
HS2.3	Hearing Statement Clarification 11 July 2013
HS2.4	Response to Oxford City Council Further Submission Regarding Guidance Document BB99
HS2.5	Statement of Common Ground

### **Other representations**

Written representations to the Council at the application stage attached to Questionnaire.

Third party written representations about appeal in Red folder.

## **Documents submitted at the Hearing**

HD1	Written Statement from Ms Harley
HD2	Annotated aerial photograph on local open space, Ms Harley
HD3	Written Statement of Councillor Sanders
HD4	Post code based responses on interest in the school Tyndale School Trust
HD5	Written representations of Mr G Bianchini
HD6	Tyndale Community School Community Access Plan appellant



## Department for Communities and Local Government

### **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 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**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. 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 under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: 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 report of the Inspector's report of the inquiry or hearing within 6 weeks of 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.