

## PLANNING COMMITTEE A

Date of Meeting: **THURSDAY, 3 OCTOBER 2019 TIME 7.30 PM**

PLACE: **COMMITTEE ROOMS 1 & 2 - CIVIC SUITE**

Members of the Committee are summoned to attend this meeting:

**Membership  
Councillors:**

**James-J Walsh (Chair)  
Tom Copley (Vice-Chair)  
Obajimi Adefiranye  
Sophie Davis  
Liam Curran  
Caroline Kalu  
Jacq Paschoud  
Luke Sorba  
Octavia Holland  
Abdeslam Amrani**

The public are welcome to attend our committee meetings, however, occasionally committees may have to consider some business in private. Copies of reports can be made available in additional formats on request.

**Janer Senior  
Acting Chief Executive  
Lewisham Town Hall  
London SE6 4RU  
Date: Tuesday, 24 September  
2019**

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	<b>PLANNING COMMITTEE A</b>	
Report Title	DECLARATIONS OF INTERESTS	
Class	PART 1	Date: October 3 2019

Members are asked to declare any personal interest they have in any item on the agenda.

**(1) Personal interests**

There are three types of personal interest referred to in the Council's Member Code of Conduct :-

- (a) Disclosable pecuniary interests
- (b) Other registerable interests
- (c) Non-registerable interests

**(2) Disclosable pecuniary interests** are defined by regulation as:-

- (a) Employment, trade, profession or vocation of a relevant person\* for profit or gain.
- (b) Sponsorship –payment or provision of any other financial benefit (other than by the Council) within the 12 months prior to giving notice for inclusion in the register in respect of expenses incurred by you in carrying out duties as a member or towards your election expenses (including payment or financial benefit from a Trade Union).
- (c) Undischarged contracts between a relevant person\* (or a firm in which they are a partner or a body corporate in which they are a director, or in the securities of which they have a beneficial interest) and the Council for goods, services or works.
- (d) Beneficial interests in land in the borough.
- (e) Licence to occupy land in the borough for one month or more.
- (f) Corporate tenancies – any tenancy, where to the member's knowledge, the Council is landlord and the tenant is a firm in which the relevant person\* is a partner, a body corporate in which they are a director, or in the securities of which they have a beneficial interest.
- (g) Beneficial interest in securities of a body where:-
  - (a) that body to the member's knowledge has a place of business or land in the borough; and
  - (b) either
    - (i) the total nominal value of the securities exceeds £25,000 or 1/100 of the total issued share capital of that body; or

- (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person\* has a beneficial interest exceeds 1/100 of the total issued share capital of that class.

\*A relevant person is the member, their spouse or civil partner, or a person with whom they live as spouse or civil partner.

### (3) Other registerable interests

The Lewisham Member Code of Conduct requires members also to register the following interests:-

- (a) Membership or position of control or management in a body to which you were appointed or nominated by the Council;
- (b) Any body exercising functions of a public nature or directed to charitable purposes, or whose principal purposes include the influence of public opinion or policy, including any political party;
- (c) Any person from whom you have received a gift or hospitality with an estimated value of at least £25.

### (4) Non registerable interests

Occasions may arise when a matter under consideration would or would be likely to affect the wellbeing of a member, their family, friend or close associate more than it would affect the wellbeing of those in the local area generally, but which is not required to be registered in the Register of Members' Interests (for example a matter concerning the closure of a school at which a Member's child attends).

### (5) Declaration and Impact of interest on member's participation

- (a) Where a member has any registerable interest in a matter and they are present at a meeting at which that matter is to be discussed, they must declare the nature of the interest at the earliest opportunity and in any event before the matter is considered. The declaration will be recorded in the minutes of the meeting. If the matter is a disclosable pecuniary interest the member must take no part in consideration of the matter and withdraw from the room before it is considered. They must not seek improperly to influence the decision in any way. **Failure to declare such an interest which has not already been entered in the Register of Members' Interests, or participation where such an interest exists, is liable to prosecution and on conviction carries a fine of up to £5000**
- (b) Where a member has a registerable interest which falls short of a disclosable pecuniary interest they must still declare the nature of the interest to the meeting at the earliest opportunity and in any event before the matter is considered, but they may stay in the room, participate in consideration of the matter and vote on it unless paragraph (c) below applies.

- (c) Where a member has a registerable interest which falls short of a disclosable pecuniary interest, the member must consider whether a reasonable member of the public in possession of the facts would think that their interest is so significant that it would be likely to impair the member's judgement of the public interest. If so, the member must withdraw and take no part in consideration of the matter nor seek to influence the outcome improperly.
- (d) If a non-registerable interest arises which affects the wellbeing of a member, their, family, friend or close associate more than it would affect those in the local area generally, then the provisions relating to the declarations of interest and withdrawal apply as if it were a registerable interest.
- (e) Decisions relating to declarations of interests are for the member's personal judgement, though in cases of doubt they may wish to seek the advice of the Monitoring Officer.

**(6) Sensitive information**

There are special provisions relating to sensitive interests. These are interests the disclosure of which would be likely to expose the member to risk of violence or intimidation where the Monitoring Officer has agreed that such interest need not be registered. Members with such an interest are referred to the Code and advised to seek advice from the Monitoring Officer in advance.

**(7) Exempt categories**

There are exemptions to these provisions allowing members to participate in decisions notwithstanding interests that would otherwise prevent them doing so. These include:-

- (a) Housing – holding a tenancy or lease with the Council unless the matter relates to your particular tenancy or lease; (subject to arrears exception);
- (b) School meals, school transport and travelling expenses; if you are a parent or guardian of a child in full time education, or a school governor unless the matter relates particularly to the school your child attends or of which you are a governor;
- (c) Statutory sick pay; if you are in receipt;
- (d) Allowances, payment or indemnity for members;
- (e) Ceremonial honours for members;
- (f) Setting Council Tax or precept (subject to arrears exception).

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<b>PLANNING COMMITTEE A</b>		
Report Title	Minutes	
Ward		
Contributors	Executive Director for Housing, Regeneration and Environment	
Class	Part 1	Date October 3 2019

MINUTES

To approve the minutes of the meeting of Planning Committee A held on August 15 2019

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Committee	PLANNING COMMITTEE (A)	
Report Title	MINUTES	
Ward		
Contributors		
Class	PART 1	Date 15 August 2019

LONDON BOROUGH OF LEWISHAM

**MINUTES of the PLANNING COMMITTEE (A)**

**THURSDAY, 15 August 2019 TIME 7.30 PM**

PRESENT: Councillors James-J Walsh (Chair), Tom Copley (Vice-Chair) and Caroline Kalu.

APOLOGIES: Councillors Octavia Holland, Luke Sorba, Obajimi Adefiranye, Jacq Paschoud, Abdeslam Amrani, Sophie Davis and Liam Curran.

The chair of the committee informed the meeting that item 5 of the agenda has been withdrawn.

Started: 7:40pm (10 minute delay)

1. DECLARATION OF INTERESTS

None

2. MINUTES OF THE PREVIOUS MEETING

RESOLVED: To approve the minutes of the meeting of Planning Committee (A) held on the 4th of July 2019 at 7.30 PM as accurate record of the meeting.

The minutes were approved.

3. SAFA HOUSE - 28 ARKLOW ROAD, LONDON, SE14 6EN

Proposal: Mixed-use redevelopment to provide 14 residential flats, 75sqm of use class A3 space, associated waste storage and cycle parking at Safa House, 28 Arklow Road, Deptford SE14 6EN.

Recommendation : GRANT PERMISSION subject to conditions

The Case officer, Mr Lewis Goodley, presented the details of the application and answered member's questions.

Councillor Copley raised a question with regards to the proposed off site affordable housing, and council's policy with this regard was discussed.

The chair then invited the architects, acting as agents for the applicant, to present their case, followed by objectors which were not present.

A motion to approve was put forward by Councillor Copley to approve the officer's recommendation, seconded by Councillor Kalu.

FOR: Councillors Walsh, Copley and Kalu.

AGAINST: None

ABSTAINED: None

Finished: 8:05pm

#### 4. 46 ERMINE ROAD, LONDON, SE13 7JS

Proposal: The construction of a two storey building to the side of 46 Ermine Road SE13, together with the construction of an infill extension to the rear of the property with associated cycle and refuse storage, landscaping and boundary treatment.

The Case officer, Mr Goodley presented the details of the application and answered member's questions.

Recommendation : GRANT PERMISSION subject to conditions

A discussion then followed whereby Councillor Kalu raised a question with regards to the complaints from neighbours about the lack of communication. It was explained to the meeting that formal consultation steps had been followed as it is the usual practice, and that the relationship between neighbours is not a planning consideration.

Further discussions took place with regards to the design and material used for the windows.

The chair then invited the applicant, to present their case, followed by architects who have designed the proposal.

The Chair then invited the objectors to state their objections, which was made with regards to the design and bulkiness of the proposal. Also a question of ownership of part of the land connected with the proposal was raised, which was clarified by the architects and council legal officer as an error on the map and drawing.

An informative needs to be sent to the council's assets team to make sure of the land ownership question, however the chair explained that putting a planning application on any asset is possible whether in applicants ownership or not.

The Planning case officer explained that the officers are satisfied with the design of the proposal being appropriate.

Councillor Copley raised a question about what was the improvement as compared to the earlier rejected application. The officer explained that the context of the planning policy had changed.

A motion to approve was put forward by Councillor Copley to approve the officer's recommendation, seconded by the Chair.

FOR: Councillors Walsh and Copley

AGAINST: None

ABSTAINED: Councillor Kalu

The meeting finished at 8:38pm

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PLANNING COMMITTEE A		
Report Title	Our Lady and St. Philip Neri RC Primary School. 208 Sydenham Road, SE26 5SE	
Ward	Sydenham	
Contributors	Georgia McBirney and Katherine Biddlecombe	
Class	PART 1	03 October 2019

Reg. Nos. DC/19/111793  
ENF/18/00139

Application dated 02/04/2019

Applicant Indigo Planning Ltd (Agent)

Proposal An application submitted under Section 73 of the Town and Country Planning Act 1990 to allow for the variation of Conditions 2 and 8 in connection with planning permission dated 7<sup>th</sup> October 2016 DC/16/096041 as amended for the demolition of the existing buildings at Our Lady and St Philip Neri Primary School, 208 Sydenham Road SE26 and the construction of a three storey school building including a nursery, a multi-function sports court and a running track, together with the creation of a formal pedestrian access from Home Park, the provision of cycle and scooter spaces, refuse storage and associated landscaping works to provide the amalgamation of the Infant and Junior Schools, in order to allow the following changes:-  
Alterations to the materials, Alterations to the fenestration pattern, Increase in the height of the building, Alterations to the roof profile, Alterations to the siting of the building, Installation of UKPN cabinets and planting on the corner of Sydenham Road and Fairlawn Park, Reduction in the number of fins on the Hall building, Installation of an internal ball fence to the playground on the flat roof of the Hall building, Installation ventilation grilles, Alterations to external lighting, Alterations to extraction flue, Alteration to playground canopies, Alterations to nursery entrance, Installation of an air-conditioning unit near the nursery entrance, Alterations to the brick plinth and Alterations to external plant store

Background Papers

(1) Case File LE/180/J/TP

- (2) Local Development Framework Documents
- (3) The London Plan

Designation

PTAL 2/3  
Area of Archaeological Priority

Screening

N/A

**1**      **SUMMARY**

- 1      This report sets out Officer's recommendations for both the development proposal (DC/19/111793) and enforcement investigation (ENF/18/00139) above. These matters have been brought before members for decision as the Council's Head of Planning is of the opinion they would be more appropriately dealt with by committee.
- 2      The planning application DC/19/111793 is recommended for refusal for the reasons given below. The undertaking of formal enforcement is also recommended to be delegated to officers.
- 3      This report sets out an assessment of applicant's proposed alterations at the site but also a consideration of existing elements built out-of-compliance with the planning system but proposed to be retained.
- 4      The report also includes a planning assessment of some existing elements that are not proposed to be retained as part of the current scheme to present the officer view to members as to the planning harm arising. This assessment informs a recommendation concerning the resolution of the enforcement investigation.
- 5      A draft Planning Enforcement Notice is attached at **Appendix 1**. The undertaking of formal enforcement is recommended to be delegated to officers. Members should note the EN is therefore indicative only. (Note the appendices referenced in the draft enforcement notice will be added before service and will contain plan extracts for clarity).

**2**      **SITE AND CONTEXT**

**2.1**    **SITE DESCRIPTION AND CURRENT USE**

- 6      The application and investigation relates to Our Lady and St Philip Neri RC Primary School, which is located on the eastern intersection of Sydenham Road and Fairlawn Park.
- 7      The site is approximately 2,991 sqm in area with an irregular shape as it bends behind the terrace building along Fairlawn Park. Prior to the approval and subsequent works pertaining to DC/16/096041 the site consisted of a number of single storey buildings, primarily nearest the corner of Fairlawn Park and Sydenham Road adjoining Home Park.
- 8      The boundary treatment along Sydenham Road was formed of small brick or wire fences with dense vegetation behind. The boundary treatment to the rear of adjoining properties and Home Park was formed of brick and wire fences. The site had no existing vehicle access or on-site parking. The main

pedestrian access point was from Sydenham Road, with a secondary access point from Fairlawn Park.

9 Currently the site consists of a three storey school building which has not been built in compliance with Conditions 2 (Approved Plans) and 8 (Materials) of DC/16/096041.

10 For the committee's reference, a side-by-side list of non-compliances with the 2016 planning permission is set out at **Appendix 2**.

## **2.2 CHARACTER OF AREA**

11 The surrounding area is a mix of institutional land uses along Sydenham Road, including Our Lady and St Philip Neri Church and Presbytery directly adjoining and residential properties along Sydenham Road and to the rear, which front Fairlawn Park. Home Park, to the rear of the institutional buildings, adjoins the site to the east.

12 The typology of Sydenham Road is a mix of part two/part three storey institutional buildings adjacent to the site and two storey semi-detached Edwardian dwellings, as well as the 21<sup>st</sup> Century three storey apartment blocks opposite the site. To the rear along Fairlawn Park, the dwellings form tighter and consistent urban terraces.

## **2.3 HERITAGE/ARCHAEOLOGY**

13 The application site is not located in a conservation area. It does not contain any listed building, nor are there any listed buildings in the vicinity. The application site is within an Area of Archaeological Priority.

## **2.4 TRANSPORT**

14 The site has a PTAL value of 3, based on a scale of 0-6b with 6b being the highest. Sydenham Station is located approximately 1km to the east with a number of bus routes servicing Sydenham Town Centre and other locations such as Bell Green and Catford, from Sydenham Road.

## **3 RELEVANT PLANNING HISTORY**

15 There is substantial planning history at the application site and only the relevant planning and enforcement history is detailed below.

### **Approved Full Applications, Amendments and Conditions**

17 **DC/16/096041:** The demolition of the existing buildings at Our Lady and St Philip Neri Primary School, 208 Sydenham Road SE26 and the construction of a three storey school building including a nursery, a multi-function sports court and a running track, together with the creation of a formal pedestrian access from Home Park, the provision of cycle and scooter spaces, refuse storage and associated landscaping works to provide the amalgamation of the Infant and Junior Schools. **Granted 7/10/2016- determined by a Planning Committee**

- 18 **DC/16/099556:** Details submitted in respect of **Condition (12a)** Boundary Treatment, of planning permission DC/16/96041 dated 7 October 2016, **Granted 08/08/2017- determined by a Planning Committee**
- 19 **DC/17/102655:** Section 73 Minor Material Amendment to allow for a variation of **Condition (13a)** of the planning permission dated 7th October 2016 (ref. DC/16/096041) to read: the development **shall not be occupied** until details of the following works to the highway (including drawings and specifications) have been submitted to and approved in writing by the local planning authority. **Granted 19/10/2017**
- 20 **DC/18/105485:** An application submitted under Section 73 of the Town and Country Planning Act 1990 for a Minor-material amendment in connection with the planning permission DC/16/096041 dated 7 October 2016 (as amended by DC/17/102655 dated 19 October 2017) to allow a variation to the wording of **Condition 6** to read:
- (a) The buildings hereby approved shall achieve a minimum BREEAM Rating of 'Very Good'
- (b) Prior to occupation, a Design Stage Certificate for each building (prepared by a building Research Establishment qualified Assessor) shall be submitted to and approved in writing by the local planning authority to demonstrate compliance with part (a). **Granted 20/03/2018**
- 21 Refused and Withdrawn Amendments and Condition Applications
- 22 **DC/17/100185:** Details submitted in respect of Condition (8a) Facing Materials, of planning permission DC/16/96041 dated 7 October 2016, **Refused 10/04/2017**
- 23 **DC/17/102271:** Details of the reserved matters for external materials and finishes submitted in compliance with Condition (8) of planning permission DC/16/096041 dated 7 October 2016 **Withdrawn 21/08/2017**
- 24 **DC/17/103461:** An application submitted under Section 73 of the Town and Country Planning Act 1990 to allow for the variation of Condition 2 and the removal of Condition 8 in connection with the planning permission DC/16/096041 dated 7th October 2017 in order to allow changes in the proposed external materials of the building. **Withdrawn 16/11/2017**
- 25 **DC/17/105610:** An application submitted under Section 73 of the Town and Country Planning Act 1990 to allow for the variation of Condition 2 and the removal of Condition 8 in connection with the planning permission DC/16/096041 dated 7th October 2016 (as amended by applications DC/17/102655 dated 19 October 2017 and DC/18/105485 dated 20/03/2018) in order to allow: Changes in the proposed external materials of the building. **Refused 27/03/2018**
- 26 Enforcement
- 27 **ENF/18/00139:** Implementation of planning permission DC/18/105610 not in accordance with approved plans, DC/16/096041 in regards to cladding, alleged height increase and installation of doors/windows.



#### 4 **Planning and Enforcement Background**

28 In October 2016 planning permission (DC/16/096041) was granted for the construction of a three storey school building including a nursery. This was amended by applications DC/17/102655 (granted 19/10/2017) and DC/18/105485 (granted 20/03/2019).

29 Application DC/16/096041 approved the main building with composite cladding. In March 2018 permission (DC/18/105610) was refused to vary Condition 2 (Approved Plans) and remove Condition 8 (External Materials) of planning permission DC/16/096041 (as amended by applications DC/17/102655 and DC/18/105485).

30 This application proposed to replace the composite cladding with cementitious board cladding in a light mist colour and Esher facing brick. A site visit undertaken by officers confirmed the cladding, brickwork and windows has been installed prior to determination by officers.

31 Planning application DC/18/106894 was refused for the following reason:

*“The proposed external materials would, by reason of their appearance, quality and fixing method, resulting in a poorly detailed and incongruent building harmful to local character and contrary to Policies 15 High Quality Design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014), DM Policy 30 Urban Design and Local Character.”*

32 Following the Council’s refusal of application DC/18/106894, an enforcement investigation was opened in April 2018.

33 On the 28 August 2018, the Education Commission, the Archdiocese of Southwark, Darwin Group and IID collectively sought pre-application advice from the Local Planning Authority (PRE/18/107640). In the meeting, the developers raised issues with the ‘buildability’ of the approved design, including inadequate floor zone depths and an inappropriate ventilation strategy.

34 The developer also asserted an amended phasing had necessitated some of the deviations listed above. Officers advised that these issues were not adequate justification for the planning breaches that have taken place. They were informed once the issues with the approved plans were identified, revised plans should have been prepared and submitted to the LPA.

35 The developers were also advised that Condition 8 (External Materials) attached to the original consent was due to be discharged before above ground development could commence, but the school building was now almost complete. Following the pre-application meeting, a programme was received from the developer in a letter dated 3<sup>rd</sup> September 2018. Revised drawings were received on the 12th September 2018. The submission outlined that a sample panel would be made available on site for officers to review. Officers advised that these items could form the basis of further pre-application discussion, however, they would not be considered to meaningfully response to the matters for which the enforcement action is being considered.

36 The formal pre-application response(PRE/18/107640) was sent to the developers on the 21<sup>st</sup> September 2018. They were advised that:

*“the approved 2016 scheme was considered to meet a high standard of design required of this prominent site. Since the application was approved by the Council, that the commitment to high quality design had been absent in the delivery of the scheme. The architectural quality of the building has been severely compromised, with the result that the finished teaching block is a different building to that approved. There is no reasonable justification for the failure to comply with the approved plans and to submit details for approval in line with the required timescales. Three submission have been made proposing amendment to the as-built scheme, none of which is considered to go far enough to resolve the breaches of planning control identified.”*

37 A further pre-application (PRE/18/109133) was sought by the developer. This response was sent on the 1<sup>st</sup> November 2018. This response outlined that elements of the proposal could be acceptable pursuant to further information being submitted with a formal application. This response also outlined that full planning application should be submitted.

38 After the issue of the second pre-application advice note on 1<sup>st</sup> November 2018, no submission was forthcoming. The developers hired a Planning Consultant (Indigo Planning, the current agent) whom Officers met with on 5<sup>th</sup> March 2019 for another pre-application meeting (PRE/19/110969), as the Planning Consultant wanted to discuss consultation responses from a developer-led local meeting. During this pre-application, the Planning Consultant outlined that they were seeking a legal opinion on whether a Section 73 application could be submitted.

39 The Local Planning Authority also sought legal advice in April 2019 after a Section 73 application was submitted. (This is the current application before members). This legal advice indicated the submission of a s73 application was legally permissible given the circumstances, as is set out in the section below. However the Section 73 application submitted was invalid as a number of required documents were not provided. The application was made valid on the 17<sup>th</sup> May 2019 following additional information being provided.

40 During the course of the application, Officers wrote to the Planning Consultants on the 18<sup>th</sup> July 2019 and again 8<sup>th</sup> August 2019 requesting details and information in regards to the proposed materials. Information was provided by the Planning Consultants on the 18<sup>th</sup> August 2019.

## **5 CURRENT PLANNING APPLICATION**

### **5.1 THE PROPOSALS**

41 The current s73 planning application is to allow for the variation of Condition 2 and 8 of the 2016 permission (DC/16/096041) as amended.

Condition 2 stated:

*2. The development shall be carried out strictly in accordance with the application plans drawings and documents hereby approved and as detailed below:*

*PL\_003, PL\_004, PL\_005, PL\_006, PL\_007, PL\_104, PL\_105, PL\_106, PL\_204, PL\_301, PL\_302, PL\_401, L-110 Rev A (Planting Plan), L-111 Rev C, C100 Rev P, C101 Rev P1, Detailed Data Network Maps, Desk Study Report, Landscape Design, Ecological Appraisal and Initial Bat Inspection, Energy Strategy Statement Phase 3, Arboricultural Impact Assessment, Design & Access Statement, Acoustic Implications On Design, BREEAM2014 Education Pre-assessment report Rev A, Overheating Assessment, Bat Survey Report, Daylight Assessment Stage 2, Public Transport & Local Services Analysis Stage 2 (received 30th March 2016); PL\_501 Rev A, PL\_502 Rev A, PL\_503 (Received 20th May 2016) PL\_505 Rev A, PL\_506 Rev A (received 2nd September 2016); PL\_507, PL\_102 Rev A, PL\_103 Rev A, PL\_201 Rev B, PL\_202 Rev B, PL\_203 Rev B (received 9th September 2016); and Transport Assessment Addendum (EAS, September 2016), L-110*

*Rev E (Landscape External Works Plan); L-112 Rev C; PL\_508 (received 12th September 2016).*

**Reason:** *To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.*

Condition 8 stated:

*8 (a) No development above ground level shall commence on site until a detailed schedule and specification, including samples of all external materials and finishes including bricks, cladding windows and external doors and roof coverings to be used on the building have been submitted to and approved in writing by the local planning authority.*

*(b) Sample panels of the materials, including mortar fixings, to be approved under part (a) shall be constructed on site, for review by the local planning authority.*

*(c) The scheme shall be carried out in full accordance with those details, as approved.*

**Reason:** *To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard and detailing in accordance with Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.*

### *S73 Proposal and Effect of Alterations*

The effect of s73 planning application is to create a new Planning Decision Notice, but with conditions amended. In this case, condition 2 is proposed to be amended with the relevant approved plans originally imposed removed and plans the subject of the current application inserted.

The plan substitution would therefore achieve the following changes:

- Alterations to the materials
- Alterations to the fenestration pattern
- An increase in the height of the building
- Alterations to the roof profile
- Alterations to the siting of the building
- The installation of the UKPN cabinets and planting on the corner of Sydenham Road and Fairlawn Park
- The reduction in the number of fins on the Hall building
- The installation of an internal ball fence to the playground on the flat roof of the Hall building
- The installation of ventilation grilles
- Alterations to external lighting
- Alterations to the extraction flue
- Alterations to the playground canopies
- Alterations to the nursery entrance
- The installation of an air-conditioning unit near the nursery entrance
- Alterations to the brick plinth
- Alterations to the external plant store

42 Members should note the application does not seek only to regularise what is on site currently, but proposes an alternative scheme that retains some in situ elements but also proposes some improvement to the current position, as is set out below.

## **6 CONSULTATION**

### **6.1 PRE-APPLICATION ENGAGEMENT**

43 The submitted Addendum Design and Access Statement details that a consultation event took place on the 31<sup>st</sup> January 2019 prior to the submission of the current application.

44 Four pre-application meetings were undertaken prior to the submission of the current application, as detailed above.

### **6.2 APPLICATION PUBLICITY**

45 Site notices were displayed on 5<sup>th</sup> June 2019 and a press notice was published on 5<sup>th</sup> June 2019.

46 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 28<sup>th</sup> May 2019.

47 40 responses were received, comprising 10 objections, 29 support and 1 comment.

48 Members should note that 57 letters of support were received from the parents of children, however, these letters did not provide a name and address as required to be registered as such they could not be formally registered on this application. Once this was brought to the applicant's attention, 25 of the letters were submitted providing names and addresses so that they could be formally registered. The comments are addressed in section 6.2.2. Officers also

received letters of support from the children enrolled at the school themselves. These have been considered and the issues raised concerning the support for the completion for the school have also been raised by other commenters. These letters have not been formally registered or placed online because they came from children, however the wider issue of the benefits of the school in the community and desire to complete the school building have been addressed in this report and copies of these letters (redacted as they are from children) can be made available to Members if required.

## 6.2.1 Objections

### Neighbours

<b>Material planning consideration</b>	<b>Para where addressed</b>
The application should be a full planning application.	Addressed in section 8
The scale and height of the building is dominant and out of character	Addressed in paras 100-102
Loss of light from increase height of the building	Addressed in para 132
Overlooking from windows	Addressed in para 133
Poor quality materials	Addressed in para 103-119 and 128
Noise and overlooking from the reduction in the number of fins for the roof top playground	Addressed in Para 137
Air quality concerns	Addressed in para 139
Safety concerns and design concerns from the siting of the building	Addressed in para 101

### Sydenham Society

<b>Material planning consideration</b>	<b>Para where addressed</b>
The application should be a full planning application	Addressed in section 8
Air quality concerns	Addressed in para 139

### Councillor Best

<b>Material planning consideration</b>	<b>Para where addressed</b>
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The application should be a full planning application	Addressed in section 8
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49 A number of other considerations for this current application were also raised as follows and a brief comment provided as to why these are not being assessed in more detail and/or are being treated as non-material considerations for this application and/or any other comments considered appropriate (for example that conditions continue to apply):

50 The entrance in Home Park to the school is not being used as the main entrance. Officer Response: This application does not propose to amend the entrances approved on application DC/16/096041; application DC/16/096041 was approved with entrance gates on Fairlawn Park and in Home Park and an entrance on Sydenham Road. A condition (18/19) of DC/16/096041 requires works to be undertaken in Home Park, however it should be noted that this condition does not state that the entrance in Home Park is the main entrance to the school. Notwithstanding this, the use of the multiple entrances to the school is an operational issue of the school.

51 The works required in Home Park by condition 18/19 of DC/16/096041 have not been undertaken. Officer Response: This application does not propose to amend this condition as such this condition is still required to be complied with. The enforcement investigation is still on going. While the current draft enforcement notice primarily addresses materials and cladding, future formal enforcement action may address outstanding conditions.

52 Objections received state that only the originally approved scheme should be allowed. Officer Response: The applicant is legally entitled to seek amendments which will be assessed against policy. This assessment is set out below.

53 Concerns over whether the BREEAM Rating can be achieved. Officer Response: The BREEAM Rating is not proposed to be amended as part of this application. The proposed development is still required to achieve a 'Very Good' BREEAM Rating as per DC/18/105485.

### 6.2.2 Support

Material planning consideration	Para where addressed
The proposal would improve the visual appearance of the area	Addressed in para 103-119 and 128

54 A number of other considerations were also raised as follows:

55 The application site is still a building site and the project is incomplete. Officer Response: The committee can consider the planning merits of the variations to the 2016 scheme. The improvement in visual amenity of moving forward this development is noted and is addressed below. The progress of the build to date and the fact that it is currently incomplete is noted however progress of build-out is a matter for a developer.

### *Other Comments*

56 A number of comments relating to other considerations were also raised as follows:

57 Security concerns: the bin and bike stores adjoining the property line could allow users to access neighbouring properties by climbing on the stores and over wall. Officer Response: The bin and bike store were approved under application DC/16/096041 and are not proposed to be amended in this application.

### **6.3 Local Meeting**

58 A Local Meeting was held on the 8<sup>th</sup> July 2019 as 10 or more objections had been received. The meeting was held at Our Lady and St Philip Neri Primary School and was chaired by Councillor Copley.

59 48 attendees signed attendance sheet.

60 The summary note of the local meeting has been attached as **Appendix 3**.

### **6.4 INTERNAL CONSULTATION**

61 The internal consultee was identical to the original application (DC/16/096041) although and the proposed amendments are not relevant to all of the internal consultees. The following internal consultees were notified on the 28<sup>th</sup> May 2019.

62 Early Years Improvement Team: No comments received

63 Children and Young People: No comments received

64 Ecological Regeneration Manager: No comments received

65 Environmental Sustainability: Further information required. (See paragraph 141 below for further details).

66 Environmental Health: No objection subject to condition in regards to noise. See paras 135 and 136 for further information. For comments on Air quality see para 139.

67 Parks Manager: No comments received.

68 Planning Policy: No comments received.

69 Urban Design: Comments received and incorporated into the assessment in section 9 of the report.

70 Highways: No comments received.

## **7 POLICY CONTEXT**

### **7.1 LEGISLATION**

71 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise

(S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990). (The legal framework for the issuance and service of a Planning Enforcement Notice is set out in the 'Enforcement' section below.)

72 To issue and serve an Enforcement Notice, the Town and Country Planning 1990 (as amended) requires that there must have been a breach of planning control within the last four years in the case of operational development, and it is expedient to issue an enforcement notice having regard to the development plan and other material considerations.

### 73 **MATERIAL CONSIDERATIONS**

74 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

75 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

76 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to the test of reasonableness.

### 7.2 **NATIONAL POLICY & GUIDANCE**

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance

### 7.3 **DEVELOPMENT PLAN**

77 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013)

Members should note the Draft London Plan is emerging should be accorded some weight, but is not yet formally part of the Development Plan. The Mayor of London published the draft London Plan on 29 November 2017 and minor modifications were published on 13 August. The Examination in Public commenced on 15 January 2019 and concluded on 22 May 2019. The relevant Draft London Policies(DLPP) are discussed within the report

### 7.4 **SUPPLEMENTARY PLANNING GUIDANCE**

78 London Plan SPG/SPD:



- Planning for Equality and Diversity in London (October 2007)
- All London Green Grid (March 2012)
- Sustainable Design and Construction (April 2014)
- Character and Context (June 2014)
- The control of dust and emissions during construction and demolition (July 2014)
- Accessible London: Achieving an Inclusive Environment (October 2014)
- Social Infrastructure (May 2015)
- Energy Assessment Guidance (October 2018)

## **8 APPLICATION TYPE**

- 79 The submission of a Section 73 planning application is legally permissible in this circumstance. Section 73 is an application under s.73 of the Town and Country Planning Act to develop land without compliance with conditions previously attached. The conditions proposed to be altered are conditions 2 and 8.
- 80 This section sets out an application of planning guidance to this issue for member's reference. Members should note that valid applications are to be determined against the provisions of the development plan and material considerations.
- 81 Guidance states, "a minor material amendment is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved." This is not a statutory definition. It is the judgment of the local planning authority, on an individual case basis as to whether the alterations to the original scheme are non-material or minor material or material but not so substantial/fundamental as to warrant a new planning application.
- 82 If granted the legal effect of an application made under Section 73 is to generate a new planning permission with the amended conditions then placed on the application.
- 83 The application seeks a number of changes to the external appearance of the building, the height of the building and the siting of the building. Therefore permission is being sought to amend condition (2) Approved Drawings and amend condition (8) External Materials. The effect of amending Condition 2 would be to insert a new plan set showing the as built form with the proposed improvements to the site.
- 84 The Council sought legal advice on the implications of accepting a S.73 planning application to vary the scheme, as opposed to requiring a 'fresh' full application. The legal advice received indicates that accepting a S.73 application is legally permissible and that it is a matter of planning judgement as to whether the scheme alternations are sufficiently 'minor' to fall within s.73 and the principal of altering a condition, or whether they are so substantial / fundamental that they would not do so.
- 85 In light of the above, the proposed amendments to conditions 2 and 8 are considered minor in the context of the above.

## 9 **PLANNING CONSIDERATIONS**

86 The main issues are:

- Urban Design
- Impact on Adjoining Properties

### 9.1 **URBAN DESIGN**

#### *General Policy*

87 Urban design is a key consideration in the planning process. The NPPF makes it clear that national government places great importance on the design of the built environment. Paragraph 124 states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

88 London Plan (policy 7.4 and 7.6) and Core Strategy (core strategy policy 15) design policies further reinforce the principles of the NPPF setting out a clear rationale for high quality urban design, whilst DM Policy 30 of the Development Management Local Plans seeks to apply these principles through detailed design issues for planning applications to address.

#### 9.1.1 **Appearance, Character, Form and Scale**

89 Application DC/16/096041 was approved with a part one/ part two/ part three-storey building. The Hall building (eastern section) was approved flat roofed with a play space above whilst the main building (western section) was approved with three separate pitched roof elements with gable ends on the northern (Sydenham Road) elevation. Finally a single storey protrusion to the side of the main building was approved as housing part of the nursery.

90 The roof profile of the main building has been amended from the approved (DC/16/096041) by way of the introduction of a flat roof behind the mono-pitched roof elements.

91 On application DC/16/096041 the flat roofed Hall building was approved with a height of 8.2m. This application seeks permission to retain the as-built increased height of 11.07m.

92 On application DC/16/096041 the main building was approved with a maximum height of 11.5m and an eaves height of 9.7m. This application seeks permission to retain the as-built increased maximum height of 13.21m and as built increased eaves height of 10.88m.

93 The flat roofed building which connects the main and hall buildings was approved with height of 10.36m on application DC/16/096041. This application seeks permission to retain the as built increased height of 11.36m.

94 The single storey element along the Fairlawn Park boundary was approved with a height of 3m. This application seeks to permission to retain the as-built increase height of 4.30m of the single storey element. The single storey element protrude above the first floor level of the main building.

- 95 Application DC/16/096041 was approved with the main building fronting Sydenham Road and being constructed to the northern boundary, however, it should be noted that the approved site plan allowed for a widened footpath to Sydenham Road, near the junction with Fairlawn Park. The building frontage was approved as being stepped from the western boundary at Fairlawn Park by 3.3m; however, the single storey element was approved to the boundary.
- 96 The as-built Hall and Main building have been built without the building being setback from Sydenham Road near the junction with Fairlawn Park. The Main building has been built with a set back of 3.1m from Fairlawn Park.
- 97 In terms of scale, the application site is surrounded by a mixture of heights, including a three storey flat roofed building on Sydenham Road opposite the application site. Whilst it is acknowledged that the overall height of the buildings has increased, the principle of a three storey was approved by application DC/16/096041. Notwithstanding this, the increased height is not considered to be out of keeping within the existing patterns of development, particularly as it is focused on Sydenham Road.
- 98 Application DC/16/096041 established that the principle of the buildings along Sydenham Road being built to the highway as acceptable. This is still considered to be the case even though the whole building line along Sydenham Road would front the highway and result in a narrower pavement at the site. The narrower pavement is not considered to result in safety concerns as raised by consultation responses.
- 99 Overall, officers consider that whilst the proposed development would introduce a greater scale of development on the site compared to the approved application (DC/16/096041), by way of an increased height, siting of the development and altered roof profile, these are not considered to such a departure from the approved scheme that would adversely harm the character of the area. The amendments are therefore considered to be of an acceptable design in terms of its scale, mass and siting.

### ***Materials, Fenestration and Detailing***

#### ***Main Building***

- 100 The approved drawings and Design and Access Statement of DC/16/096041 detailed that the main building would have a composite/ concrete cladding panel, aluminium windows with coloured reveals at ground floor level and a brick finish to the nursery. All material colours were to be confirmed as part of condition 8, which was not discharged.
- 101 Light grey cladding panels have been used on the Main building; the cladding panels do not have permission as they have not been approved via discharge of conditions application or an amendment application. The cladding which has been installed on the building is not considered to be of sufficient quality for this important educational building which is highly prominent within the street scenes of Sydenham Road and Fairlawn Park Road. Not only is the material of inferior appearance but the fixings, of which there are many, are visible and the method of fixing further degrades the quality of the finish. The gaps between the cladding boards are uneven with those of the horizontal axis

appearing larger than the vertical. This gives an untidy visual. In general the cladding is low quality and harms the visual amenity of the building.

- 102 It is proposed that the Main building would be rendered in a silicone Wetherby rendering. The silicone render is proposed to be applied directly to the in-situ cladding as described above. The silicone render would have a grain size of 2.0mm 'K' and would be light grey in colour (S-2502-B). Joints are proposed to be added to the silicone render and are proposed to align with the window reveals.
- 103 It is acknowledged that, the proposed silicone render would be similar in colour to that indicated in the Design and Access Statement of DC/16/0096041.
- 104 Application DC/16/096041 was approved with cladding panels extending to ground level, officers acknowledged that the panels could be susceptible to damage at ground level and that a robust material is appropriate and acceptable in this location. A brick plinth has been constructed on the lower third of the wall on the Sydenham Road, Fairlawn Park and Playground elevations. The brick plinth which has been constructed on the building is stepped and not level and so detracts from the character and appearance of the building. It is proposed that brick plinth which has been constructed in Esher brick would be straightened as part of the current application. The Nursery building has been constructed in the same Esher brick as the plinth. On balance the proposed brick is considered to be acceptable.

#### *Main Buildings Windows*

- 105 Application DC/16/096041 was approved with aluminium framed large picture windows without any glazing bars and with the majority of approved windows being non-openable. The approved Acoustic Implications design document submitted with application DC/16/096041 outlines that openable windows will not be permissible on the Sydenham Road elevation and side facades with a line of site to the road. The document goes on to state that if simple openable windows were to be adopted levels of noise internally would be as high as 63dB(A) which would be substantially in excess of guidance standards and would adversely affect speech communication and learning and that to achieve the equivalent ventilation rates to an open window, options could include acoustic passive events, or a boosted mechanical ventilation/cooling system. Therefore openable windows are not supported.
- 106 White framed openable windows have been installed which substantially detract from the visual appearance of the building as they result in highly visible glazing bars and white frames which clutter the elevations and do not reflect the intent of the approved large picture window design.
- 107 It is proposed that the installed openable white windows are to be sprayed in a non-isocyanate acrylic topcoat. At first and second floor levels the windows are proposed to be Pearl Dark Grey (RAL 9023) in colour and at ground floor level the windows are proposed to be Gentian Blue (RAL 5010) in colour. Whilst the principle of spraying the white window frames to reduce their prominence is acceptable this would not overcome low quality visual appearance caused by the addition of glazing bars. Durability is one element of ensuring high quality design. The submitted AkzoNobel product sheet for the

non-isocyanate acrylic topcoat details that the proposed product has a life expectancy of up to 9 years. The durability and life expectancy of the proposed spray to the in-situ windows is not considered to result in a high quality finish and would not reflect the approved design intent. If a higher quality spray to the windows was proposed this would not address the harm caused by the highly visible glazing bars.

- 108 The fenestration pattern approved on application DC/16/096041 has not been implemented on the as-built Main building. The heights of the windows on the Sydenham Road, Fairlawn Park and Playground elevations have been reduced; additionally approved windows at ground floor level on the Playground elevation have been omitted. The alterations to the fenestration pattern in combination with the introduction of glazing bars is considered to diminish the visual appearance of the building as the fenestration pattern and windows are considered to be low quality for this prominent building. In addition blue spandrel panels have been inserted, the blue spandrel panels have been inserted in place of the approved the recessed glazed panel system which was approved between the 'terraced house' elements. The blue spandrel panels are not acceptable as they fail provide depth to the elevations which would have been provided by the approved recessed glazed panels. It is proposed that the installed blue spandrel panels are removed and replaced by a bespoke ribbed metal panel. The ribbed metal panels would be Black Grey (RAL 7021) in colour; this is the same colour as the proposed window reveals at first and second floor levels. This element is a distinct change from approved scheme, whilst officers acknowledge that the ribbed panels may work towards providing an element of depth to the elevations, the ribbed panels needs to be considered within the cumulative changes to the design of the building. The cumulative changes are assessed below in paragraph 125.
- 109 Reveals are proposed by the applicant to be created to the windows on the Main building by the application of silicone render and the addition of PPC aluminium reveals. The reveals would be a bespoke manufactured product. At ground floor level, the reveals would be Sapphire Blue (RAL 5003) in colour and at first and second floor levels, the reveals would be Black Grey (RAL 7021) in colour. In combination, the proposed silicone render and the proposed reveals are considered to be of low design quality which would result in a visually harmful building in the streetscene due to the prominence of three storey school within the streetscene.
- 110 Application DC/16/096041 was approved with timber louver panels on some of the non-openable windows on the Sydenham Road and Playground elevations. The louver panels were ventilation panels with acoustic dampers. Blue panels have been installed on the Main building; the blue panels are considered to be poor quality which diminish the design intent of the approved scheme. The proposed louvers would be a bespoke product comprising of polyester powder coated aluminium, Peal Dark Grey (RAL 9023) in colour, which would sit within a solid insulated panel. The proposed louvers would be for decorative purposes only, unlike on application DC/16/09604, where the louvers were proposed as ventilation panels. Whilst the officers support the revival of louvers, the louvers need to be considered within the cumulative changes to the design of the building. The cumulative changes are assessed below in paragraph 125.

- 111 On the Fairlawn Park elevation the double entrance gate approved on DC/16/096041 is proposed to be replaced by a single entrance gate. This is considered to be acceptable. It should be noted that the boundary treatments were approved at planning committee on application DC/16/099556.
- 112 Application DC/16/096041 was approved with six canopies serving windows and doors on the ground floor. Three canopies have been constructed on site, which are continuous across the windows and doors which they serve; it is proposed to retain the canopies that have been constructed on site. The heights of the canopies have increased to a height of 3m. The canopy nearest the boundary with Fairlawn Park has a width of 6.37 and the other two canopies have a width of 5.60m. The frames of the constructed canopies are powder coated aluminium, Anthracite Grey (RAL 7016) in colour, the polycarbonate roofing sheets of the canopies are Opal White and the rainwater goods are black. The proposed changes in height, width and layout of the canopies on balance are considered acceptable in terms of their resulting appearance.
- 113 A number of ventilation grilles have been installed at ground, first and second floor level; they were not approved on application DC/16/096041. At ground floor level the installed ventilation grilles detract from the character and appearance of the building. At ground floor level on the Sydenham Road elevation, it is proposed that existing ventilation grilles are removed and fewer ventilation grilles are proposed which would sit above and align with the ground floor windows, the material of the ventilation grilles has not be confirmed. In addition, external lighting has been installed at ground floor level. The external lighting is round bulkhead lighting which has an anthracite polycarbonate body. Application DC/16/096041 was not approved with ventilation grilles and external lighting, whilst officers acknowledge that the ventilation grilles would be re-aligned, the proposed ventilation grilles and lighting are considered to be of poor quality and result in visual clutter on the elevations.
- 114 A low level Panasonic air-conditioning unit has been installed at ground floor level on the Fairlawn Park elevation. Whilst not approved on application DC/16/096041, the proposed air-conditioning unit would be screened behind the boundary treatment (approved by application DC/16/099556) so is not considered to have an unacceptable impact on the character and appearance of the streetscene and is not considered to be enough of a departure to justify a refusal on this ground.
- 115 Tapco Slate roof tile have been installed on the roof. Whilst no information has been provided in regards to the specification of the tiles, the in-situ tiles are not considered to result in a material planning harm to the character and appearance of the main building.

#### *Hall Building*

- 116 The approved drawings and Design and Access Statement of DC/16/096041 details that the Hall building was approved with brickwork and timber fins. The proposed bricks would be Esher bricks which would be the same as the brick plinth on the main building and the nursery building. The timber fins are proposed to be replaced by painted metal fins in three different colours, Clay

Brown (RAL 8003), Fawn Brown (RAL 8007) and Purple Red (RAL 3004). The fins would have varying depths.

- 117 The proposed metal fins are considered to take into account the natural tones of the approved timber fins and the varying depths would provide a depth to the façade of the hall building. The proposed metal fins are considered to be of higher quality than the approved timber fins due to durability, as such the proposed material of the fins is considered to be much improved over and above the approved timber fins.
- 118 The number of fins proposed across the windows on the Hall building are proposed to be reduced; this is proposed practical reasons for example to allow the windows to be cleaned. It is also proposed that the top line of the proposed fins would be amended to incorporate varying sizes. The reduction in the number of fins across the windows on the Hall building and the fins of varying sizes in the top line of fins are not considered to have unacceptable impact on the overall arrangement, balance and composition created by the fins.
- 119 A ball fence is proposed behind the fins. The ball fence would have a total height of 1.8m and would extend 1.58m above the parapet of the Hall building. The ball fence would be polypropylene carbonite (PPC) and would be Beige Brown (RAL 8024) in colour. Due to the colour and the height of the proposed ball fence it is not considered to have an unacceptable impact on the design of the Hall Building.
- 120 It is proposed that the kitchen flue extract would extend 1.59m above the proposed fins; application DC/16/096041 was approved with the kitchen flue extending 0.31m above the fins. This element is considered to compromise the quality of the scheme, however, this element is not considered to be enough of a departure to justify a refusal on this ground.
- 121 The play area on the flat roof of the hall building was approved on DC/16/096041 at the front of the flat roof towards Sydenham Road. It is proposed that the play area would be relocated to the rear of the flat roof of the hall building towards the playground elevation. The siting of the play area on the flat roof of the Hall building is considered to be acceptable in design terms.

#### *UKPN Cabinets and External Store*

- 122 On application DC/16/096041, single storey plant room was proposed in the playground to the side of the Hall building; the plant room had a floor area of 24.47m<sup>2</sup>. The approved plant room is proposed to be converted into a store room and the floor area is proposed to be reduced to 19m<sup>2</sup>. This is considered to be acceptable from a design perspective given that the only external changes are the reduction in the size of the door opening on the front elevation and the change from timber fins to metal fins.
- 123 Two UKPN cabinets are proposed at the junction of Sydenham Road and Fairlawn Park. Planting and signage are proposed to obscure the UKPN cabinets. It should be noted that the proposed UKPN cabinets have a Permitted Development fall-back position under Class B of Part 15 Power Related Development of the GPDO. Given the fall-back position, on balance

the siting and design of the of the UKPN cabinets is considered to be acceptable. The proposed planting is not considered to complement the urban greening of the area with the park setting of Home Park to the rear, and is not considered to reflect the character of planting along the street. In addition, the proposed planting should provide year round interest as to reduce the visual impact of the UKPN boxes. Further to this, the proposed one year maintenance plan provide is not acceptable, the maintenance should for a minimum of five years.

### **9.1.2 Urban design conclusion**

124 Application DC/16/096041 was approved on the basis of high quality design and high quality materials. The as-built scheme is considered to be poor with low quality materials having been used. The proposed amendments to the as-built scheme, individually and cumulatively, are considered to result in a school building of low visual quality. Section 10 details the conclusion and balances this conclusion with other planning matters.

## **9.2 LIVING CONDITIONS OF NEIGHBOURS**

### *General Policy*

125 Paragraph 127 of the NPPF sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. At paragraph 180 it states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions.

126 London Plan Policy 7.6 states that building should not cause unacceptable harm to the amenity of surrounding land and building, particularly residential buildings, in relation to privacy, overshadowing, wind and microclimate.

127 Core Strategy Policy 15 requires that any adverse impact on neighbouring amenity will need to be addressed by development proposals.

128 Application DC/16/096041 established that the development would not have any adverse impacts in terms of daylight/sunlight, loss of outlook and that the overbearing impacts would not be severe. The proposed increase in height, alterations to the roof profile and the siting of the building, are not considered to have an adverse impacts in terms of daylight/sunlight, loss of outlook or are the overbearing impacts considered to be severe given separation distance to residential properties on Sydenham Road and Fairlawn Park and the orientation of the school buildings.

129 The proposed fenestration alteration includes the provision of openable windows, the reduction in height of window openings and the replacement of recessed windows in the Sydenham Road and Playground elevations with ribbed panels. Application DC/16/0096041 established that the loss of privacy to neighbouring properties was not considered significant. Given that the number of windows would be reduced and that the height of the windows are proposed to be reduced, it is still considered that the proposed window openings would not have a significant impact in terms of loss of privacy to neighbouring properties.



- 130 The proposed materials, alterations to the brick plinth, alterations to the nursery entrance, alterations to external lighting, alterations to the extraction flue, alterations to the playground canopies, installation of ventilation grilles, alterations to the external plant store and the installation of an internal ball fence to the playground on the flat roof of the hall building are considered to have a negligible impact on neighbouring amenity.
- 131 The proposed installation of UKPN cabinets and planting on the corner of Sydenham Road and Fairlawn Park would be situated approximately 13m from the nearest property on Fairlawn Park. Given the separation distance of a minimum of 13m to the nearest neighbouring properties, the impact in terms of increase on noise is considered to be minor. It should be acknowledged that the condition in relation to noise levels attached to DC/16/096041 is still required to be complied with in regards to the noise level of fixed plant.
- 132 Similarly, the proposed air-conditioning unit given the separation distance of approximately 13m to neighbouring properties is considered to be minor. It should be acknowledged that the condition in relation to noise levels attached to DC/16/096041 is still required to be complied with in regards to the noise level of fixed plant.
- 133 The reduction in the number of fins and re-siting of the roof top playground from the front to the rear of the Hall roof is not considered to result in a significant increase in noise or overlooking to Nos.158-188 Fairlawn Park compared to the approved application (DC/16/096041), given the separation distance to these properties and as the applicants have agreed that no balls would be used on the roof top playground (if the proposal was otherwise acceptable this would have been secured by condition).

### **9.2.1 Impact on neighbours conclusion**

- 134 In summary, the proposed development is not considered to cause significant detrimental harm to the residential amenity of neighbouring properties and therefore is considered to be acceptable.

## **NATURAL ENVIRONMENT**

### **9.2.2 Air pollution**

- 135 Application DC/16/096041 was approved with the majority of windows being non-openable and it is proposed for the windows to be openable. Environmental Health comment that the GLA London Local Air Emission Inventory 2016 data its modelled levels of NO<sub>2</sub> annual mean at the school as 35 µg/m<sup>3</sup>. The health limit level is 40 µg/m<sup>3</sup>. Environmental Health confirmed that the limit level is not exceeded.

### **9.2.3 Flood Risk**

- 136 The Council's Flood Risk Manager was consulted and stated that due to the material changes to the approved scheme, the applicants are required to demonstrate that over the lifetime of the development, access will still be physically possible for drainage maintenance to be carried out, safe for its user and that the proposed development will not increase flood risk. If the proposal was otherwise acceptable, this information would have been requested.



## 10 CONCLUSION

138 The S73 planning application has been considered in the light of policies set out in the development plan and other material considerations. The proposed amendments the subject of the s73 application are not considered to cause significant detrimental harm to the residential amenity of neighbouring properties.

139 However, the proposed amendments to the school building are individually as detailed above and cumulatively considered to result in a development of low quality visual appearance. While some retained elements (including building heights and siting) are acceptable the overall reduction in design quality of the building is contrary to adopted policy and warrants the refusal of planning permission.

140 The provision of openable windows in the Sydenham Road elevation has the potential to give rise to an unacceptable level of internal noise within the building and to a poor quality educational environment for users. The application is recommended for refusal for the reasons set out in the recommendation section below.

### *Enforcement Action*

141 Officers consider that in the event committee are minded to accept the recommendation to refuse the s73 planning application, it is expedient to take formal planning enforcement action to remedy the harmful visual appearance and openable window design of the current building.

142 National guidance allows for Local Planning Authority to stipulate “lesser requirements” in enforcement notices (or ‘under enforce’). The decision to recommend formal action is in light of guidance to work with applicants and owners informally to achieve a resolution to breaches of control. Officers consider that discussion with the applicant since 2018 has failed to yield an acceptable planning outcome to date, and enforcement is therefore considered to be a last resort.

143 Officers are also mindful that though the decision to take enforcement action is discretionary, the Local Government and Social Care Ombudsman can make a finding of “maladministration” if a Council fails to take enforcement action when it is plainly necessary to do so. The decision not to take enforcement action is also open to judicial review in accordance with the public law principles of “reasonableness”.

144 Officers have included an indicative planning enforcement notice attached to this report that would set the broad scope for enforcement action for member’s information. As per the recommendation below, officers are minded to issue a Planning Enforcement Notice on a delegated basis to the approximate timelines identified.

### 145 *Option A and Option B*

146 The broad steps for compliance set out in the indicative notice offer two options.

- 147 If selected Option A would compel the school to implement the 2016 permission granted. Officers consider that at this juncture, in particular altering the building heights may be above what is necessary to remedy the harm to that individual aspect, when Officers consider the height increase itself is acceptable, as set out above. This is why Option B has also been put forward. However against this consideration of individual matters, the collective position must be considered. It is important to recognise that if Option B raises logistical challenges, the Applicant has an Option A to achieve compliance which is straightforward to achieve and which will then be the minimum necessary to remedy the breach of planning control and the injury to amenity. Officers are also aware that in some situations rebuilding in accordance with an approved design can be a more appropriate option for a variety of reasons whether because it can be more effective, faster, or cheaper or where parties may have claims against insurers.
- 148 Option B seeks to compel the school in essence to clad and fenestrate the building to a suitable standard that respects the 2016 permission for this landmark site, while still ensuring work done to date on the majority of the built form is not lost or demolished (as well as related work to ventilation, lighting, etc). Option B represents the minimum necessary to ameliorate the planning harm and the damage to amenity caused. The notice does not seek to remove elements built out-of-compliance with planning control that do not give rise to significant planning harm (as per the assessment above).
- 149 Officers accept that Option B may raise logistical challenges in this instance, however officers consider the school and their representatives are capable of meeting these challenges to deliver on their obligations to bring forward policy compliant development. If these logistical challenges are not surmountable then Officers would seek Option A.
- 150 Members should note the allegation(s), specific steps for compliance and timelines may change prior to issue of the EN based on legal advice and should the school make any further representations.
- 151 *Time for Compliance*
- 152 **Option A**
- 153 If Option A is chosen, the indicative notice sets a period for compliance of 21 calendar months once the notice takes effect. Officers have taken into account that they would expect the notice to be issued and served on interested parties on 23<sup>rd</sup> October 2019. The proposed period of 21 months would yield a likely compliance date (i.e. when the steps in the notice are required to be complete) in mid-September 2021. This would allow two full “summers breaks” where the children are not at the school to ensure that works can be undertaken.
- 154 **Option B**
- 155 If Option B is chosen, the indicative notice sets a period for compliance of 9 calendar months once the notice takes effect. Careful consideration has been given to the appropriate period taking into account the nature of the works required which are straightforward to carry out (for example removal of cladding and installation of appropriate cladding, removal of lighting, etc) and

to seek to enable most of the works to take place during the summer vacation. Officers have taken into account that they would expect the notice to be issued and served on interested parties on 23<sup>rd</sup> October 2019. The proposed period of 9 months would yield a likely compliance date (i.e. when the steps in the notice are required to be complete) in mid-September 2020. This would allow some months for planning and delivery works and then for a full summer holiday period where the children are not at the school to ensure that works can be undertaken with no or only a low level of disruption.

156 If there should be some slippage in the date of service of the Enforcement Notice, Officers would propose to amend this period of time to ensure that the school would have the necessary period of time enabling the school to take advantage of the lengthier summer vacation. Officers consider both time periods are sufficient to allow for the necessary materials to be sourced to result in a high quality design in keeping with the terms of the Enforcement Notice to be implemented. Officers are committed to ensuring the lines of communication with the school stay open during this compliance period. The school may also lodge an appeal against the enforcement notice. This compliance period takes into account the desire of the Council to minimise educational disruption to pupils by enabling the necessary works to take place in the summer holidays.

## **11 LEGAL IMPLICATIONS OF ENFORCEMENT**

157 Based on the information in this report it has been concluded that no action short of the proposed enforcement action set out below can overcome the harm caused by this breach of planning control.

158 Government policy advice to local planning authorities on the use of their enforcement powers is set out in the "Enforcement and post-permission matters" PPG (July 2019). The local planning authorities have responsibility for taking whatever enforcement action may be necessary in the public interest.

## **12 EQUALITIES CONSIDERATIONS**

159 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

160 In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

161 The duty continues to be a "have regard duty", and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of

relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

162 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<https://www.equalityhumanrights.com/en/publication-download/services-public-functions-and-associations-statutory-code-practice>

<https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england>

163 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

164 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

165 Officers have carefully considered the public sector equality duty in relation to the s73 application and whether it is expedient to take enforcement action. Officers are aware that the case affects the operation of a local religious school, and has carefully taken into account the implications of this in their determination and the decision whether or not to take enforcement action and the scope of that enforcement action, including the time periods for compliance. Officers have had due regard to the religious school and the school children, however on balance, taking into account the impact of the proposed S.73-the design of the proposal and internal noise implications-officers have considered that a refusal of the S.73 is appropriate.

### 13 HUMAN RIGHTS IMPLICATIONS

166 In determining this application and determining whether to take enforcement action the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Article 8 - Respect for your private and family life, home and correspondence;
- Protocol 1, Article 1 – Right to peaceful enjoyment of possessions and protection of property;
- Protocol 1, Article 2 – Right to Education.
- Article 9- Freedom of Religion

167 This report has outlined the consultation that has been undertaken on the application and the opportunities for people to make representations to the Council as Local Planning Authority.

168 Members need to satisfy themselves that the potential impacts are acceptable and that any potential interference with Protocol 1, Article 1 (Peaceful enjoyment of one's property), Protocol 1 of Article 2 (Right to Education), Article 8, Article 9 and rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

169 The rights of all affected parties under the Human Rights Act 1998 were taken into account when determining the application and determining whether or not it is expedient to take the enforcement action described in this report. This case involves a school and the proposed action may impact particularly on students as well as others. These rights include Article 1 Protocol 1 (Peaceful enjoyment of one's property), Article 2 Protocol 1 (Right to Education), Article 8 (Right to respect for Private and Family Life, Home and Correspondence) and Article 9 (Freedom of Religion).

170 Officers are aware that enforcement action in this case affects the operation of a local school, and has carefully taken into account the implications of this in deciding whether or not to take enforcement action and the scope of that enforcement action, including the time periods for compliance. Officers have considered the rights of all affected parties under the Human Rights Act 1998 in making this decision, in particular Article 1 Protocol 1 rights, Article 2 Protocol 1 rights, Article 8 rights and Article 9 rights. Officers have determined that it is expedient and proportionate to take enforcement action.

**14**      **RECOMMENDATION**

171      That the Committee resolve to:

**1) Refuse planning permission for application DC/19/111793 for the following reasons:**

1. *The proposed development would give rise to materials and a fenestration pattern, by reason of their appearance and quality, which would result in low quality, poorly detailed and incongruent building harmful to the local character. The development is contrary to Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character*
2. *The proposed development would retain openable windows on the Sydenham Road elevation resulting in a building with the potential to give rise to unacceptable internal noise levels in excess of guidance standards and adversely impacting the learning environment. The development is contrary to Development Management Local Plan (November 2014) Policy DM 26 Noise*

**2) Note the indicative enforcement notice attached at Appendix 1.**

**3) Delegate the resolution of the planning enforcement investigation ENF/18/00139 to officers to authorise the issue and service of a planning enforcement notice, in broad accordance with the indicative notice attached at Appendix 1.** (Members should note the notice terms indicative only, with precise terms to be delegated to officers to amend, vary, or delete).





## **APPENDIX 1 – Draft Indicative Enforcement Notice**

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

### **THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED BY THE PLANNING AND COMPENSATION ACT 1991)**

#### **ENFORCEMENT NOTICE**

**ISSUED BY:** LONDON BOROUGH OF LEWISHAM ('the Council')

**1. THIS FORMAL NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, under Section 171A(1)(b) of the above Act, at the land described below. The Council considers that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Explanatory Note at the end of the notice and the enclosures to which it refers contain important additional information.

#### **2. THE LAND TO WHICH THE NOTICE RELATES**

Land at Our Lady and St. Philip Neri RC Primary School. 208 Sydenham Road, SE26 5SE ("the Land") shown edged red and hatched on the attached plan.

#### **3. THE BREACH OF PLANNING CONTROL ALLEGED**

The construction of a primary school not in accordance with conditions attached to planning permission DC/16/096041 granted on 07.10.16.

#### **4. REASONS FOR ISSUING THIS NOTICE**

It appears to the Council that the above breach of planning control has occurred within the last ten years.

The proposed development would give rise to materials and a fenestration pattern, by reason of their appearance and quality, which would result in an incongruent, low quality and poorly detailed building which is harmful to the character and appearance of the local streetscene. The development is contrary to Policy 7.4 Local Character of the London Plan (2016), Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

The openable windows on the Sydenham Road elevation result in a building with the potential to give rise to unacceptable internal noise levels in excess of guidance standards and adversely impacting the learning environment. The development is contrary to Lewisham Development Management Local Plan Policy DM 26, London Plan Policy 7.13.

The Council seeks to remedy the breach by making the development comply with the terms of the planning permission granted and by remedying the injury to amenity which has been caused by the breach.

**5. YOU ARE REQUIRED TO CARRY OUT EITHER OPTION A or OPTION B BELOW:**

**OPTION A**

**1) Construct the school in accordance with the approved 2016 scheme (DC/16/096041) dated 07.10.16, in accordance with the approved plans:**

PL\_003, PL\_004, PL\_005, PL\_006, PL\_007, PL\_104, PL\_105, PL\_106, PL\_204, PL\_301, PL\_302, PL\_401, L-110 Rev A (Planting Plan), L-111 Rev C, C100 Rev P, C101 Rev P1, Detailed Data Network Maps, Desk Study Report, Landscape Design, Ecological Appraisal and Initial Bat Inspection, Energy Strategy Statement Phase 3, Arboricultural Impact Assessment, Design & Access Statement, Acoustic Implications On Design, BREEAM2014 Education Pre-assessment report Rev A, Overheating Assessment, Bat Survey Report, Daylight Assessment Stage 2, Public Transport & Local Services Analysis Stage 2 (received 30th March 2016); PL\_501 Rev A, PL\_502 Rev A, PL\_503 (Received 20th May 2016) PL\_505 Rev A, PL\_506 Rev A (received 2nd September 2016); PL\_507, PL\_102 Rev A, PL\_103 Rev A, PL\_201 Rev B, PL\_202 Rev B, PL\_203 Rev B (received 9th September 2016); and Transport Assessment Addendum (EAS, September 2016), L-110 Rev E (Landscape External Works Plan); L-112 Rev C; PL\_508 (received 12th September 2016).

**OPTION B**

**2) Carry out the following works to the Sydenham Road Elevation (northern elevation):**

**Cladding**

- a) Remove the cladding from the elevation in its entirety.
- b) Install a composite cladding panel system of a light concrete colour that achieves an appearance and quality equivalent to that in the approved Design and Access Statement (Appearance - Section 5.6) dated March 2016 prepared by Pollard Thomas Edwards and approved 'Proposed North and West Elevations' (Drawing No: PL\_201 Rev B) attached to DC/16/096041 as per **Appendix EN1**.

### Recessed Element

- c) Recess the connecting element between the main school building and the hall by 1.7m to achieve an appearance equivalent to the approved 'Proposed Ground Floor Plan' (Drawing No: PL\_103, Rev A) 'Proposed First Floor Plan' (Drawing No: PL\_104), 'Proposed Second Floor Plan' (Drawing No: PL\_105) and the 'Proposed Roof Plan' (Drawing No: PL\_106) attached to DC/16/096041 in accordance with the images in **Appendix EN2**.

### Ventilation Grills

- d) Remove the ventilation grills at ground, first and second floor level and as identified in the image in **Appendix EN3**.

### External Lighting

- e) Remove the external lighting identified in the image in **Appendix EN4**.

### Guttering and Drainpipes

- f) Remove the guttering and drainpipes identified in the image in **Appendix EN5**
- g) Install guttering and drainpipes that achieve a screened appearance equivalent to that in the approved Design and Access Statement (Appearance - Section 5.6) dated March 2016, prepared by Pollard Thomas Edwards attached to DC/16/096041 as per **Appendix EN6**.

### Windows

- h) Remove the windows identified x-y in the image in **Appendix EN7**.
- i) Install aluminium windows (with coloured reveals at ground floor level and with widened apertures for windows x, y, and z) that achieve an appearance and quality equivalent to those in the approved Design and Access Statement (Appearance - Section 5.6) dated March 2016, prepared by Pollard Thomas Edwards and approved 'Proposed North and West Elevations' (Drawing No: PL\_201 Rev B) and approved 'Proposed Street Elevations' (Drawing No: PL\_203 Rev B) attached to DC/16/096041 as per **Appendix EN8**.

### Metal Fins

- j) Install sequenced metal fins to the Hall Building and plant room to achieve an appearance and quality equivalent to that in proposed drawing numbers 1485-IID-00-00-DR-A-8103 (Proposed Sydenham Road & Fairlawn Park Elevations), 1485-IID-00-00-DR-A-8104 (Proposed Playground & Hall Elevations), 1485-IID-00-00-DR-A-8100 (Condition 8 – Materials- Phase II – Details), FQ016-041 DGL 01 XX DR A 9210 Rev P2 (Steel Fin Layout Plan) with the Colours RAL 3004, RAL 8003, RAL 8007 submitted with application DC/19/111793 as per **Appendix EN9**.

k) Install doors to the plant room coloured grey achieve an appearance and quality equivalent to those in proposed drawing numbers 1485-IID-00-00-DR-A-8103 (Proposed Sydenham Road & Fairlawn Park Elevations), 1485-IID-00-00-DR-A-8104 (Proposed Playground & Hall Elevations with colour RAL 9023/ RAL 7021 submitted with application DC/19/111793 as per **Appendix EN10**.

#### Ball Fencing

l) Install Polypropylene carbonite ball fencing around the perimeter of the Hall building with a height of 1.8m (extending 1.58m above the parapet) to achieve an appearance in colour Beige Brown (RAL 8024) equivalent to that proposed in drawing number FQ016-041 DGL 01 ZZ DR A 9221 submitted with application DC/19/111793 as per **Appendix EN11**.

### **3) Carry out the following works to the Hall Elevation (eastern elevation):**

#### External Lights

j) Remove the external lighting identified in the image in **Appendix EN12**.

### **4) Carry out the following works to the Playground Elevation (southern elevation):**

#### Cladding

k) Remove the cladding from the elevation in its entirety.

l) Install a composite cladding panel system of a light concrete colour that achieves an appearance and quality equivalent to that in the approved Design and Access Statement (Appearance - Section 5.6) dated March 2016, prepared by Pollard Thomas Edwards and approved 'Proposed South and East Elevations' (Drawing No: PL\_202 Rev B) attached to DC/16/096041 in accordance with the images in **Appendix EN13**.

#### Recessed Element

m) Recess the connecting element between the main school building and the hall by 1.6 m to achieve an appearance equivalent to the approved 'Proposed Ground Floor Plan' (Drawing No: PL\_103, Rev A), 'Proposed First Floor Plan' (Drawing No: PL\_104), 'Proposed Second Floor Plan' (Drawing No: PL\_105) and the approved 'Proposed Roof Plan' (Drawing No: PL\_106) attached to DC/16/096041 in accordance with the images in **Appendix EN14**.

#### External Lighting

n) Remove the external lighting identified in the image in **Appendix EN14**.

#### Guttering and Drainpipes

o) Remove the guttering and drainpipes identified in the image in **Appendix EN15**.

p) Install guttering and drainpipes that achieve a screened appearance equivalent to that in the approved the Design and Access Statement (Appearance - Section 5.6) dated March 2016, prepared by Pollard Thomas Edwards attached to DC/16/096041, in accordance with the specific images in **Appendix EN16**.

#### Windows

q) Remove the windows identified x-y in the image in **Appendix EN17**.

r) Install windows (with widened apertures for windows x, y, and z) that achieve an appearance and quality equivalent to those in the approved the Design and Access Statement (Appearance - Section 5.6) dated March 2016, prepared by Pollard Thomas Edwards and approved 'Proposed South and East Elevations' (Drawing No: PL\_202 Rev B) and approved 'Proposed Street Elevations' (Drawing No: PL\_203 Rev B) attached to DC/16/096041 as per **Appendix EN18**.

### **5) Carry out the following works to the Fairview Park Elevation (western elevation):**

#### Cladding

s) Remove the cladding from the elevation in its entirety.

t) Install a composite cladding panel system of a light concrete colour that achieves an appearance and quality equivalent to that in the approved Design and Access Statement (Appearance - Section 5.6) dated March 2016, prepared by Pollard Thomas Edwards and approved 'Proposed North and West Elevations' (Drawing No: PL\_201 Rev B) attached to DC/16/096041 as per **Appendix EN19**.

#### Stepped Roof Profile Element

u) Set down the profile of the roof by 0.8m to achieve an appearance equivalent to the approved 'Proposed North and West Elevations' (Drawing No: PL\_201 Rev B) as per **Appendix EN20**.

#### Ventilation Grills

v) Remove the ventilation grills identified in the image in **Appendix EN21**.

#### External Lighting

w) Remove the external lighting identified in the image in **Appendix EN22**.

#### Guttering and Drainpipes

x) Remove the guttering and drainpipes identified in the image in **Appendix EN23**.

y) Install guttering and drainpipes that achieve a screened appearance equivalent to that in the approved the Design and Access Statement (Appearance - Section 5.6) dated March 2016, prepared by Pollard Thomas Edwards attached to DC/16/096041, in accordance with the specific images in **Appendix EN24**.

Windows

z) Remove the windows identified x-y in the image in **Appendix EN25**.

aa) Install windows (with widened apertures for windows x, y, and z) that achieve an appearance and quality equivalent to those in the approved Design and Access Statement (Appearance - Section 5.6) dated March 2016, prepared by Pollard Thomas Edwards and 'Proposed North and West Elevations' (Drawing No: PL\_201 Revision B) and approved 'Proposed Street Elevations' (Drawing No: PL\_203 Revision B) attached to DC/16/096041 as per **Appendix 23**.

**6) Remove all materials, debris, waste and equipment resulting from compliance with the requirements above.**

**TIME FOR COMPLIANCE:**

**OPTION A** - Nine (9) months after this notice takes effect, **OR**

**OPTION B** - Twenty-one (21) months after this notice takes effect.

**WHEN THIS NOTICE TAKES EFFECT:**

This notice takes effect on 9<sup>th</sup> December 2019 unless an appeal is made against it beforehand.

Issued On: 28<sup>th</sup> October 2019

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**Kath Nicholson**

**Head of Law on behalf of the The Mayor and Burgesses of the London Borough of Lewisham, the Planning Authority.**

**Attachments:**      **Site Plan**  
                             **Explanatory Note**  
                             **List of persons served with a copy of this Notice**  
                             **Information Sheet from Planning Inspectorate**

DRAFT

## **EXPLANATORY NOTE**

### **YOUR RIGHT OF APPEAL**

#### **PLEASE NOTE THAT A SEPARATE APPEAL FORM MUST BE COMPLETED FOR EACH INDIVIDUAL PERSON OR ORGANISATION**

You may appeal in writing against this notice but any appeal must be received, or posted in time to be received, by the Planning Inspectorate before 9<sup>th</sup> December 2019. You should read carefully the enclosed extract from the Town and Country Planning Act 1990 which sets out the grounds on which you may an appeal. If you decide to appeal you should read carefully the enclosed Planning Inspectorate information sheet which tells you how to obtain enforcement appeal forms.

If you decide to appeal your appeal must state the ground(s), in section 174(2) of the Act, on which it is made and you should state the facts in support of each chosen ground of appeal. If you do not provide enough facts when your appeal is first made, the Secretary of State will send you a notice requiring you to provide more facts. You are required to provide details of the further facts within 14 days of the Secretary of State's request.

#### **FEES PAYABLE**

If you appeal against the Enforcement Notice on Ground (a) – that planning permission ought to be granted – a fee of £24,640 will be payable to the Council as Local Planning Authority (cheques to be made payable to the London Borough of Lewisham). Joint appellants need only pay one set of fees.

#### **WHAT HAPPENS IF YOU DO NOT APPEAL**

If you do not appeal against the enforcement notice, it will take effect on 9<sup>th</sup> December 2019 and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period(s) specified in the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or the carrying out of remedial action by the Council, the costs of which it may seek to recover from you.

#### **CORRESPONDENCE WITH THE COUNCIL**

Any correspondence to the Council in connection with this notice should be addressed to the Planning Enforcement Team, 2<sup>nd</sup> Floor Civic Suite, London Borough of Lewisham, Catford Road, London SE6 4RX or, if sent by email, to: [planningenforcement@lewisham.gov.uk](mailto:planningenforcement@lewisham.gov.uk) (please quote ref. ENF/18/00139).

#### **NAMES OF PERSONS SERVED**

A list of persons served with a copy of this notice is attached.



## **GROUNDINGS OF APPEAL**

### **Section 174 of the Town and Country Planning Act 1990**

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
- (e) that copies of the enforcement notice were not served as required by section 172;
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach; and
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

Not all of these grounds may be relevant to you.

## **OUR LADY & ST. PHILIP NERI RC PRIMARY SCHOOL – ENFORCEMENT NOTICE**

### **LIST OF PERSONS SERVED:**

- 1 Paul McCallum, Company Secretary of the Southwark Roman Catholic Diocesan Corporation, 59 Westminster Bridge Road, London SE1 7JE.
- 2 Monsignor Matthew John Dickens, Director of Southwark Roman Catholic Diocesan Corporation, Archbishop's House, 150 St George's Road, London, SE1 6HX
- 3 Rt Rev Paul Joseph Hendricks, Director of Southwark Roman Catholic Diocesan Corporation, 95 Carshalton Road, Sutton, SM1 4LL
- 4 Rt Rev Patrick Kieran Lynch, Director of Southwark Roman Catholic Diocesan Corporation, 6a, Cresswell Park, Blackheath, London, SE3 9RD
- 5 Dr Simon Hughes, St Edward's House, St Paul's Wood Hill, Orpington, BR5 2SR
- 6 Mr Matthew Ringham, Our Lady and St. Philip Neri RC Primary School. 208 Sydenham Road, SE26 5SE



Customer Support Team  
Temple Quay House  
2 The Square Temple Quay  
Bristol BS1 6PN

Direct Line 0303-444 5000  
Email [enquiries@planninginspectorate.gov.uk](mailto:enquiries@planninginspectorate.gov.uk)

## THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Appeals Casework Portal (<https://acp.planninginspectorate.gov.uk/>); or
- sending us enforcement appeal forms, which can be obtained by contacting us on the details above.

**You MUST make sure that we RECEIVE your appeal BEFORE the effective date on the enforcement notice.**

Please read the appeal guidance documents at <https://www.gov.uk/appeal-enforcement-notice/how-to-appeal>.

In exceptional circumstances you may give written notice of appeal by letter or email. You should include the name and contact details of the appellant(s) and either attach a copy of the Enforcement notice that you wish to appeal or state the following:

- the name of the local planning authority;
- the site address; and
- the effective date of the enforcement notice.

We MUST receive this BEFORE the effective date on the enforcement notice. This should immediately be followed by your completed appeal forms.



## Appendix 2 – List of Non-Compliances

<b>Sydenham Road Elevation (Northern Elevation)</b>		
<b><i>Non-compliance</i></b>	<b><i>Approved</i></b>	<b><i>As built</i></b>
Cladding	Pre-commencement materials to date have not been discharged by the LPA	Composite cladding panels
'Fixing' between cladding panels	N/A	Fixing in cladding is highly visible. The gaps between the cladding are inconsistent, with those on the horizontal axis appearing larger than the gaps within the vertical axis.
Ventilation Grills	N/A	A number of ventilation grills have been installed at ground, first and second floor level
External lighting	N/A	External lighting has been installed at ground floor
Guttering/Drainpipes	Guttering and drainpipes hidden	Guttering and drainpipes visible from the public realm
Location of building	Main building setback from Sydenham Road	Built scheme not setback from Sydenham Road
Height of the main building	11.5m	13.21m
Roof profile	Pitched. Horizontal separation between each pitch of the roof with gable ends.	Flat. The built scheme does not include the horizontal separation elements, and incorporates three 'tables' more tightly arranged. No gable ends
Roof tile	Pre-commencement materials to date have not been discharged by the LPA	Tapco Slate roof tile has been installed on the roof
Brick Plinth	Pre-commencement materials to date have not been discharged by the LPA	Recycled Brick slip
Height of the flat roofed building that connects the main building with the hall	10.36m	11.36m

<b><i>Non-compliance</i></b>	<b><i>Approved</i></b>	<b><i>As built</i></b>
Window recess	Recessed window system between the 'terraced house'	No recessed and blue spandrel panels have been inserted instead of the windows.
Window height	Large picture windows	The height of the windows has been reduced
Fenestration pattern	N/A	Vertical and horizontal glazing bars
Glazing Bars	N/A	Glazing bars added
Window reveals	Window reveals part of the approved scheme	N/A
Window panels	Timber louver panels	Blue window panels have been added to the window design without louvers
Window frames	Aluminium framed	White window frames
Windows fixed shut	Windows fixed shut	Windows openable

#### **Hall Elevation (Eastern Section)**

<b><i>Non-compliance</i></b>	<b><i>Approved</i></b>	<b><i>As built</i></b>
Additional lights	N/A	Additional lights have been included on the building that do not align with the windows and the louvers inside the building
Height of building	8.2m	11.07m
Flue	Marginally smaller and in a slightly different position	Marginally larger and in a slightly different position to what was approved

#### **Playground Elevation (Southern Elevation)**

<b><i>Non-compliance</i></b>	<b><i>Approved</i></b>	<b><i>As built</i></b>
Cladding	Pre-commencement materials to date have not been discharged by the LPA	Composite cladding panel

'Fixing' between cladding panels	N/A	Fixing in cladding is highly visible from the public realm
Additional lights	N/A	Additional lights have been included on the building
Connecting element between the school and hall recessed	Recessed window system between the connecting element between the school and hall.	No recessed and blue spandrel panels have been inserted instead of the windows.
Guttering/Drainpipes	Guttering and drainpipes hidden	Guttering and drainpipes visible from the public realm
The plant room	A single storey plant room in the playground side of the Hall Building.	Not built in accordance with approved plans.
Canopies	6 canopies serving windows and doors on ground floor and lower than approved	3 canopies have been constructed which are continuous across the windows and doors they serve and are higher than what was approved
<b>Windows</b>		
Windows added	Windows added at first and second floor level	N/A
Windows removed	Windows on ground floor level	N/A
Window recess	Recessed	Not recessed
Window height	Large picture windows	The height of the windows has been reduced
Window panels	Timber louver panels	No louvers
Glazing Bars	N/A	Glazing bars added
Window reveals	Window reveals part of the approved scheme	N/A

<b>Fairview Park Elevation (Western Elevation)</b>		
<b><i>Non-compliance</i></b>	<b><i>Approved</i></b>	<b><i>As built</i></b>
Height of main building	11.5m	13.21m
Roof profile	Stepped	Continuous roof
Cladding	Pre-commencement materials to date have not been discharged by the LPA	Composite cladding panel
'Fixing' between cladding panels	N/A	The 'fixing' between the cladding panels is highly visible

Guttering/Drainpipes	Guttering and drainpipes hidden	Guttering and drainpipes visible from the public realm
Ventilation Grills	N/A	A number of ventilation grills have been installed at ground, first and second floor levels
External lighting	N/A	External lighting has been installed at ground floor
Air conditioning units	N/A	Low level Panasonic air-conditioning units have been installed at ground floor level
Utility UKPN Boxes	N/A	Two Utility UKPN Box installed adjacent to the nursery
Brick Plinth	Pre-commencement materials to date have not been discharged by the LPA	Recycled Brick slip
Height of nursery building	3.5m	4.2m
Nursery Cladding	Pre-commencement materials to date have not been discharged by the LPA	Esher brick
Entrance gate	Double entrance gate	Single entrance gate
New doors installed at ground floor	N/A	New doors installed at ground floor
<b>Windows</b>		
Windows removed	Windows on ground floor level	In the built scheme, some windows on ground floor have been removed.
Window recess	Windows recessed as part of the approved scheme	Windows have not been recessed in the built scheme
Window size	Large picture windows	Smaller windows installed
Window reveals	Window reveals included in approved scheme	N/A
Window louvres	Window louvres included in approved scheme	N/A
Glazing Bars	N/A	Glazing bars included as part of the built scheme.



Local Meeting Note 8th July 2019

Chair: Councillor Copley

Officers: Chris Dale (Service Group Manager Development Manager), James Hughes (Development Management Team Leader – South Area) and Georgia McBirney (Planning Officer)

Applicants: Richard Pell (FTT), Steven Morrice (Marwood), Sean McGrath (Indigo) and Matthew Ringman (Head teacher)

Number of attendees:

*Presentation*

Councillor Copley gave a short introduction to the local meeting explaining the format of the meeting and that meeting would finish at 9pm. Councillor Copley also explained that the application would be determined by a planning committee.

The applicant team presented the proposed development. Sean McGrath explained that current application (DC/19/111793) is a minor material amendment to application DC/16/096041 which was approved in 2016, and this arose due to issues with practicality and build-ability of the approved scheme.

Richard Pell presented the differences between the consented scheme (DC/16/096041) and the proposed amendments on each elevation in turn.

Matthew Ringman the Head teacher of the school explained that the school staff would like the project to be finished as soon as possible for the sake of the children who attend the school.

*Q & A*

Councillor Copley invited questions and comments from the audience.

Q: Question, A: Answer and S: Statement

*Q: A local resident asked what will happen with the tarmac.*

A: The applicant team stated that the playground would be tarmacked and that this is the same as previously proposed.

*Q: A local resident stated that objectors are concerned for the safety of the children attending the school and that they were in favour if supporting the original scheme but are concerned that what has been delivered is not what was approved (DC/16/096041) and the safety concerns are in relation to contamination and asbestos.*

A: The applicant team stated that Part A of the land remediation condition has been discharged, that Part B of this condition is only required to be discharged if something else was found which is different to what was stated in Part A and that Part C of the land remediation condition can only be discharged once the scheme has been completed.

James Hughes outlined that Part A has been discharged but stated that this should have been discharged prior to the occupation of the building.

*Q: A local resident asked whether blinds would be added to the windows.*

A: The applicant team stated that blinds would be added internally to the windows.

*Q: A local resident asked for clarification of the material of the fins to the hall building.*

A: The applicant team stated that consented scheme (DC/16/096041) was approved with timber fins and that these are proposed to be replaced by steel fins for fire safety concerns and due to the durability of the material.

*Q: A local resident asked what the noise impact would be of the metal fins as the metal fins could reflect noise more than timber fins.*

A: The applicant team stated that the fins would not be the boundary between the rooftop playground and the fins as an internal fence is proposed between so the children would not be able to touch the fins. The applicant team also stated that they do not think in terms of reflecting noise there would be a difference between timber and steel fins.

*Q: A local resident raised concerns that the Home Park entrance is not being used as the main entrance the school.*

A: Matthew Ringmore, the Head Teacher of the school stated that the Home Park entrance is used as the main entrance but due to safeguarding any visitors to the school use the entrance on Sydenham Road and that the Sydenham Road entrance is used by the children when they leave after-school clubs.

*Q: Councillor Copley asked when the improvements to Home Park would be completed.*

A: The applicant team stated that the works to Home Park would be completed this summer.

*Q: A local resident raised concern in regards to the safety of the site due to issues with the land remediation condition.*

A: James Hughes outlined that the closure report would need to be signed off by Environmental Health. James Hughes also advised that the Council's CYP department had visited the site and have said the site is safe.

*Q: A local resident raised concern that the applicant team are rushing to get things completed and it is unclear if all the relevant sign offs have been granted in regards to environmental health and asbestos.*

A: The applicant team stated that there is misunderstanding with local residents and that full asbestos report was undertaken and signed off. Asbestos was found in the roof and in the boiler room but was disposed of correctly.

*Q: A local resident asked why were children on the site when the old school was demolished, if asbestos was found in the building.*

A: The applicant team stated that minimal levels of asbestos was found and that HSE were on site during the works.

*Q: A local resident stated that in regards to asbestos concerns that reassurance to neighbours during these works would have been helpful as there was a lack on consultation in regards to this.*

A: The applicant team stated that this could be have been improved.

*Q: A representative from the Sydenham Society outlined that the society did not object to the original application, but are of the view that a new full planning application should be submitted so that consultation takes place, the Home Park entrance is appreciated but the works to Home Park should have been done before. The representative from the Sydenham Society went onto outline that the proposed works are not minor and raised the following concerns:*

- *The grey cladding is inappropriate*
- *London Stock brick would be more appropriate*
- *There is no light and shadow on the building*
- *The BREAAAM rating has been reduced*
- *The applicants are treating the school and council with contempt*

*A: The applicant team stated that they do not know why the works to Home Park had stopped and that the works to Home Park would be done this summer.*

*The applicant team stated they do not view the proposed scheme to massively different to the consented scheme. The applicant team went on to state that on the original application that all of the materials were secured by condition apart from the timber fins.*

*Q: A local resident stated that the material quality has been downgraded, the articulation has been removed from the building and height of the building as shown in the street elevation is misleading.*

*A: The applicant team stated that the building is the minimum height it needs to be to comply with the standards for educational buildings.*

*Q: A local resident stated they are not against school facilities, but the quality of what has been built is not acceptable, the building is ugly and the windows are too large.*

*A: The applicant team stated the concerns raised are concerns with the original application.*

*Q: A local resident stated that the building is too large, has a harmful visual appearance, and that the building would not have been acceptable in a Conservation Area so why is it acceptable in Lower Sydenham.*

*A: The applicant team stated that some of these concerns are with the original scheme which has permission.*

*S: A local resident and parent of a child at the school stated that it needs to be remembered that the building is a school and it needs to be fully working for the sake of the children and staff of the school.*

*Q: A local resident stated that the building has no character and it does not enhance the area and also highlighted that the issue with the Home Park entrance is that it does not look like the main entrance. A date needs to be put on the Home Park conditions for the school and for residents.*

*A: James Hughes stated that the applicants are still required to comply with the Home Park condition.*

*Q: A local resident and parent of a child at the school stated that it is not the most attractive building but it is not the ugliest building and asked when it is likely to be finished.*

*A: James Hughes outlined the Section 73 process.*

S: A parent of a child at the school stated that the children of the school do not have a play area, the process should be brought to a close, and the children's voices should be heard as the length of time is not fair on the children.

S: A parent of a child at the school stated that they acknowledge that it is not the most beautiful building but it is not that different from what was approved, questions on safety are valid but cosmetic concerns are not fair on the children. It is not fair that the school has been a building site since it opened.

*Q: A local resident asked what are the long term implications of accepting a Section 73 application as this will set a precedent for other developers.*

A: Councillor Copley stated that the proposal will be assessed on its merit and will be assessed against policy. Councillor Copley confirmed that the application will be determined by a planning committee.

*Q: A local resident stated that the scope of the works to Home Park needs to be clear.*

A: The applicant team stated that works to Home Park have already been approved and the works are not to the whole park.

*Q: A local resident stated they are not against the school but the quality of the design is not acceptable and asked if a representative from the Diocese is at the meeting.*

A: Simon Hughes, a representative from the Diocese who was sat in the audience, stated they are trying to rectify the situation and apologised for the delays.

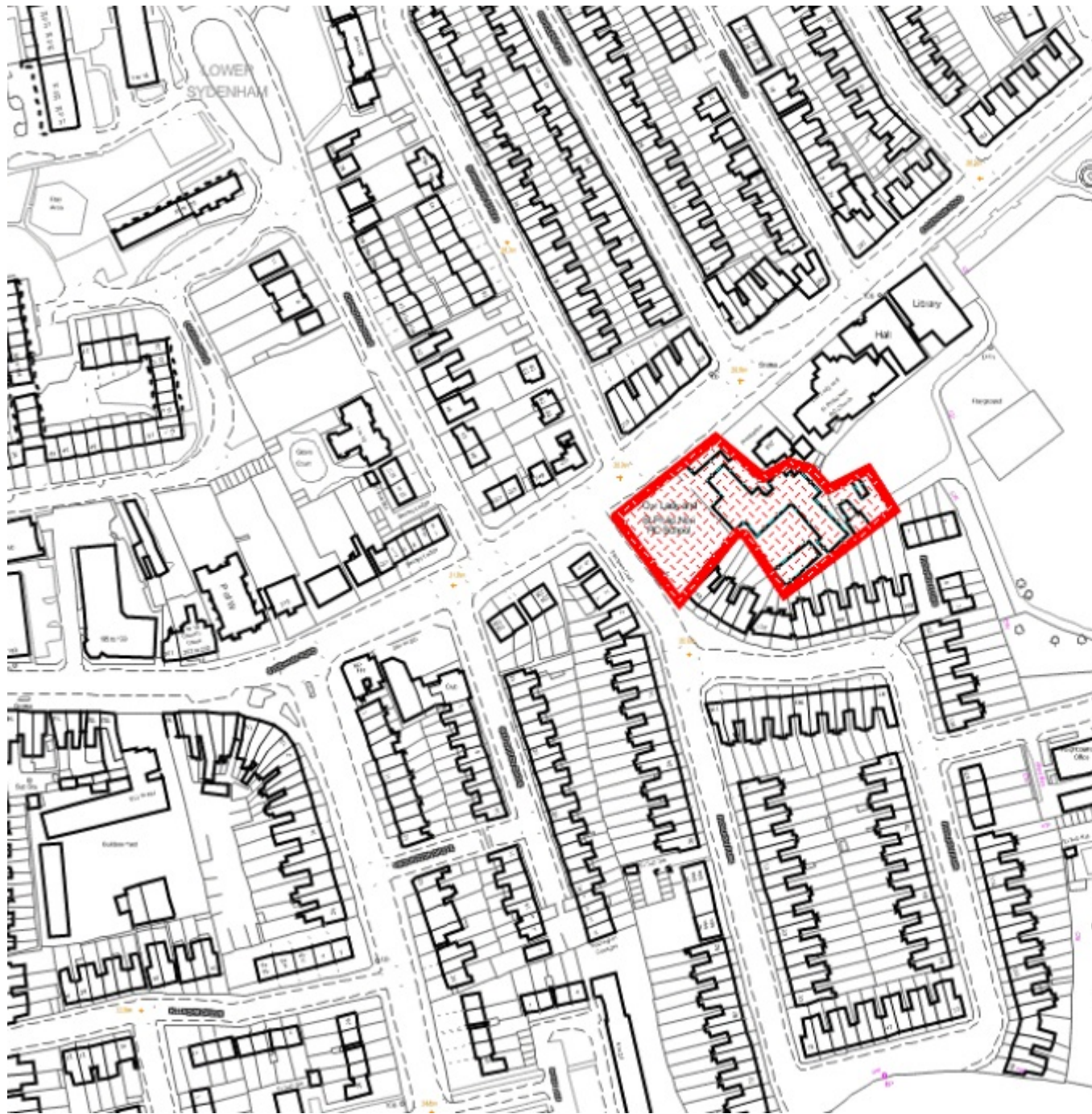
*S: A school governor stated that originally the Education Department of the Council were involved in the original scheme and the project was taken over by the Diocese due to funding.*

*S: A local resident stated that the fault cannot be placed on the previous architects if Built Off site were submitting applications a few months after the consent and the drawings are dated prior to the submission of the original application.*

*Q: A parent of a child of the school asked what the chances of the works being completed before September.*

A: The applicant team stated that decision will not be made in time to the works will have be completed next summer.

Councillor Copley closed the meeting at 9pm.



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Mr Sean McGrath  
Indigo Planning Ltd  
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10-15 Queen Street  
London  
EC4N 1TX

Housing Environment and Regeneration  
Directorate  
Planning Service  
Laurence House  
1 Catford Road  
London SE6 4RU

Contact: James Hughes  
Direct Line: 020 8314 7400  
Fax: 020 8314 3127  
Email: Planning@lewisham.gov.uk  
Date: 24 September 2019  
Property Ref: LE/180/J/TP  
Our Ref: DC/19/111793  
ENF/18/00139

Dear Mr McGrath,

Town and Country Planning Act 1990

**Location: OUR LADY AND ST PHILIP NERI RC PRIMARY SCHOOL,  
208 SYDENHAM ROAD, LONDON, SE26 5SE**

**Application No: DC/19/111793**  
**Enforcement Case: ENF/18/00139**

**Proposed Development: An application submitted under Section 73 of the Town and Country Planning Act 1990 to allow for the variation of Conditions 2 and 8 in connection with planning permission dated 7th October 2016 DC/16/096041 as amended for the demolition of the existing buildings at Our Lady and St Philip Neri Primary School (OLSPN), 208 Sydenham Road.**

I write with respect to the above planning application and enforcement investigation at OLSPN School. Officers have assessed the planning application made under Section 73 of the Town and Country Planning Act 1990 (DC/19/111793) received by Lewisham 5<sup>th</sup> April 2019. Officers have also assessed the circumstances of the planning enforcement investigation (ENF/18/00139) opened 18<sup>th</sup> April 2018.

Officers intend to recommend the application for **refusal** to Planning Committee A on 3rd October 2019, as the proposal is considered to be contrary to the development plan and does not meet with the relevant provisions of London Plan and Lewisham's local planning policies. Further detail is given in the Officer's Report. Officers consider the proposal to mitigate the planning harm caused by the school's current non-compliance with planning controls is of insufficient quality to be recommended for approval.

By way of this letter I also advise you of the Local Planning Authority's intention to take formal planning enforcement action against your client to remedy the extant breaches of planning control, should the Committee be minded to accept the officer recommendation to refuse application DC/19/111793.

A draft enforcement action has been published to the committee agenda today and will be considered by members following the assessment of the Section 73 proposal. Officers will be recommending that the enforcement investigation (ENF/18/00139) is concluded by way of the delegated issue and service of a planning enforcement notice in due course.

The decision to recommend formal action has taken account of national guidance to work with applicants and owners informally to achieve a negotiated solution. Officers consider that discussions with your client have failed to yield an acceptable planning outcome to date and they have yet to propose a way forward for this important institutional building that could be judged commensurate with the 2016 planning position.

Officers have twice sought additional information from your client during the Section 73 application process, and advised that no matters would be reserved to condition. In the opinion of officers, required details have not been forthcoming. While enforcement action is always a last resort, officers are of the view that discussions with your client have been exhausted and the only way to resolve the extant breaches of control at the site is by way of formal action.

The draft steps for compliance set out in the enforcement notice offers two options (see further in the Officer's Report).

- Option A would compel your client to implement the 2016 planning permission granted.
- Option B would compel the client to, in essence, clad and fenestrate the building to the necessary standard to remedy the breach of planning control and the harm to amenity caused by this development. The notice does not seek to remove individual out-of-compliance elements that do not give rise to significant planning harm. The provision of improved cladding and windows that provide a commensurate visual appearance and protect users from noise impacts is key to Option B.

Officers accept that Option B may raise logistical challenges in this instance given the progression of the build. Option A includes some elements that the Officer's Report recognises do not individually give rise to unacceptable planning harm (e.g. building height).

The Officers Report explains that there are a variety of reasons why Option A is put forward, which include that it may be that the logistical challenges of Option B that indicate Option A will be the minimum necessary to remedy the breach of planning control and the injury to amenity, if the collective lesser steps in Option B are or said not to be achievable.

We are confident the school and their representatives are fully capable of meeting these challenges to deliver on the obligations to bring forward policy compliant development either by way of Option B or if necessary to remedy the breach of planning control and the injury to amenity, Option A.

By way of this letter, I advise you that should the Committee delegate the resolution of the enforcement investigation to officers, a copy of the planning enforcement notice will be served on your client as an interested party. Under relevant legislation, the Council has a duty to serve the client with a copy of the Notice as an owner of the premises. Copies will also be served on other interested parties. As an interested party the client has a right of appeal against the Notice.

You or your client may make representations regarding the recommendation to refuse planning permission and the issue and service of the enforcement notice at Planning Committee A on 3<sup>rd</sup> October 2019 in the Council Chambers at the Lewisham Civic Suite, Catford Road, London, SE6 4RU. You will be formally notified by letter of this committee hearing meeting. You should register to speak at the committee. Details will be contained in the notification letter.

Please contact me if you require further information.

Yours sincerely

James Hughes  
Team Leader South – Planning Service



Committee	PLANNING COMMITTEE A	
Report Title	BAMPTON ESTATE, BAMPTON ROAD, LONDON SE23 2AX	
Ward	PERRY VALE	
Contributors	HOLLY LUCAS	
Class	PART 1	03 October 2019

<u>Reg. Nos.</u>	(A) LE/171/H/TP (B) DC/19/112918
<u>Application Dated</u>	02/07/2019
<u>Applicant</u>	Lewisham Homes on behalf of Lewisham Council
<u>Proposal</u>	The demolition of seven (7) existing garages at Bampton Estate, Bampton Road SE23, to allow for the construction of one (1) part three/part four/part five storey building to provide thirty nine (39) over 55s dwelling units, together with the provision of the relocated ball court, associated landscaping, refuse storage and cycle and car parking
<u>Background Papers</u>	(1) Case File LE/171/H/TP (2) Local Development Framework Documents (3) The London Plan
<u>Designation</u>	PTAL 3 Not in a Conservation Area Not a Listed Building

## 1 **SUMMARY**

- 1 This report sets out Officer's recommendation for the above proposal. The report has been brought before members for a decision as permission is recommended to be approved and there are three (3) or more valid planning objections.

## 2 **SITE AND CONTEXT**

### 2.1 **SITE DESCRIPTION AND CURRENT USE**

- 2 Bampton Estate is located in Perry Vale SE23 2AX with a total site area of approximately 1.85ha, however the proposed building area within the wider estate covers an approximate 0.15ha area.
- 3 Bampton Estate has been identified as a potential site for estate infill as part of the New Homes, Better Places programme to provide affordable housing across the borough.
- 4 The estate currently supports three (3) existing tower blocks (Standlake Point, Radcot Point and Newbridge Point) at eleven (11) storeys in height, supporting a total of one-hundred and forty-four (144) residential dwellings in addition to Northmoor which is comprised of three (3) separate buildings at two (2) storeys in

height supporting twenty-four (24) sheltered housing bedsits/studios for over 55's (Refer to Figure 1.0 below).

- 5 The three (3) existing tower blocks and Northmoor remain unchanged by the proposal.
- 6 All existing dwellings on the estate are currently managed by Lewisham Homes.



**Figure 1.0: Aerial of Bampton Estate (as existing)**

- 7 The existing Bampton Estate also comprises No. 19 Bampton Road (owned by L&Q), an existing ballcourt, seven (7) existing garages, a substation and a significant amount of open space.
- 8 The site supports approximately 145 existing trees, which range in value from Category B (moderate quality) to Category U (unsuitable for retention). There are no Category A (high quality) trees on site and none of the trees are covered by Tree Preservation Orders (TPOs).
- 9 Vehicular access is gained from Perry Vale via Windrush Lane, which forms a head at Standlake Point and does not provide a through-route. Access can also be gained from Inglemere Road to another smaller parking area, terminating at Radcot Point.
- 10 The site overall is undulated and falls approximately 8m from south to north.

## **2.2 CHARACTER OF AREA**

- 11 The site and its surrounding context is predominately residential in character, presenting generally 2-4 storeys in height with the exception of the eleven (11) storey tower blocks.

- 12 The site is framed by Perry Vale and the rear gardens of properties on Perry Vale to the north, which form the boundary of the Perry Vale and Christmas Estate Conservation Area. Existing L&Q development 'Whitney Path' is located to the east with Mayow Road beyond, Inglemere and Bampton Road to the south with predominately residential development (2-4 storeys) beyond and Fifield Path with a terraced row of two (2) storey dwellings, which present as three (3) storeys with garages below (owned by L&Q) to the west.
- 13 The typologies surrounding the estate are mixed including detached Victorian dwelling houses and 70's style terraced housing and flats.
- 14 A small single storey convenience store is located at the corner of Bampton and Inglemere Road and a small community hall is located on Inglemere Road.
- 15 An application was received by the Council's Culture and Community Development team on 12 July 2019 relating to the 'Bampton Estate Green', which was acknowledged by the Council on 29 July 2019 and subsequently included in the Council's list of community assets on 11 September 2019.

### **2.3 HERITAGE/ARCHAEOLOGY**

- 16 The site does not contain any statutory Listed Buildings on or within close proximity to the site, nor is it an Area of Archaeological Priority.
- 17 It is not located within a Conservation Area, however adjoins part of the Perry Vale and Christmas Estate Conservation Area, designated in January 2019. The Forest Hill and Sydenham Conservation Areas are located further west, separated by the existing railway line at Forest Hill running north to south.
- 18 The adjoining Conservation Area also includes an 18th century cottage (now Rose and Ichthus Cottages at 118 and 118a Perry Vale). These buildings are included on the Council's local list.
- 19 The detached houses at Numbers 108 to 116 Perry Vale, located to the north-east, form part of the Perry Vale and Christmas Estate Conservation Area as they were Christmas's first large scale residential developments and replaced earlier and more widely spaced Victorian villas (such as the surviving Number 106). The impact on these properties is discussed further in section 7.6 of this report.

### **2.4 SURROUNDING AREA**

- 20 Mayow Park, Dacres Wood Nature Reserve and Albion Millennium Green are all located within 500m of the subject site and provide opportunity for public open space.
- 21 Forest Hill Secondary School, Perry Mount Primary School, Our Lady & St Philip Neri and St George's CE Primary School are also located within a 500m radius.

### **2.5 LOCAL ENVIRONMENT**

- 22 The site falls within Flood Risk Zone 1 and is therefore considered as having a less than 1 in 1,000 annual probability of river or sea flooding (<0.1%).

## 2.6 TRANSPORT

- 23 The site presents a Public Transport Access Level (PTAL) score of 3 (moderate) on a scale of 1-6b, 1 being lowest and 6b is highest.
- 24 It is located within 800m of the Forest Hill Overground Station and 1.4km to Sydenham Overground Station and is well serviced by three (3) bus links (Bus Routes 75, 122 and 185), approximately 200m from the site providing access to Lewisham, Crystal Palace and Victoria.

## 3 RELEVANT PLANNING HISTORY

- 25 **DC/18/106504** - The demolition of seven (7) existing garages, one (1) dwelling house and a ball court at Bampton Estate, Bampton Road SE23, to allow for the construction of one (1) part four/part five storey building to provide fifty (50) over 60s dwelling units and associated ancillary uses, together with the provision of the relocated ball court, associated landscaping, refuse storage, cycle parking, car parking and the extension of Windrush Lane onto Bampton Road. **Withdrawn by applicant 16 July 2019.**

## 4 CURRENT PLANNING APPLICATION

### 4.1 THE PROPOSALS

- 26 Full planning permission is sought for the demolition of seven (7) existing garages and relocation of the existing ballcourt to allow for the construction of a part 3/ part 4/ part 5 storey building to provide 39 x 1 bed residential dwellings for the over 55's demographic.
- 27 In addition, improvement works are proposed to the wider estate including associated landscaping, a re-provided ballcourt, refuse storage, forty (40) x double-stacked cycle parking spaces, seven (7) Sheffield cycle stands providing fourteen (14) additional spaces, twelve (12) x mobility scooter spaces, car parking formalisation to provide an up-lift in twenty (20) x car parking spaces and road improvements to Windrush Lane.
- 28 The flats are designed to meet Building Regulations Part M4 with 90% (35 dwellings) meeting M4(2) to be Accessible and Adaptable and 10% (4 dwellings) to be M4(3) Wheelchair User Dwellings.
- 29 All dwellings would be built to the Housing our Ageing Population: Panel for Innovation (HAPPI) Guidelines.
- 30 The proposed building would replace the existing ballcourt, to be re-provided in the north-eastern corner of the site.
- 31 All dwellings are to be 100% affordable (Social Rent) to be managed by Lewisham Homes on behalf of Lewisham Council.

### 4.2 COMPARISON WITH PREVIOUSLY WITHDRAWN SCHEME

- 32 Summarised below are the main changes from the previously withdrawn scheme (DC/18/106504) and the current scheme:

- The existing dwelling house at 19 Bampton Road will now be retained.
- The scale of the development has been reduced from 50 x 1 BED dwellings to 39 x 1BED dwellings.
- The demographic for the new Council homes has been widened; previously the scheme was for over 60s, now over 55s.
- The extension of Windrush Lane as a through-route for vehicles is no longer proposed.
- Tree removal has been reduced from 33no. to 23no. and replacement tree planting has been increased from 32no. to 42no. trees
- Improved daylight/sunlight for properties along Fifield Path as a result of design changes.

## **5 CONSULTATION**

### **5.1 PRE-APPLICATION ENGAGEMENT**

33 Pre-application discussions started between the Applicant (Lewisham Homes) and Council Officers in July 2016 and continued up until March 2018.

34 Nine (9) pre-application meetings, one (1) Design Review Panel (DRP) and meetings with stakeholders including Secured by Design, Council's Housing Officers, Urban Design and Highways Officers were held prior to submission of the original and current planning applications.

35 Following the withdrawal of the scheme submitted in March 2018, an additional pre-application meeting and design discussion was held in April 2019 to discuss the revised proposal.

36 It is considered that the current scheme is largely similar to the original submission and therefore there was no requirement to present the case back to the Design Review Panel.

### **5.2 APPLICATION PUBLICITY**

37 Consultation for the application has been carried out in accordance with Lewisham Council's Statement of Community Involvement for a major development.

38 Site notices were displayed on 10 July 2019 and a press notice was published on 10 July 2019.

39 Letters were sent to 183 residents and businesses in the surrounding area and the relevant ward Councillors on 8 July 2019.

40 Thirty-six (36) responses were received, comprising thirty-three (33) objections and one (1) comment. One (1) petition was received with approximately one-hundred and eighty (180) signatures, which is a duplicate of the petition received for the withdrawn application.

## 5.2.1 Objections

Material planning consideration	Para where addressed
<p><b>Estate Disruption:</b></p> <p><i>Construction, freedom for children to play safely, noise and dust, additional people on the estate, length of construction.</i></p>	Section 7.6.3
<p><b>Ballcourt:</b></p> <p><i>Staging of re-provision, new location is closer to a busy road and increases conflict with cars, new location closer to residential dwellings, replacement is not up to standard and only has two walls, goal facing the main road, less visible and safe than the existing one, the new ballcourt will not provide organic play like the existing one.</i></p>	Section 7.4.2
<p><b>Tree/green Loss:</b></p> <p><i>Significant tree loss which provides clean air, replacement planting does not address tree loss concern, nature will be destroyed and cannot be replaced, there are no local alternatives, loss of endangered animals, existing greenspace compensates for already overcrowded estate, reduction in areas where residents socialise, no proof existing trees are dangerous required for removal, net loss of greenspace, mental wellbeing of the existing residents which depends on the greenspace.</i></p>	Section 7.8.2
<p><b>Parking and Traffic:</b></p> <p><i>Garages proposed to be demolished are not proposed to be replaced, not enough parking and parking in the surrounding street network at night isn't safe, increased traffic will impact on air quality, plans show road where footpath already is, appears parking being reduced; not increased, 11 EVCP is too many, no improvement to the existing parking scenario, need disability parking, emergency services won't be able to gain access, increased parking</i></p>	Section 7.5

<p><i>will encourage commuters from Forest Hill, parking surveys are inaccurate and don't represent reality.</i></p>	
<p><b>Impact on Existing Buildings:</b></p> <p><i>Every windows faces the existing tower blocks, windows are less than 20m away, inappropriate for elderly, inappropriate location; why couldn't it be closer to Bampton Road, inappropriate scale, not sustainable, loss of light to Standlake Point, will change the character of the estate, separation distances are inappropriate, the plans don't present the context of Northmoor, the removal of garages may also remove boundary fencing and expose adjoining properties to trespassers, unless a boundary line is reinstated following demolition. Request developer take responsibility for any damage to existing boundary treatments.</i></p>	<p>Section 7.6</p>
<p><b>Estate Strategy:</b></p> <p><i>There are many other sites (closed schools, Kenton Court, Valentine Court, Inglemere Road) for development; why this one? There is no guarantee this will remain as over 55's, future proposals of Northmoor are evident, too far from local shops for old people.</i></p>	<p>Section 7.2.4</p>
<p><b>Estate Management:</b></p> <p><i>Will the elderly people in the existing buildings be offered a flat? When it rains Standlake Point leaks, fix the existing situation before you add more people, Lewisham Homes mismanage the estate and continue to do so, no confidence in Lewisham Homes, subsidence of Standlake Point currently being investigated by Lewisham Homes, construction may impact on existing concerns and issues.</i></p>	<p>Section 7.6.3</p>
<p><b>Consultation:</b></p> <p><i>Consultation undertaken is inadequate and not in line with NPPF.</i></p>	<p>Section 5</p>

<p><b>Other:</b></p> <p><i>We have been trying to register the green space as an Asset of Community Value with no luck; residents have been ignored in the past and know this will be approved anyway, there seems to be no mitigation from past proposals, proposal doesn't consider how the shared greenspace is used by young people and the social implication of its removal.</i></p>	<p>Section 7.8</p>
<p><i>Cost of build and value for money.</i></p>	<p>Section 7.2.2</p>

41 Some non-material planning considerations were also raised as follows:

- Existing ballcourt keeps children out of trouble.

### 5.3 LOCAL MEETING

42 Given the level of local interest in the proposal, all objectors were invited to a drop-in session Local Meeting, which took place on 2 September 2019 at the Dietrich Bonhoeffer Church, SE23 between 19:00 and 21:00. Thirty (30) residents attended the session. The key points raised at the meeting included:

- Some existing properties constantly damp and may be worsened by the proposal.
- Concern about ground stability, the water table, subsidence affecting one of the tower blocks.
- Concern that the development will cause structural damage to the neighbouring blocks.
- Questions about the cost of the scheme and the costs to date. Criticism about use of public funds.
- Concerns about the retention trees along the boundary with adjoining gardens.
- Added value that is created by having the green space and ball court co-located in one part of the estate which creates a feature that is highly valued by residents of the estate and neighbouring areas.
- Suggestions that LH/LBL are not disclosing plans for Northmoor.
- Road layout considered to be an improvement.
- Revised shape of the building and retention of the house make it feel like the new building is very compromised – it's no longer improving the streetscape but still also sitting on the open space and ball court.
- Loss of the ball court and consequential impact
  - o Several people and their children who live near the estate use the ball court and emphasised how it works really well without necessarily being 'designed'. Kids of all ages use it, there is space around it for smaller ones to play in, the slope is used for cycling, picnics, etc. It feels really safe as is away from the road. The acoustics work well. Kids on and off the estate mix well there too.



- The re-provided ball court near to Perry Vale will be highly visible and attract unwanted use by passers-by and 'gang recruitment' and also the previous comments about safety re. the busier road.
  - New ball court should have fencing contained around entire perimeter (as opposed to partially enclosed by steps and wall on remaining side)
  - Questions why there wasn't more engagement with local kids or families to discuss the new location.
- New trees will not be anywhere as large as existing for some time.
  - Concern regarding lift and accessibility in case of an emergency#
  - Building is too far from the shops and amenities for older people.
  - Impact of the new ball court location outlook, privacy and noise of adjoining properties.
  - Principle of development unacceptable.
  - Loss of green space; green space was allocated to the point blocks in the original design of the estate. Concern this scheme will set a precedent for green spaces in other estates.
  - The loss of trees is a concern.
  - The greenspace is also used by people outside of the estate; it's a local park.
  - The green space in the estate is the only green space around.

#### **5.4 INTERNAL CONSULTATION**

43 The following internal consultees notified on 10 July 2019:

#### 44 Highways

Raised no objection to the proposal, subject to conditions to secure:

- Parking Management Plan (including EVCP details)
- Travel Plan
- Delivery and Servicing Plan
- Construction Logistics Management Plan
- Details of the proposed cycle/mobility scooter storage
- S278 Agreement to secure the following Highways Works
  - Improvement works to the footways adjacent to the site, at the Windrush Lane/Perry Vale junction (including the installation of tactile paving and dropped kerbs);
  - The installation of dropped kerbs and tactile paving on the public Highway at the vehicular access into the estate from Inglemere Road; and
  - Improvement works to the informal crossing at the Sunderland Road/Perry Vale junction, to improve the pedestrian accessibility between the application site and the eastbound bus stop on Perry Vale.

- 45 Strategic Waste and Environment  
No response received.
- 46 Tree Officer  
No response received.
- 47 Ecological Regeneration  
Requested that all the consultant ecologist (London Wildlife Trust) recommendations and mitigations suggested are secured by appropriately worded conditions, including retention and enhancement of existing habitats, external lighting to be of an appropriate level, living roof to be high quality and appropriate with consideration to the surrounding area, bird and bat boxes, tree protection during construction and bat, bird and vertebrate surveys.
- 48 Met Police (Designing Out Crime Officer)  
No response received, however was involved at pre-application stage.
- 49 Urban Design  
Involved throughout pre-application and provided significant input throughout the design process.
- 50 Environmental Protection  
Raised no objection, however requested a Site Contamination condition.
- 51 Strategic Housing  
Strongly support the planning application to demolish seven (7) garages and the construction of thirty-nine (39) social rent council homes.
- 52 Environmental Health Air Quality Assessment  
No response received.
- 53 Planning Policy  
No response received.
- 54 Sustainability – Heat  
Sustainability Officers are broadly supportive of the proposal, however have requested an appropriately worded pre-commencement Condition to address their outstanding concerns, which is discussed further in section 7.7 of this report.
- 55 Sustainability – Flooding and Surface Water  
Sustainability Officers are broadly supportive of the proposal, however have requested an appropriately worded pre-commencement Condition to address their outstanding concerns, which is discussed further in section 7.7 of this report.

## 5.5 STATUTORY CONSULTATION

56 The following Statutory Consultees were notified on 10 July 2019:

57 Sports England

Confirmed the proposal does not fall within their statutory or non-statutory remit and therefore have not provided a detailed response.

58 Natural England

Confirmed no comment to make in relation to the proposal.

59 Thames Water

With regard to Surface Water, Waste Water and Sewage Treatment Works, Thames Water raise no objection based on the information provided. Conditions and informatives requested.

### **Lewisham Design Review Panel (LDRP)**

60 The original application was presented to Lewisham Design Review Panel on 13 December 2017, the following key points of feedback are summarised below:

- Supported the massing and location of the new block as a transition between Fifield Path and existing tower blocks;
- High level of dual aspect dwellings and overall high quality living standards;
- Supported the careful consideration of the proposed block to consider tree root protection areas, minimise tree loss (only Cat U and Cat B) and retain openness of the estate;
- It was suggested that the boundary between the courtyard for the new residents and the public realm be defined through subtle planting;
- The panel was supportive of the proposed extension of Windrush Lane (which still formed part of the proposal at the time of presentation);
- Encouraged green/living roofs and high quality landscaping/public realm;
- Encouraged improvement to the area along Fifield Path such as replacing garage doors, improved surface treatments, better lighting and new tree planting.

61 Considering the design and appearance of the current scheme is similar to the withdrawn planning application, it was not considered necessary to present the proposal back to the LDRP.

## **6 POLICY CONTEXT**

### **6.1 LEGISLATION**

62 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990).

### **6.3 MATERIAL CONSIDERATIONS**

64 A material consideration is anything that, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which they would reach if they did not take it into account.

65 Whether or not a consideration is a relevant material consideration is a question of law for the courts. Decision-makers are under a duty to have regard to all applicable policy as a material consideration.

66 The weight given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the LPA. This report sets out the weight Officers have given relevant material considerations in making their recommendation to Members. Members, as the decision-makers, are free to use their planning judgement to attribute their own weight, subject to the test of reasonableness.

### **6.2 NATIONAL POLICY & GUIDANCE**

- National Planning Policy Framework 2019 (NPPF)
- National Planning Policy Guidance

### **6.3 DEVELOPMENT PLAN**

67 The Development Plan comprises:

- London Plan Consolidated With Alterations Since 2011 (March 2016) (LPP)
- Core Strategy (June 2011) (CSP)
- Development Management Local Plan (November 2014) (DMP)
- Site Allocations Local Plan (June 2013)

### **6.4 SUPPLEMENTARY PLANNING GUIDANCE**

68 Lewisham SPG/SPD:

- Planning Obligations Supplementary Planning Document (February 2015)

69 London Plan SPG/SPD:

- Planning for Equality and Diversity in London (October 2007)
- London View Management Framework (March 2012)
- All London Green Grid (March 2012)
- Play and Informal Recreation (September 2012)
- Sustainable Design and Construction (April 2014)
- Character and Context (June 2014)

- The control of dust and emissions during construction and demolition (July 2014)
- Accessible London: Achieving an Inclusive Environment (October 2014)
- Housing (March 2016)
- Homes for Londoners: Affordable Housing & Viability (August 2017)
- Energy Assessment Guidance (October 2018)

## **6.5 OTHER PLANNING GUIDANCE**

- Draft London Plan (expect 2019): The Mayor of London published a draft London Plan on 29 November 2017 and minor modifications were published on 13 August. The Examination in Public commenced on 15 January 2019 and concluded on 22 May 2019. This document now has some limited weight as a material consideration when determining planning applications. The relevant draft policies are discussed within the report (DLPP)

## **7**      **PLANNING CONSIDERATIONS**

70      The main issues are:

- Principle of Development
- Housing
- Specialist Residential Uses
- Urban Design
- Transport Impact
- Impact on Adjoining Properties
- Sustainable Development
- Natural Environment

## **7.1 PRINCIPLE OF DEVELOPMENT**

### *General policy*

71 The National Planning Policy Framework (NPPF) at Paragraph 11, states that there is a presumption in favour of sustainable development and that proposals should be approved without delay so long as they accord with the development plan.

72 Lewisham is defined as an Inner London borough in the London Plan. LPP 2.9 sets out the Mayor of London's vision for Inner London. This includes among other things sustaining and enhancing its recent economic and demographic growth; supporting and sustaining existing and new communities; addressing its unique concentrations of deprivation; ensuring the availability of appropriate workspaces for the area's changing economy; and improving quality of life and health.

### *Policy*

73 The application site is not located within a town centre or designated shopping frontage. It is not within any of the defined Strategic Industrial Locations, Local Employment Locations or Mixed Use Locations as defined by Core Strategy and is not located within an Area of Archaeological Priority.

74 The London Plan, London Plan Supplementary Planning Guidance (SPG), Core Strategy, Development Management Local Plan, Residential Standards Supplementary Planning Document and other national planning guidance emphasise the importance of high quality design that complements the existing development and establishes suitable character.

75 NPPF Chapter 11 outlines that planning decisions should make effective use of land by promoting and supporting under-utilised land and buildings, particularly where they would contribute to housing need and where sites could be used more effectively.

76 NPPF Chapter 12 seeks to achieve well-designed places and seeks to ensure that developments are visually attractive. London Plan Policy 3.4 supports new housing schemes where the local character and context are well considered, which is in line with DM Policy 33 which resists residential development on existing amenity areas of landscaped open space attached to existing residential development, unless it is of the highest design quality and it relates successfully to the existing design quality of the streetscape.

### **7.1.1 Principle of development conclusions**

77 The proposed development forms part of Lewisham Council's New Homes, Better Places Programme to provide 500 new genuinely affordable homes across the borough.

78 Providing housing, particularly affordable housing is a current priority to tackle the housing crisis in the borough and wider London.

79 In October 2015, Lewisham Mayor and Cabinet was advised of the intended proposals for Council housing on Bampton Estate. Mayor and Cabinet agreed Officers to develop proposals for Bampton Estate as part of the New Homes, Better

Places programme. In February 2018, a report was put to Mayor and Cabinet setting out the s105 consultation and agreed a planning application should be submitted for the construction of 50 new Council homes on the estate for the over 60's demographic. In July 2018 Mayor and Cabinet agreed to appoint a contractor on site for the submitted 50 flat scheme at Bampton Estate. Following significant objection raised relating to the 50 dwelling scheme, Mayor and Cabinet agreed to a revised scheme of 39 Council homes for over 55's and supported the increase tree retention.

- 80 The site will make a valuable contribution towards meeting housing needs as identified in the London Plan Policies 3.3 and 3.4 to increase housing supply and optimising housing potential, taking into account local context and character, design principles and public transport capacity. Furthermore, the London Plan Policy 3.8 identifies the need for Londoners to have a genuine choice of high quality affordable housing, which is considered to be in line with this proposal. The proposal will make use of land and Officers therefore raise no objection to the principle of development, subject to securing a high quality design.



## 7.2 HOUSING

81 This section covers: (i) the contribution to housing supply, including density; (ii) the dwelling size mix; (iii) the standard of accommodation; and (iv) total affordable housing proposed and its tenure split.

### 7.2.1 Contribution to housing supply

#### *Policy*

82 National and regional policy promotes the most efficient use of land.

83 The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. The NPPF sets out the need to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

84 The NPPF encourages the efficient use of land subject to several criteria set out in para 122. Para 123 applies where there is an existing or anticipated shortage of land for meeting identified housing needs and strongly encourages the optimal use of the potential of each site.

85 London Plan Policies (LPPs) 3.3 and 3.4 seek to increase housing supply and to optimise housing output within the density ranges set out in the sustainable residential quality (SRQ) matrix.

86 Emerging Draft LPPs H1, H2 and D6 support the most efficient use of land and development at the optimum density. Defining optimum is particular to each site and is the result of the design-led approach. Consideration should be given to: (i) the site context; (ii) its connectivity and accessibility by walking and cycling and existing and planned public transport (including PTAL); and (iii) the capacity of surrounding infrastructure.

87 The current London Plan sets an annual target of 1,385 new homes until 2025. The emerging draft London Plan, if unchanged, would increase this to 2,117.

88 National and regional policy avoids specifying prescriptive dwelling size mixes for market and intermediate homes.

89 NPPF para 61 expects planning policies to reflect the need for housing size, type and tenure (including affordable housing) for different groups in the community.

90 LPP 3.8 states Londoners should have a genuine choice of homes, including differing sizes and types. Emerging DLPP H12 sets out that an appropriate mix of unit sizes should be informed by several criteria set out in the policy.

91 CSP 1 echoes the above with several other criteria however expects the provision of family housing (3+ bedrooms) in major developments.

92 Determining an appropriate mix of dwelling sizes for a site depend on several criteria in CSP 1, relating to: (i) the site's character and context; (ii) previous or existing use of the site; (iii) access to amenity space for family dwellings; (iv) likely parking demand; (v) local housing mix and population density; and (vi) social and other infrastructure availability and requirements.

### *Discussion*

- 93 The existing estate comprises a total area of 1.85ha and currently provides one-hundred and forty-four (144) dwellings. With an additional thirty-nine (39) dwellings on the estate, the existing density of 78 dwellings per hectare would therefore be increased to 99 dwellings per hectare, which is considered to be in line with the London Plan density range of 70-170 dwellings per hectare for sites in an urban location with a moderate PTAL.
- 94 The proposed thirty-nine (39) social rented dwellings would make a valuable contribution to housing targets set by the Mayor of London, equating to 2.8% of the 1385 dwelling existing target and to be 1.84% of the 2117 dwelling target.

## **7.2.2 Affordable housing**

### ***Percentage of affordable housing***

#### *Policy*

- 95 Core Strategy Policy 1 and Development Management Policy 7 seek to provide a mix of dwellings and provide affordable housing. It confirms that the maximum level of affordable housing would be sought by the Council, with a strategic target of 50% as a starting point for negotiations and subject to the assessment of viability. The policy seeks provision at 70% social rented and 30% intermediate housing (based on total unit numbers).
- 96 The Affordable Housing and Viability SPG (AHV) introduced the threshold approach to viability. Proposals are not required to be supported by viability information where they: (i) deliver at least 35% affordable housing on-site without public subsidy; (ii) are consistent with the relevant tenure split; and (iii) have sought to increase the level about 35% by accessing grant (GLA, 2017, p17).

### ***Affordable housing tenure split and dwelling size mix***

#### *Policy*

- 97 Core Strategy Policy 1 requires major residential development (10 or more dwellings) to provide a proportion of family sized dwellings (three + bedrooms) to create a balanced mix of dwellings and DM Policy 7 gives priority to providing family dwellings.

#### *Discussion*

- 98 The proposed development would provide thirty-nine (39) new dwellings of which 100% would be for social rent. As the accommodation proposed is a specialised housing need for older people (55+), the proposal for all dwellings to be provided as 1 BED dwellings is justified to meet demand and identified as appropriate by Lewisham Homes and Strategic Housing.
- 99 The proposal would provide thirty-nine (39) 100% affordable dwellings for social rent within an existing estate comprising a high density of social rented housing. Whilst the proposed development would not achieve the 70:30 split in favour of social rented dwellings as specified by the Core Strategy, Officers consider the

proposal to be acceptable in this instance given the urgent need for social rented dwellings within the borough.

- 100 Throughout consultation, concern was raised regarding the cost of the application and build, which is acknowledged as a material planning consideration. Lewisham Council is experiencing a significant increase in the number of households facing homelessness and requiring housing assistance. Since 2010 the Council has witnessed a significant increase in the number of households in Temporary Accommodation (TA), whilst the number of available social housing lets has almost halved. This reduction in available Council Housing stock is placing a significant strain across Council housing services, including the provision of suitable, high quality and well-designed TA. It is also forcing the Council to utilise expensive private B&B/Nightly Paid emergency accommodation, which can often be of a poor quality, operating basic shared facilities and located in areas outside of an individual's local support network. Over 2200 people currently live in TA in Lewisham, of which approximately 630 people occupy expensive nightly paid/B&B accommodation. In 2018/2019 the Council spent £3.6m on temporary accommodation, which is a significant expenditure for the Council and therefore supports the urgent need for permanent, high quality social housing.
- 101 As such, Officers consider that the proposed development therefore meets the requirements of Core Strategy 1 and significantly contributes to providing affordable housing for the aging community in the borough.

### ***Dwelling Size***

#### *Policy*

- 102 National and regional policy avoids specifying prescriptive dwelling size mixes for market and intermediate homes.
- 103 NPPF para 61 expects planning policies to reflect the need for housing size, type and tenure (including affordable housing) for different groups in the community.
- 104 The London Plan Policies 3.3 and 3.4 seek to increase housing supply and optimise housing potential, taking into account local context and character. Furthermore, the London Plan Policy 3.8 identifies the need for Londoners to have a genuine choice of high quality affordable housing, which is considered to be in line with this proposal.
- 105 Core Strategy Policy 1 echoes the above with several other criteria however expects the provision of family housing (3+ bedrooms) in major developments including the site's character and context; previous or existing use of the site; access to amenity space for family dwellings; likely parking demand; local housing mix and population density; and social and other infrastructure availability and requirements.

#### *Discussion*

- 106 The proposed development comprises thirty-nine (39) self-contained residential units.
- 107 All dwellings are purposefully designed to the 'HAPPI' guidelines with the intention to relieve housing need, specifically for over 55's. The provision of 100% 1BED

dwellings, in this scenario, is therefore considered to acceptable and is supported by Officers as they provide self-contained, adaptable homes with private amenity space and achieve good standards of accommodation for the Council's aging population.

### ***Summary of Affordable housing***

- 108 The proposal is for 100% affordable social rented housing in accordance with DM Policy 7 and 32 and London Plan Policies 3.10, 3.11 and 3.13 and exceeds the requirement of DM Policy 7, however when providing genuinely affordable housing is considered acceptable. The development would not meet the requirements of Core Strategy 1 in providing family sized dwellings, however the specialised need for older peoples accommodation is acknowledged and supported.

### **7.2.3 Residential Quality**

#### *General Policy*

- 109 NPPF para 127 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. This is reflected in relevant policies of the London Plan (LPP 3.5), the Core Strategy (CS P15), the Local Plan (DMP 32) and associated guidance (Housing SPD 2017, GLA; Alterations and Extensions SPD 2019, LBL).
- 110 The main components of residential quality are: (i) space standards; (ii) outlook and privacy; (iii) overheating; (iv) daylight and sunlight; (v) noise and disturbance; (vi) accessibility and inclusivity; and (vii) children's play space.

#### ***Internal space standards***

##### *Policy*

- 111 The Technical Housing Standards (2015), Mayors Housing Supplementary Planning Guidance (SPG), London Plan Policy 3.5 and DM Policy 32 set out or make reference to the minimum internal space standards to achieve housing development that provides the highest quality of space externally in relation to its context.
- 112 The London Plan Policy 3.5 seeks to achieve housing development that provides the highest quality of space internally and externally in relation to its context.

##### *Discussion*

- 113 Any single storey 1BED/2P dwelling, as outlined by The London Plan is required to provide a minimum 50m<sup>2</sup> Gross Internal Area (GIA) with a minimum of 1.5m<sup>2</sup> built-in storage. All of the proposed dwellings would meet or exceed the minimum GIA and storage standards.

#### ***Outlook & Privacy***

##### *Policy*

- 114 DM Policy 32 expects all new development to provide a satisfactory level of privacy, outlook and natural lighting for both its future residents, which is also

supported by the Mayors Housing SPG. Furthermore, The London Plan Policy 5.3 requires the highest standards of sustainable design and construction to be achieved, including the avoidance of single-aspect units. The Lewisham Residential Development Standards SPD also requires a flexible 21m distance between habitable windows on main rear elevations.

#### *Discussion*

- 115 There are scenarios where the development does not comply with the flexible separation distance of 21m. The closest relationship between the proposed dwelling and existing residential property is with No. 19 Bampton, which represents a minimum habitable room window to habitable room window distance of 14.2m. Standlake Point also represents a habitable window separation between the proposed development of 19m. Notwithstanding that, the separation distances from most surrounding residential properties are well in excess of the Council's recommended minimum standards and it is therefore considered the outlook and privacy received in the proposed dwellings would be of an acceptable standard.
- 116 DM Policy 32 also assesses whether the proposed accommodation would provide a good outlook and adequate privacy. The design proposes all dwellings to be at least dual aspect and balconies to be inset with built-in brick planters for increased privacy. Private terraces and perimeter planting are proposed to the ground floor amenity spaces, which will help to reduce direct overlooking between amenity spaces. The closest separation distance between amenity spaces is over 20m.
- 117 Owing to the careful 'U' shape design, there is no scenario of habitable windows directly facing one and other.

#### **Overheating**

##### *Policy*

- 118 London Plan Policies 5.3 and 5.9 seek to avoid internal overheating through design, materials, construction and operation of the development. The Mayors Housing SPG also demonstrates that development proposals should achieve an appropriate design of dwellings to avoid overheating without heavy reliance on energy intensive mechanical cooling systems.

##### *Discussion*

- 119 The inclusion of dual aspect dwellings would allow for better daylight and reduce overheating which is supported.

#### **Daylight and Sunlight**

##### *Policy*

- 120 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its future residents.
- 121 Daylight and sunlight is generally measured against the Building Research Establishment (BRE) standards. This is not formal planning guidance and should be applied flexibly according to context. The BRE standards set out below are not a mandatory planning threshold.

122 In new dwellings, the BRE minimum recommended average daylight factor (ADF) is 1 % for bedrooms, 1.5% for living rooms and 2 % for kitchens.

#### *Discussion*

123 The Daylight and Sunlight Study (Within Development) undertaken, determined that approximately 93% of all rooms achieve or exceed the minimum recommended Average Daylight Factor (ADF), which is considered to be a high level of compliance in an urban context. This result found that only six (6) of the seventy-eight (78) windows didn't meet the ADF targets.

124 Failing windows receive an ADF of between 1.4-1.9% where 2% is considered to be a passing result. These six (6) windows all support proposed Living/Dining/Kitchen rooms.

125 The study further found that not all living room windows (36%) receive ideal levels of direct sunlight with fourteen (14) of the thirty-nine (39) living rooms passing both the total annual sunlight hours test and the winter sunlight hours test. With consideration to such, BRE does acknowledge that for larger developments of flats, it may not always be possible to achieve full compliance owing to design constraints. This result is due in part to design with inset balconies which results in shading and therefore reduced sunlight, however on balance this provides more secure and private amenity space, which is supported.

126 Overall, Officers acknowledge that a major development may result in some dwellings not receiving the recommended internal daylight and sunlight levels, however on balance it is considered that the proposal achieves a satisfactory level of residential amenity and that all units would have good outlook through being at least dual aspect with corner units achieving a triple aspect.

#### **Noise & Disturbance**

##### *Policy*

127 The NPPF at para 170 states decisions should among other things prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution. Development should help to improve local environmental conditions. Para 180 states decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

128 Planning controls the effect of noise from external sources on residential uses and noise transmission between different uses. The relevant standard is BS: 8233:2014. This states the internal noise levels within living rooms must not exceed 35dB(A) during the daytime (0700-2300) and 30 dB(A) in bedrooms during the night –time (2300-0700).

129 With respect to external areas, BS 8233:2014 recommends that external noise level does not exceed 50dB LAeq,T with an upper guideline of value of 55dB LAeq,T

- 130 The NPPG states LPAs should consider noise when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment and in doing so consider:
- whether or not a significant adverse effect is occurring or likely to occur;
  - whether or not an adverse effect is occurring or likely to occur; and
  - whether or not a good standard of amenity can be achieved

- 131 The objectives of the NPPF and NPPG are reflected in LPP 7.15, DLPP D1,D12 and D13, CS Objective 5 and DMP 26

*Discussion*

- 132 An Environmental Noise Assessment has been carried out to assess the potential noise impact of existing environmental noise sources on the proposed development. The study found that the noise levels were observed to be consistent across the site and were predominately owing to traffic noise. Indoor noise levels were found to be reasonably consistent and the internal ambient noise levels will not exceed lowest-observed-adverse-effect level (LOAEL) in relation to internal amenity.

- 133 Interior and exterior design noise levels have been assessed and found that all noise levels inside the rooms slightly exceed the target noise levels in an open window scenario and therefore closed windows with trickle vents should be considered for primary ventilation. Furthermore the results show that typical thermal double-glazed windows are capable of providing acceptable internal noise levels.

***Accessibility and inclusivity***

*Policy*

- 134 The Local Plan Policy 3.8 requires 10% of residential units to be designed to Building Regulation standard M4(3) 'wheelchair user dwellings' and therefore be wheelchair accessible, or easily adaptable for residents who are wheelchair users, with the remaining 90% to M4(2) 'accessible and adaptable dwellings'.

- 135 Core Strategy Policy 1 requires major schemes to provide 10% of all units and each tenure type to be constructed as accessible. DM 32 states that the Council will require new build housing to be designed to ensure that internal layout and external design features provides housing that is accessible to all intended users.

*Discussion*

- 136 The proposed development has been designed to comply with Part M of the building regulations. In accordance with policy, the flats are designed to meet Building Regulations Part M4 with 90% (35 dwellings) meeting M4(2) to be Accessible and Adaptable and 10% (4 dwellings) to be M4(3) Wheelchair User Dwellings. All wheelchair user dwellings would be provided at ground floor.

- 137 Overall, the proposed standard of accommodation and private/public amenity space proposed for each unit are considered to be acceptable and policy compliant.

- 138 All proposed disability parking bays would be provided on Windrush Lane to the rear of the proposed building, along the boundary of the rear gardens of properties at Perry Vale. The parking bays would be allocated with stainless steel symbol inserted into the paving.

### ***External space standards and ballcourt***

#### *Policy*

- 139 The Technical Housing Standards (2015), Mayors Housing Supplementary Planning Guidance (SPG), London Plan Policy 3.1 and DM Policy 32 set out or make reference to the minimum space standards required for amenity space to achieve housing development that provides the highest quality of space externally in relation to its context.
- 140 Standard 4 of the Housing SPG states that, where communal open space is provided, development proposals should demonstrate that the space: is overlooked by surrounding development; is accessible to disabled people including people who require level access and wheelchair users; and is designed to take advantage of direct sunlight; has suitable management arrangements in place.

#### *Discussion*

- 141 Specifically, the Housing SPG requires private outdoor amenity space standards to provide a minimum of 5m<sup>2</sup> for any 1-2 dwelling with a minimum depth of 1500mm, which is met or exceeded in all circumstances.
- 142 All residents will have access to the level communal central courtyard, re-provided ballcourt and open space within the estate, which would be provided in addition to the private outdoor amenity space.

### ***Children's play space***

#### *Policy*

- 143 LPP3.6 states housing proposals should make provision for play and informal recreation.
- 144 The Mayor's Shaping Neighbourhoods: Children and Young People's Play and Informal Recreation SPG recommends 10sqm of play space per child. The GLA divide the requirements of children's play space into three categories: (i) under 5s, described as doorstep play and generally considered as part of the plot; (ii) ages 5-11; and (iii) children 12 plus.

#### *Discussion*

- 145 Given that the proposal is for specialised aged care for over 55's, no designated children's play space is required to be provided, however the re-provided ballcourt will ensure the existing children's play space is not lost. The nature of the proposal includes landscaping improvements within the estate, which will also contribute to improved formal and informal playspace for children within the estate.



## **7.2.4 Housing conclusion**

- 146 The proposal contributes to the Council's New Homes Programme by creating 100% new social rented Council homes on secure tenancies to households on Lewisham's Housing Register. In July 2018, there were 272 people qualifying for over 55's accommodation on the register, of which 50% are actively bidding. Average waiting times for a new home is 633 days.
- 147 The current application helps to address this demand and is in line with the Council's Housing Strategy. The Strategy states that 'In particular we need to ensure that there is an increase in the supply of affordable homes for those who have least capacity to pay unaffordable market rents' and from this, a key objective of the Strategy is to build the homes the borough's residents need.
- 148 Throughout consultation residents raised concern with regard to securing the development for the intended demographic. The provision of 1BED dwellings is specifically appropriate to over 55's and given that the application seeks permission specifically for over 55's, 100% social rented dwellings it is therefore secured as such in Conditions 29 and 30.
- 149 The site will make a valuable contribution towards meeting affordable housing needs as identified in the London Plan Policies 3.3 and 3.4 to increase housing supply and optimising housing potential in a sustainable urban location making efficient use of the land. Furthermore, the London Plan Policy 3.8 identifies the need for Londoners to have a genuine choice of high quality affordable housing, which is considered to be in line with this proposal. The proposal will make use of openspace and officers therefore do not raise an objection to the principle of development, subject to securing a high quality design.

## **7.3 SPECIALIST RESIDENTIAL USES**

### *Policy*

- 150 NPPF seeks to ensure that the needs of groups with specific housing requirements are addressed, more specifically DM Policy 5 aims to ensure specialist accommodation for older people is provided in the appropriate locations, which is also consistent with The London Plan Policy 3.1, 3.5 and 3.8.

### *Discussion*

- 151 It is considered that specialist accommodation for older people meets specific need and as the ageing population increases, the Council needs to ensure it can meet demand for such by providing suitable housing.
- 152 Specialist accommodation is supported by the Council where it is well designed to meet the specific requirements of the intended residents and their social, physical, mental and/or health care needs and where development proposals provide easy access to public transport, shops, local services, community facilities and social networks.
- 153 All dwellings would be built to the Housing our Ageing Population: Panel for Innovation (HAPPI) Guidelines, which specifically considers accessibility and inclusivity elements.

- 154 'HAPPI' dwellings should include generous internal space standards, natural light, balconies and outdoor space, circulation of spaces that encourage interaction, plants, trees and a natural environment, extra storage and shared facilities.
- 155 Careful design and consideration including level entry to all entrances and external spaces, level entry shower rooms, large bathrooms and sliding doors have all been incorporated in the design to ensure they are fit for purpose, which is supported.
- 156 As outlined in DM Policy 5, Lewisham's Strategic Housing Market Assessment indicated that when published, 17.9% of households in Lewisham were all older people and the proportion of older households that live in the social rented sector accounts for 44% of all older person households in the borough. Furthermore, it confirmed that around 20% of older person households likely to consider sheltered housing or a flat in a block specifically built for older people.
- 157 On this basis, Officers are satisfied that the proposal would deliver high quality and much needed genuinely affordable housing for older people in the borough.

## **7.4 URBAN DESIGN**

### *General Policy*

- 158 The NPPF at para 124 states the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG encourages decision takers to always secure high quality design; this includes being visually attractive and functional, however other issues should be considered.
- 159 LPP 7.6 requires development to positively contribute to its immediate environs in a coherent manner, using the highest quality materials and design.
- 160 CSP 15 repeats the necessity to achieve high quality design. DMP 30 states that all new developments should provide a high standard of design and should respect the existing forms of development in the vicinity.
- 161 Paragraph 197 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account and that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 162 LPP 7.8 states that developments that could affect the setting of heritage assets should be developed with a scale and design sympathetic to the heritage assets. CSP 16 requires designated and non-designated heritage assets and Conservation areas and their settings to be protected, preserved and/or enhanced through new development and changes of use. DMPs 37 and 38 echo this for non-designated heritage assets.

### **7.4.1 Appearance and character**

#### *Policy*

- 163 Planning should promote local character. The successful integration of all forms of new development with their surrounding context is an important design objective (NPPG).
- 164 In terms of architectural style, the NPPF encourages development that achieves well designed places, specifically development that is sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (para 127). At para 131, the NPPF states great weight should be given to outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area.

#### ***Form, Scale and Layout***

#### *Policy*

- 165 The London Plan Policy 7.1 seeks to shape places by providing lifetime neighbourhoods and outlines the design of new buildings and the spaces they create should help reinforce or enhance the character, legibility, permeability, and accessibility of their location. Furthermore, London Plan Policy 7.4 states that

buildings, street and open spaces should provide a high-quality design that has regard to pattern and grain of the existing spaces and streets, scale, proportion and mass. The London Plan Policy 7.6 states that buildings should be of a proportion, composition, scale and orientation that enhances, activates and appropriately defines the public realm and further that the building form and layout of new developments should have regard to the density and character of the surrounding development.

- 166 The development has carefully considered designing out crime in accordance with DM Policy 32, London Plan Policy 7.3 and Core Strategy 15 and fear of crime also identified within paragraph 91 of the NPPF (2018). The entrance of the buildings will be safe as they are clearly defined and visible from the street through the use of materiality contrast and lighting in accordance with DM Policy 27.

#### *Discussion*

- 167 The scale, massing and articulation of the proposed flats block have been the subject of extensive discussion between Officers and the applicant during pre-application stage and DRP as well as public consultation and further shaped by input from local residents. The proposed development considers its immediate surroundings and wider context. The building is considered to be of an appropriate proportion, scale and orientation to its surroundings.

- 168 The proposal presents a stepped massing of part three/part four/part five storeys ranging in height from approximately 10.9m – 18.0m, which is considerably lower than the three (3) existing tower blocks on the estate which present eleven (11) storeys in height, however would be noticeably taller than the predominate 2-4 storey surrounding context.

- 169 Furthermore, while it is acknowledged that the adjoining properties to the north-east along Perry Vale do form part of the Perry Vale and Christmas Estate Conservation Area, the dwellings are separated from the building by 49.3m to 55.9m and therefore the impact on their setting would be minimal, with some elements of height being seen from the rear garden of the properties.

- 170 It is acknowledged the development would give rise to a considerable increase in scale and massing comparative to the existing ballcourt and open space area, however the stepped massing is considered to sit comfortably in the context.

- 171 The previous scheme (DC/18/106504) proposed a part 4/part 5 storey building to comprise fifty (50) flats within an 'L' shaped design. The design has since been reduced in height and bulk on the north-western façade to now provide a 'U' shaped 39 dwelling block, which is considered to present a more comfortable relationship with the existing dwellings on Fifield Path. The north-eastern and eastern elements remain largely unchanged.

#### ***Detailing and Materials***

##### *Policy*

- 172 Lewisham Residential Standards Document sets out guidance relating to design, development, layout and materials. The London Plan Policy 7.6 and DM Policy 32 seek to ensure buildings are of a high architectural quality, and comprise details

and materials that complement the local architectural character without necessarily replicating it.

#### *Discussion*

- 173 The proposal aims to use predominately brick, timber cladding and precast concrete panelling.
- 174 The surrounding area is comprised of predominately red brick and concrete detailing. The proposal has considered this and uses them to create a dialogue with the trees and landscape in an effort to apply a domestic feel while referring to the natural aspect of the site.
- 175 The site proposes predominately red brick and concrete in an effort to tie into the existing context. Brick ribs define the top storey and extend down two storeys at the corners of the building. The remainder of the building is pre-cast in concrete panels from the ground floor to the 5<sup>th</sup> floor including the entrance with an alternative treatment to the cores for separation.
- 176 The design has considered dementia friendly principles and therefore no strong contrast colours/textures are proposed to be used as surface treatment on the finished floor.
- 177 Brick planters are proposed on the upper floor walkways to provide privacy to the balconies, while they maintain a feeling of openness to create social interaction. A contrast of light and dark grey concrete pavers would also help to define the private entrances from the public walkway.
- 178 White powder coated railings, timber handrails and battens are also proposed to the balconies and walkways along with the integrated planters.
- 179 The proposed material palette is considered to be high quality and the final details would be secured by Condition.

### **7.4.2 Public Realm**

#### *Policy*

- 180 The London Plan Policy 7.5 seeks to deliver high quality public realm that is secure, accessible, inclusive, connected and easy to understand and maintain.

#### *Discussion*

- 181 In addition to the proposed thirty-nine (39) dwellings, the proposal also includes associated landscaping throughout the estate, communal courtyard and re-provision of the ballcourt. Predominately the landscaping intention has been shaped around seeking to maintain the connecting routes through the estate, while maximising existing tree retention, supporting a safe pedestrian environment and improving cycle connections.
- 182 The new residential courtyard has been designed to provide a common space between the dwellings as additional amenity space for the enjoyment of residents. Given the intended demographic the design elements of the courtyard include a combination of ramped, stepped and level access for ease of access, wide and flat

paths for legibility, raised beds and perimeter planting for food growing and wayfinding assistance, water feature, outdoor seating and a wide range of specimen planting.

- 183 The proposed wider landscape improvements to the existing estate are predominately proposed to Windrush Lane to improve the access for pedestrians, cyclists, refuse collection and emergency services.
- 184 The main features of the overall hard and soft landscape improvements include mature tree planting, planted rain garden and entrance planting. A raised table is also proposed to further integrate the proposed building with the existing tower blocks.
- 185 Increased lighting, informal seating and street furniture and Sheffield cycle parking are also proposed.
- 186 Additionally, the existing pedestrian footpaths and refuse provision are proposed to be formalised.
- 187 As part of the proposal, the existing ballcourt would be re-located from its existing north-eastern location to the eastern side of the estate, adjacent to existing properties on Fifield Path. Residents raised concern regarding the loss of the ballcourt during construction, however a Condition would be attached to ensure a staged development would ensure the ballcourt is re-provided before the existing one is demolished.
- 188 Multiple locations for the re-provided ballcourt were considered through a Strengths, Weakness, Opportunity and Threats (SWOT) analysis with consideration predominately to tree loss, slope, existing buildings and relationship with Windrush Lane.
- 189 The proposed location was considered to be optimal as the ballcourt is highly visible and accessible, a like-for-like provision can be achieved, existing tree root protection areas are respected as much as possible and opportunity exists for complementary play within close proximity to the part-open ballcourt.
- 190 Representations were made in relation to the acceptability of the proposed ballcourt location as residents don't believe the location to be as safe as the existing location, nor would it replicate the existing organic play scenario. However, as outlined in this report and supporting documentation, extensive consideration was given to the location of the replacement ballcourt and it was concluded that on balance the proposed location was the most appropriate.
- 191 Representations were also made in relation to the safety of the location as residents believed the proposed location would give rise to balls escaping the court and leading to conflict between children and cars, however Officers consider that the proposed 3.0m high ballcourt fence and traffic calming measure are appropriate to mitigate such.

### **7.4.3 Accessibility and inclusivity**

#### *Policy*

192 The London Plan Policy 7.2 seeks to achieve an inclusive environment in all new development by providing the highest standards of accessible and inclusive design. The Mayors Accessible London SPG also outlines and advises who accessible and inclusive design can be achieved. DM Policy 35 aims to design public spaces to be safe, inclusive, accessible, attractive and robust.

#### *Discussion*

193 With consideration to the ageing demographic of the proposed development (over 55's), significant design consideration has been given to ensuring that the building and surrounding area is accessible and social. The intention of the design is to encourage interaction between not only the future residents but also the existing residents of the Bampton Estate.

194 The proposal includes two cores linked by external walkways for ease of accessibility.

195 All dwellings would be built to the Housing our Ageing Population: Panel for Innovation (HAPPI) Guidelines, which specifically considers accessibility and inclusivity elements.

196 The proposed development has been designed to comply with Part M of the building regulations. In accordance with policy, the flats are designed to meet Building Regulations Part M4 with 90% (35 dwellings) meeting M4(2) to be Accessible and Adaptable and 10% (4 dwellings) to be M4(3) Wheelchair User Dwellings, which are all located at Ground Floor.

197 Consideration has also been given to safety and access in the event of fire or emergency. The applicant has provided a floor-by-floor fire strategy which illustrates the escape routes, final exit points and hose route/lengths. All walkways at ground floor provide points of escape and stair cores on floors above also provide safe points of escape. All floor fire strategies also illustrate appropriate hose lengths ranging from 30.5m to 45m, which is considered to be acceptable.

### **7.4.4 Impact on Heritage Assets**

#### *Policy*

198 Heritage assets may be designated—including Conservation Areas, Listed Buildings, Scheduled Monuments, Registered Parks and Gardens, archaeological remains—or non-designated.

199 Section 72 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives LPAs the duty to have special regard to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

200 Relevant paragraphs of Chapter 16 of the NPPF set out how LPAs should approach determining applications that relate to heritage assets. This includes giving great weight to the asset's conservation, when considering the impact of a proposed development on the significance of a designated heritage asset. Further,

that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset that harm should be weighed against the public benefits of the proposal.

- 201 LPP 7.8 states that development should among other things conserve and incorporate heritage assets where appropriate. Where it would affect heritage assets, development should be sympathetic to their form, scale, materials and architectural details. DLPP HC1 reflects adopted policy.
- 202 CSP 16 ensures the value and significance of the borough's heritage assets are among things enhanced and conserved in line with national and regional policy.
- 203 DMP 36 echoes national and regional policy and summarises the steps the borough will take to manage changes to Conservation Areas, Listed Buildings, Scheduled Ancient Monuments and Registered Parks and Gardens so that their value and significance as designated heritage assets is maintained and enhanced.

#### *Discussion*

- 204 Officers consider that the current proposal would lead to less than substantial harm to the adjoining Perry Vale and Christmas Estate Conservation Area.
- 205 The site does not contain any statutory Listed Buildings on or within close proximity to the site, nor is it an Area of Archaeological Priority.
- 206 It is not located within a Conservation Area, however adjoins part of the Perry Vale and Christmas Estate Conservation Area, designated in January 2019. The Forest Hill and Sydenham Conservation Areas are located further west, separated by the existing railway line at Forest Hill running north to south.
- 207 The adjoining Conservation Area also includes an 18th century cottage (now Rose and Ichthus Cottages at 118 and 118a Perry Vale). These buildings are included on the Council's local list and are considered to be sufficiently separated for assessment from the proposed building, and its setting is not considered to be unreasonably impacted on.
- 208 The detached houses at Numbers 108 to 116 Perry Vale, located to the north-east, form part of the Perry Vale and Christmas Estate Conservation Area as they were Christmas's first large scale residential development and replaced earlier and more widely spaced Victorian villas (such as the surviving Number 106). The impact on these properties is discussed further in section 7.6 of this report.

#### *Summary*

- 209 Officers, having regard to the statutory duties in respect of listed buildings in the Planning (Listed Buildings and Conservation Areas) Act 1990 and the relevant paragraphs in the NPPF in relation to conserving the historic environment, are satisfied that the public benefits clearly outweigh the less than substantial harm identified above to the adjoining Conservation Area.

#### **7.4.5 Urban design conclusion**

- 210 In conclusion, Officers are satisfied that the proposal would deliver a scheme of high quality design and landscaping strategy that would enhance the site while



providing much needed affordable housing. The applicant has engaged with officers at pre-application stage consistently and responded to formal feedback in addition to presenting the scheme to the Council's Design Review Panel to ensure the proposal is considered to be of an appropriate design and scale.

## 7.5 TRANSPORT IMPACT

### *General policy*

- 211 Nationally, the NPPF requires the planning system to actively manage growth to support the objectives of para 102. This includes: (a) addressing impact on the transport network; (b) realise opportunities from existing or proposed transport infrastructure; (c) promoting walking, cycling and public transport use; (d) avoiding and mitigating adverse environmental impacts of traffic; and (e) ensuring the design of transport considerations contribute to high quality places. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and a choice of transport modes.
- 212 Para 109 states “Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.
- 213 Regionally, the Mayor’s Transport Strategy (‘the MTS’, GLA, March 2018) sets out the vision for London to become a city where walking, cycling and green public transport become the most appealing and practical choices. The MTS recognises links between car dependency and public health concerns.
- 214 The Core Strategy, at Objective 9 and CSP14, reflects the national and regional priorities.

### 7.5.1 Access

#### *Policy*

- 215 The NPPF requires safe and suitable access for all users. Paragraph 108 states that in assessing applications for development it should be ensured that appropriate opportunities to promote sustainable transport modes can – or have been taken up and that amongst other things safe and suitable access to the site can be achieved for all users.
- 216 CSP 14, amongst other things, states that the access and safety of pedestrians and cyclists will be promoted and prioritised; that a restrained approach to parking provision will adopted; and that car-free status for new development can only be assured where on-street parking is managed so as to prevent parking demand being displaced from the development onto the street.
- 217 DMP 29 identifies that car limited major residential will be supported in areas with a PTAL of 4 or above and that amongst other factors development should not have a detrimental impact on on-street parking provision in the vicinity. It outlines that measures such as car-clubs and cycle storage will be expected to ensure that sustainable transport modes are encouraged.

#### *Discussion*

- 218 Vehicular access is currently gained from Perry Vale via Windrush Lane, which forms a head at Standlake Point and does not provide a through-route. Access can also be gained from Inglemere Road to another parking area, terminating at Radcot Point.

- 219 The previous application proposed a vehicle link through the estate to connect Perry Vale to Bampton Road, which is no longer proposed. A 3.0m wide shared cycle and pedestrian through route and increased landscaping is now proposed instead, which is considered to be a positive improvement for pedestrians, cyclists and the wider estate.
- 220 Highways Officers have requested a s278 Condition to be attached to any permission to secure:
- Improvement works to the footways adjacent to the site, at the Windrush Lane/Perry Vale junction (including the installation of tactile paving and dropped kerbs);
  - The installation of dropped kerbs and tactile paving on the public Highway at the vehicular access into the estate from Inglemere Road; and
  - Improvement works to the informal crossing at the Sunderland Road/Perry Vale junction, to improve the pedestrian accessibility between the application site and the eastbound bus stop on Perry Vale.

## **7.5.2 Servicing and refuse**

### *Policy*

- 221 The NPPF states development should allow for the efficient delivery of goods and access by service and emergency vehicles.
- 222 LPP 6.13 requires schemes to provide for the needs of businesses and residents for delivery and servicing and LPP 6.14 states that development proposals should promote the uptake of Delivery and Service Plans.
- 223 DMP 17 requires applications for A3 uses to provide acceptable arrangements for the collection, storage and disposal of bulk refuse.
- 224 Storage facilities for waste and recycling containers should meet at least BS5906:2005 Code of Practice for waste management in Buildings in accordance with London Plan Housing Supplementary Planning Guidance (2016) standard 23.

### *Discussion*

- 225 There are two identified refuse store locations within the proposal including Windrush Lane (adjacent to the Tank Room) and at the entrance to the courtyard fronting Fifield Path. Broadly, the servicing and refuse collection will continue to be undertaken as per the existing arrangement on site via Windrush Lane, where the bins will be stored on collection day, and Radcot Point access roads.
- 226 The residential refuse strategy proposes bin store including 5 x 240L refuse bins, 4 x 240L recycling bins, 1 x 1100L refuse bin and 1 x 1100L located at ground floor. The residents would take the waste to the bin store and caretakers would take the bins to the collection points on collection day at a maximum pull length of 41.3m

- 227 There are designated bin stores on all floors. From first to fifth floor the maximum distance from door to bin store would be 40.4m, and the maximum distance from door to bin store would be 33.6m, which is considered to be acceptable with consideration to the intended demographic. The proposed wheelchair flats proposed at ground floor would be able to access the refuse store via the level access walkways to the dedicated bin zones.
- 228 The detail submitted with the application identifies that a 11.2m refuse vehicle would be able to collect refuse in a forward motion from Windrush Lane by turning around at the head to the north of the proposed building.
- 229 A swept path provided by the applicant also identifies a 7.9m pumping appliance (Fire Engine) could also enter and exit Windrush Lane in a forward motion.
- 230 A Delivery and Servicing Plan would be conditioned to secure the details of all future deliveries and services.

### **7.5.3 Transport modes**

#### ***Walking, Cycling and Public Transport***

##### *Policy*

- 231 Paragraph 110 of the NPPF states that development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring area.
- 232 Development should create places that are safe, secure and attractive, minimising the scope for conflicts between pedestrians, cyclists and vehicles
- 233 LPP 6.9 sets out to bring a significant increase in cycling to at least 5% of modal share by 2026, supported by the implementation of Cycle Superhighways and the central London cycle hire scheme and provision of facilities for cyclists including secure cycle parking and on-site changing and shower facilities for cyclists.
- 234 The London Plan Housing SPG Standard 20, London Plan Policy 6.9 and DM Policy 29 state that all developments should provide dedicated storage space for cycles at the following level:
- 1 per studio and one bed
  - 2 per all other dwellings

In addition, one short stay cycle parking space should be provided for every 40 units.

##### *Discussion*

- 235 A total of forty (40) cycle spaces are proposed for the flats at a 1:1 ratio, which would be contained within two (2) secure stores at ground floor. All proposed cycle storage will be secure and dry. An additional seven (7) Sheffield cycle stands are provided on the street by Standlake Point.
- 236 In addition to the cycle parking, twelve (12) dry and secure mobility parks are also proposed for the future residents.

- 237 Both cycle stores are made up of flexible spaces to futureproof the storage, should it be identified at some point in the future there is a surplus of cycle parking and demand for scooter parking. A condition would be attached to secure the details of such.
- 238 The number of cycle spaces is in accordance with the London Plan and as such is considered acceptable.
- 239 The site is located within an area with good accessibility to public transport, with a PTAL of 3.

***Private cars (include disabled and electric charging points)***

*Policy*

- 240 LPP 6.13 seeks to ensure a balance is struck to prevent excessive car parking provision that can undermine cycling, walking and public transport use and through the use of well-considered travel, plans aim to reduce reliance on private means of transport. Table 6.2 Car parking standards in the London Plan states that all residential developments in areas of good public transport accessibility should aim for significantly less than one space per unit. It also requires that developments must provide for the needs of disabled users.
- 241 CSP 14 states that the Council will take a restrained approach to parking provision. DMP 29 requires wheelchair parking to be provided in accordance with best practice standards and London Plan Standard 18 requires designated wheelchair accessible dwellings to have a designated disabled car parking space.
- 242 DMP 29 states that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

*Discussion*

- 243 The proposal includes the provision of formalised parking layouts along Windrush Lane to provide an uplift of twenty (20) new dedicated parking spaces, five (5) of which are proposed to be wheelchair accessible bays in addition to the one (1) existing accessible parking bay which will remain. All parking would remain un-allocated, except for accessible parking bays, which would be marked.
- 244 Highways Officers raised no objection to the demolition of the seven (7) existing garages as their dimensions mean they are unsuitable for parking modern vehicles and therefore consider that their loss would not add to parking demand within the estate.
- 245 Highways Officers further consider that the proposed reconfiguration of parking would help to address the informal parking that currently occurs within the estate and support the proposed raised table and traffic calming to reduce speeds and encourage pedestrian movements; thereby improving the pedestrian environment. Furthermore, they confirm the independent parking survey undertaken observed there was parking available on-street beyond the site boundary of the estate and therefore any increased parking would be comfortably accommodated as a result of the development proposals.

- 246 Additionally, nine (9) spaces will be provided as Electric Vehicle Charging Points (EVCP) and a further nine (9) spaces as passive spaces. The details of such have would be secured by Condition.
- 247 A Travel Plan and Parking Management Plan would be conditioned to help promote sustainable and active travel, discourage car-use and manage parking within the estate. This will help further mitigate against increased on-street demand for parking.

**Transport impact conclusion**

- 248 Subject to the proposed Conditions, the development proposal would not result in harm to the local highway network or pedestrian or highway safety.

## **7.6 IMPACT ON ADJOINING PROPERTIES**

### *General Policy*

- 249 NPPF para 127 sets an expectation that new development will be designed to create places that amongst other things have a 'high standard' of amenity for existing and future users. At para 180 it states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health and living conditions.
- 250 This is reflected in relevant policies of the London Plan (LP7.6), the Core Strategy (CP15), the Local Plan (DMP32) and associated guidance (Housing SPD 2017, GLA).
- 251 DMP 32(1)(b) expects new developments to provide a 'satisfactory level' of privacy, outlook and natural lighting for its neighbours.
- 252 Further guidance is given in Housing SPD 2017, GLA.

### **7.6.1 Enclosure, Outlook and Privacy**

#### *Policy*

- 253 Overbearing impact arising from the scale and position of blocks is subject to local context. Outlook is quoted as a distance between habitable rooms and boundaries.
- 254 Privacy standards are distances between directly facing existing and new habitable windows and from shared boundaries where overlooking of amenity space might arise.
- 255 LPP 3.5 focuses on standards in new development, with the Mayor of London's Housing SPG noting that former commonly used minimum separation distances between habitable rooms of 18 – 21 metres may be useful guides, but advocates a more flexible approach to managing privacy.

Discussion

256 The proposed building has been carefully positioned to ensure overlooking is minimised as much as possible.

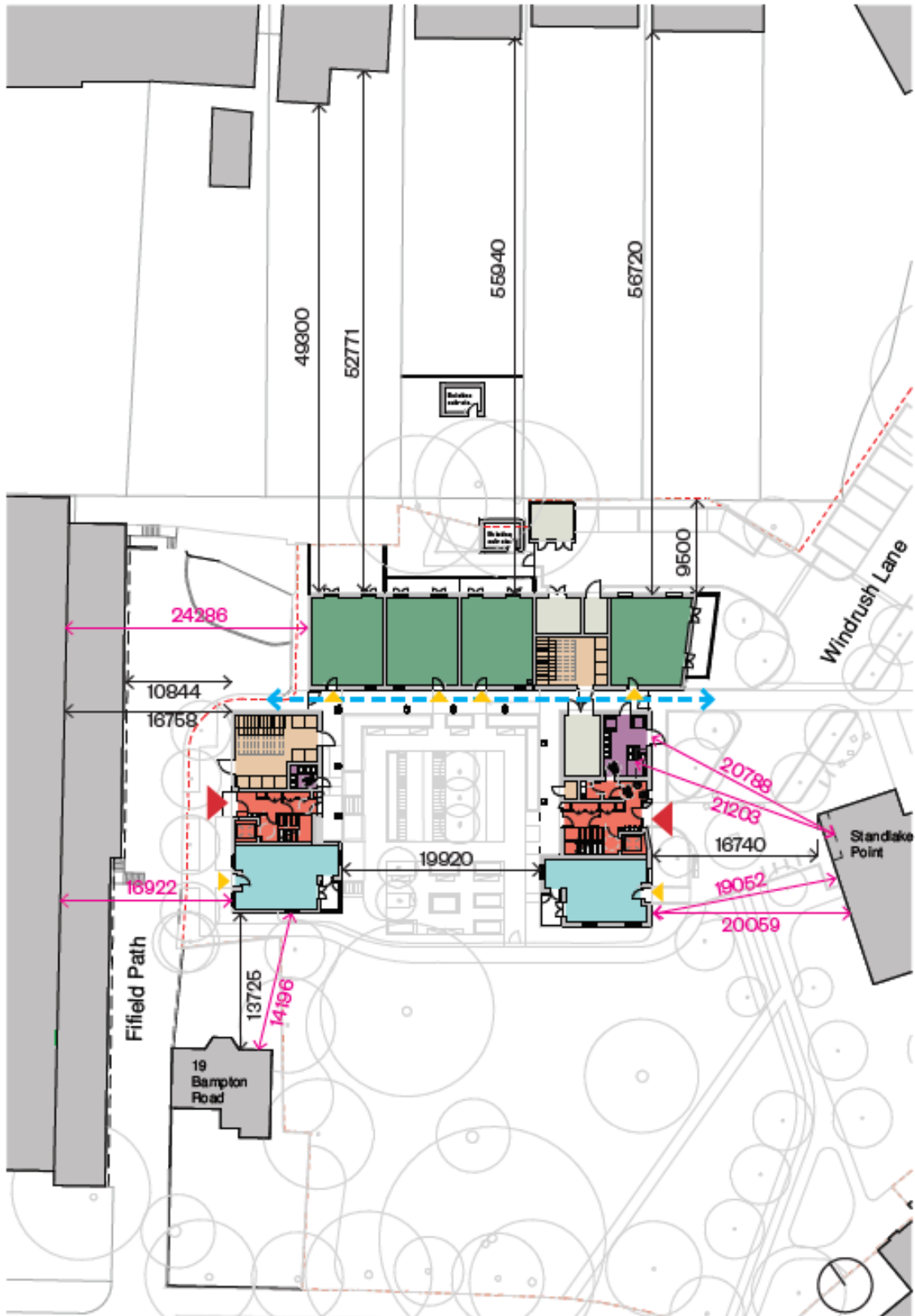


Figure 2.0: Separation Distances\*

\*Minimum distances in black and habitable room to habitable room in pink



- 257 For the most part, adequate separation between the proposed development and existing buildings is achieved, however there are scenarios where the development does not comply with the flexible separation distance of 21m (Refer to Figure 2.0 above).
- 258 The closest relationship between the proposed dwelling and existing residential property is with No. 19 Bampton, which represents a minimum separation distance of 13.725m, however the habitable room to habitable room distance increases to a minimum 14.2m separation distance.
- 259 Standlake Point represents a minimum separation distance of 16.74m, however the habitable window separation increases to 19m minimum separation.
- 260 Fifield Path identifies a 10.84m separation, however this distance is measured to the existing garages at ground floor. The minimum separation distance from habitable room to habitable room is 16.92m at a minimum.
- 261 While it is acknowledged that the proposed dwelling would be located a minimum of 9.5m from the existing boundary between Bampton Estate and rear gardens of Perry Vale residences, the windows of dwellings on Perry Vale to the north-east of the proposed development are separated by over 49m from any window in the proposed building, which is considered to be well in excess of the London Plan and Mayor of London's SPG standards. It is acknowledged that from some windows and the proposed Juliette balconies will present an element of overlooking, however all dwellings are dual aspect (or better) and overlooking is not uncommon in an inner-London setting.
- 262 Notwithstanding that, the separation distances from surrounding residential properties are well in excess of the Council's recommended minimum standards and it is therefore considered the outlook and privacy received in the proposed dwellings would be of an acceptable standard.
- 263 Internally, windows are designed so as not to face one and other, however from balcony to balcony the proposed development achieves a minimum separation distance of 19.92m. Additionally, planting and landscaping is proposed to increase privacy and obscure any direct views.

#### *Summary*

- 264 The proposals therefore would provide a good level of privacy for the occupants and not result in a harmful impact on the occupants of any nearby dwellings. Officers consider the proposed impacts would not be materially harmful and are appropriate for the South London urban context of the site.

### **7.6.2 Daylight and Sunlight**

#### *Policy*

- 265 Paragraph 127 of the NPPF states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 266 DMP 32 states that new development must be neighbourly, provide a satisfactory level of outlook and natural light for both its future residents and its neighbours.

DMP 32(2) also states that new-build housing development, including the housing element of new build housing will need to respond positively to the site specific constraints and opportunities as well as to the existing and emerging context for the site and surrounding area.

267 Daylight and sunlight is generally measured against the Building Research Establishment (BRE) standards however this is not formal planning guidance and should be applied flexibly according to context.

268 The NPPF does not express particular standards for daylight and sunlight. Para 123 (c) states that, where there is an existing or anticipated shortage of land for meeting identified housing need, LPAs should take a flexible approach to policies or guidance relating to daylight and sunlight when considering applications for housing, where they would otherwise inhibit making efficient use of a site.

269 Standard 32 of the Housing SPG details that “All homes should provide for direct sunlight to enter at least one habitable room for part of the day.” The Housing SPG further states that where direct sunlight cannot be achieved in line with Standard 32, developers should demonstrate how the daylight standards proposed within a scheme and individual units will achieve good amenity for residents.

270 The GLA states that ‘An appropriate degree of flexibility needs to be applied when using BRE guidelines to assess the daylight and sunlight impacts of new development on surrounding properties, as well as within new developments themselves. Guidelines should be applied sensitively to higher density development, especially in opportunity areas, town centres, large sites and accessible locations, where BRE advice suggests considering the use of alternative targets. This should take into account local circumstances; the need to optimise housing capacity; and scope for the character and form of an area to change over time.’ (GLA, 2017, Housing SPG, para 1.3.45).

271 Alternatives may include ‘drawing on broadly comparable residential typologies within the area and of a similar nature across London.’ (ibid, para 1.3.46).

272 It is therefore clear that the BRE standards set out below are not a mandatory planning threshold.

273 Daylight is defined as being the volume of natural light that enters a building to provide illumination of internal accommodation between sun rise and sunset. This can be known as ambient light. Sunlight refers to direct sunshine.

### ***Daylight guidance***

274 The three methods for calculating daylight are as follows: (i) Vertical Sky Component (VSC); (ii) Average Daylight Factor (ADF); and (iii) No Sky Line (NSL).

275 The VSC is the amount of skylight received at the centre of a window from an overcast sky. The ADF assesses the distribution of daylight within a room. Whereas VSC assessments are influenced by the size of obstruction, the ADF is more influenced factors including the size of the window relative to the room area and the transmittance of the glazing, with the size of the proposed obstruction being a smaller influence. NSL is a further measure of daylight distribution within a room. This divides those areas that can see direct daylight from those which cannot and helps to indicate how good the distribution of daylight is in a room.

276 In terms of material impacts, the maximum VSC for a completely unobstructed vertical window is 39.6%. If the VSC falls below 27% and would be less than 0.8 times the former value, occupants of the existing building would notice the reduction in the amount of skylight. The acceptable minimum ADF target value depends on the room use: 1% for a bedroom, 1.5% for a living room and 2% for a family kitchen. If the NSL would be less than 0.8 times its former value, this would also be noticeable.

277 While any reduction of more than 20% would be noticeable, the significance and therefore the potential harm of the loss of daylight is incremental.

278 It is important to consider also the context and character of a site when relating the degree of significance to the degree of harm.

### ***Sunlight guidance***

279 Sunlight is measured as follows: (i) Annual Probable Sunlight Hours (APSH); and (ii) Area of Permanent Shadow (APS)

#### *Discussion*

280 The application is accompanied by a Daylight & Sunlight Study (Neighbouring Properties) (Prepared by Right of Light Consulting), dated 24 June 2019. This sets out daylight and sunlight impact on adjoining properties.

### ***Daylight***

281 The daylight received from the neighbouring properties is summarised as being BRE compliant, aside from five (5) neighbouring windows. Specifically, windows 25 to 28 at 1-40 Standlake Point, which all serve habitable rooms and window 178 at 19 Bampton Road, which is also a habitable window.

282 Windows 25-28 in 1 to 40 Standlake Point would experience a VSC loss between 5.6% - 9.5% owing to the existing inset balconies and window 178 at 19 Bampton Road would experience a VSC loss of 9.3%, which is considered to be marginal in its context.

### ***Sunlight***

283 The report confirms that all windows facing within 90 degrees of due south pass the annual sunlight and winter sunlight hours test and is therefore considered to be BRE compliant.

#### *Summary*

284 The proposed development therefore is considered to comply with DM Policy 32 and paragraph 127 of the NPPF.

## **7.6.3 Noise and estate disturbance**

### *Policy*

285 The NPPF at para 170 states decisions should among other things prevent new and existing development from contributing to, being put at unacceptable risk from,

or being adversely affected by, unacceptable levels of noise pollution. Development should help to improve local environmental conditions. Para 180 states decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.

286 The NPPG states LPAs should consider noise when new developments may create additional noise.

287 The objectives of the NPPF and NPPG are reflected in LPP 7.15, Draft LPP D1,D12 and D13, CS Objective 5 and DMP 26

*Discussion*

288 Officers consider that subject to a staged development to deliver the re-provided ballcourt prior to demolition of the existing one and a Construction Logistics Management Plan, the noise and estate disturbance will not be unreasonable.

**7.6.4 Impact on neighbours conclusion**

289 Officers consider that proposed development would result in an acceptable impact on the neighbouring amenity of surrounding properties.

## **7.7 SUSTAINABLE DEVELOPMENT**

### *General Policy*

290 NPPF para 148 sets an expectation that planning will support transition to a low carbon future.

291 This is reflected in relevant policies of the London Plan and the Local Plan.

### **7.7.1 Energy and carbon emissions reduction**

#### *Policy*

292 LPP 5.1 seeks an overall reduction in carbon dioxide (CO<sub>2</sub>) emissions whilst LPP 5.2 (Minimising Carbon Dioxide Emissions) states that major development proposals should make the fullest contribution to minimising CO<sub>2</sub> in accordance with the following hierarchy: (1) be lean: use less energy; (2) be clean: supply energy efficiently; and (3) be green: use renewable energy.

293 In addition, LPP 5.2 sets targets for CO<sub>2</sub> reduction in buildings, expressed as minimum improvements over the Target Emission Rate (TER) outlined in national building regulations. The target for residential buildings is zero carbon from 2016 and non-domestic buildings from 2019, prior to which the target is as per building regulations (35%). LPP 5.3 advocates the need for sustainable development.

294 LPP 5.7 presumes that all major development proposals will seek to reduce CO<sub>2</sub> by at least 20 per cent through the use of on-site renewable energy generation wherever feasible.

295 Further guidance is given in The Mayor's Sustainable Design and Construction SPG (April 2014), which sets out targets and provides guidance as to how to achieve those targets as efficiently as possible.

#### *Discussion*

296 The application is accompanied by an Energy Statement (Prepared by XCO<sub>2</sub>), dated June 2019. This sets out the measures to be taken to reduce carbon emissions in compliance with the energy hierarchy.

#### **Carbon reduction**

297 The accompanying Energy Statement identifies that the development achieves on site CO<sub>2</sub> reduction of 35.3%, which is equivalent of 16.6 tonnes of CO<sub>2</sub> against Part L 2013.

### **7.7.2 Overheating**

#### *Policy*

298 LP5.9 states that proposals should reduce potential overheating beyond Part L 2013 of the Building Regulations reduce and reliance on air conditioning systems and demonstrate this in accordance with the Mayor's cooling hierarchy. Draft LPP SI14 echoes this.

299 DMP 22 reflects regional policy.

300 Further guidance is given in the Sustainable Design and Construction SPG (GLA) and Chapter 5 of the London Climate Change Adaptation Strategy.

*Discussion*

301 Sustainability Officers supported the levels of thermal insulation for the walls, floor and roof elements and the targeted air tightness achieved.

302 They requested further detail from the applicant relating to the glazing specification and strategy to address overheating, lighting specification, ventilation strategy, how the electricity generated by the proposed PV will be utilised and if any consideration has been given to any excess electricity and energy metering strategy, which has been provided and considered to be acceptable.

303 Sustainability Officers also recommended the applicant consider the options for heating including the zoning and controls and the possibility of underfloor heating alternative to the proposed heating.

304 Furthermore, they encouraged the applicant to review the proposed heating strategy (individual gas boilers) and encouraged modelling using SAP 10 in line with the London Plan and GLA Guidance. Following discussion with the applicant, it was agreed that as long as the design could allow for a future heating network, the proposed boilers would be acceptable in this instance.

305 An appropriately worded pre-commencement Condition would be attached to the permission to address these points.

***Living roofs***

306 The proposal includes 732.69m<sup>2</sup> of living roof, to be laid under the proposed PV panels. The Council's Ecology Officer is supportive of the proposal and has requested the details and size be secured by Condition.

**7.7.3 Flood Risk**

*Policy*

307 LPP 5.12 requires the mitigation of flooding, or in the case of managed flooding, the stability of buildings, the protection of essential utilities and the quick recovery from flooding. LPP 7.13 expects development to contribute to safety, security and resilience to emergency, including flooding.

308 CSP 10 requires developments to result in a positive reduction in flooding to the Borough.

309 Further guidance is given in the London Plan's Sustainable Design and Construction Supplementary Planning Guidance.

*Discussion*

310 The application is accompanied by a Flood Risk Assessment (Prepared by XCO2), June 2019.

- 311 The site is located within Flood Zone 1, which indicates a low probability of fluvial or tidal flooding. The site overall is considered to present a low to moderate risk of flooding, which would be reduced with the incorporation of SuDS measures.
- 312 Sustainability Officers requested additional information relating to the proposed drainage hierarchy, network and dimensions, discharge point and rate and SuDS modelling. The applicant then provided a revised Flood Risk Assessment and SuDS Strategy, dated June 2019 and 30 and 100 year modelling.
- 313 Further detail was then requested from Sustainability Officers including methodology in determining both impermeable and permeable areas, assessment of optimising SuDS, updated surface water control calculations, greenfield runoff rates, flow routes and a site specific maintenance plan.
- 314 An appropriately worded pre-commencement Condition would be attached to the permission to address these points.
- 315 Concern was raised by residents of the estate relating to existing drainage issues on the estate and damp within some existing dwellings. The surface water flood risk is low to moderate and this is not expected to be exacerbated by the proposed development. It is considered that the SuDS strategy provided and further detail conditioned will ensure the new development would manage surface water on-site and reduce potential runoff to adjoining properties.
- 316 Overall, there is considered to be no significant flood risk associated with the proposed development in place.

#### **7.7.4 Sustainable Urban Drainage**

##### *Policy*

- 317 The NPPF at para 165 expects major development to incorporate sustainable urban drainage systems (SUDS) unless there is clear evidence it is inappropriate.
- 318 LPP 5.13 requires SUDS unless there are practical reasons for not doing so. In addition, development should aim to achieve greenfield run-off rates and ensure surface water is managed in accordance with the policy's drainage hierarchy. The supporting text to the policy recognises the contribution 'green' roofs can make to SUDS. The hierarchy within LPP 5 establishes that development proposals should include 'green' roofs and that Boroughs may wish to develop their own green roof policies. To this end, CSP 7 specifies a preference for Living Roofs (which includes bio-diverse roofs) which in effect, comprise deeper substrates and a more diverse range of planting than plug-planted sedum roofs, providing greater opportunity for bio-diversity.
- 319 Further guidance is given in the London Plan's Sustainable Design and Construction Supplementary Planning Guidance and the Non-Statutory Technical Standards for Sustainable Drainage Systems.

##### *Discussion*

- 320 The proposal would achieve a Greenfield runoff rate of 2.39l/s to the identified surface water sewer.

321 The post development impermeable area has been used to calculate the maximum required storage volume scenario of 107m<sup>3</sup>. In order to meet such the Flood Risk Assessment Report confirms that approximately 284m<sup>2</sup> of permeable pavement would need to be implemented, which would be secured by condition.

322 Matters relating to sewage are not a direct consideration for an application of this scale. Connecting to the sewage network would be a matter for the applicant and Thames Water.

#### **7.7.5 Sustainable Infrastructure conclusion**

323 The proposed development contributes to sustainable development, providing an improvement beyond the present performance of the site and therefore future and existing occupiers would not be exposed to unacceptable risk associated with flooding.



## **7.8 NATURAL ENVIRONMENT**

### *General Policy*

- 324 Contributing to conserving and enhancing the natural environment and reducing pollution is a core principle for planning.
- 325 The NPPF and NPPG promote the conservation and enhancement of the natural environment (chapter 15) and set out several principles to support those objectives.
- 326 The NPPF at para 180 states decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the sensitivity of the site or wider area to impacts that could arise from the development.
- 327 LPP 2.18 sets out the Mayor of London's vision for Green Infrastructure as a multifunctional network that brings a wide range of benefits including among other things biodiversity, adapting to climate change, water management and individual and community health and well-being.

### **7.8.1 Ecology and biodiversity**

#### *Policy*

- 328 Section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard to the purpose of conserving biodiversity.
- 329 The NPPF at para 170 states decisions should minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. At para 175, it sets out principles which LPAs should apply when determining applications in respect of biodiversity.
- 330 LPP 7.19 seeks wherever possible to ensure that development makes a positive contribution to the protection, enhancement, creation and management of biodiversity.
- 331 CSP 12 recognises the importance of the natural environment and environmental assets and requires the conservation and enhancement of these assets.

#### *Discussion*

- 332 An Extended Phase 1 Habitat Survey (Prepared by London Wildlife Trust), March 2018 and updated by Cover Letter on March 2019 was submitted with the application. The London Wildlife Trust supported the reduced footprint and omission of the Windrush Lane through-route from the previous application, which increases tree retention and will maintain ecological continuity and value of the habitat value.
- 333 The report makes recommendations relating to the retention of ecological features, protected species surveys; including bats, breeding birds and dead-wood

invertebrate species, design review and lighting. These would be secured by Condition. The Council's Ecologist supports the findings and recommendations of the report.

334 The proposal is acceptable in terms of ecology and biodiversity, subject to those conditions.

## **7.8.2 Green spaces and trees**

### *Policy*

335 S.197 of the Town and Country Planning Act gives LPAs specific duties in respect of trees. This includes a duty to, wherever it is appropriate, that in granting planning permission for any future development adequate provision is made, by the imposition of conditions, for the preservation and planting of trees.

336 LPP 7.21 protects trees of value and replacements should follow the principle of 'right place, right tree'. New development should include additional trees wherever appropriate, particularly large-canopied species.

337 Core Strategy Policy 12 (Open Space and Environmental Assets) recognises the importance of trees and details the arboricultural considerations required during the planning process. It states that the Council's targets to conserve nature and green the public realm will be achieved by "protecting trees, including street trees, and preventing the loss of trees of amenity value, and replacing trees where loss does occur".

338 DM Policy 25 (Landscaping and Trees) states that Development schemes should not result in an unacceptable loss of trees, especially those that make a significant contribution to the character or appearance of an area, unless they are considered dangerous to the public by an approved Arboricultural Survey. Where trees are removed as part of new development, replacement planting will normally be required. New or replacement species should be selected to avoid the risk of decline or death arising from increases in non-native pests and diseases.

339 The Assets of Community Value (England) Regulations 2012 and Localism Act 2011 provide the right for local communities to bid for land and facilities in their local area to protect assets deemed to be of local importance and value. The listing process allows a community asset to be listed when it satisfies the listing tests under s.88(1) or (2) of the Localism Act. NPPF para 70 focuses on the need to avoid unnecessary loss of valued community assets, however directs planning decisions to positively plan for shared facilities, community spaces or local services to enhance residential environments and communities.

### *Discussion*

340 The site supports approximately 145 existing trees, which range in value from Category B (moderate quality) to Category U (unsuitable for retention). There are no Category A (high quality) trees on site and none of the trees are covered by Tree Preservation Orders (TPOs), although recognise group value given the ACV.

341 The application was submitted with an Arboricultural Impact Assessment (Prepared by Underhill Tree Consultancy), dated 12 June 2019.

- 342 To allow for the construction of the proposal, thirty-four (34) trees are required to be removed. Ten (10) of these are necessary to be removed because of their poor condition. Of the remaining twenty-four (24) trees proposed to be removed, three (3) are Category B (moderate quality) and twenty-one (21) are Category C (low quality).
- 343 An application was received by the Council's Culture and Community Development team on 12 July 2019 relating to the 'Bampton Estate Green', which was acknowledged by the Council on 29 July 2019 and subsequently on 11 September 2019 included in the Council's list of community assets.
- 344 By including the 'Bampton Estate Green' on the Council's list of Assets of Community Value (ACV), the Council acknowledges that in accordance with the Assets of Community Value (England) Regulations 2012, Localism Act 2011 and with regard to the evidence and information provided as part of the application, the actual and main use of the 'Bampton Estate Green' furthers social well being or social interests of the local community and it is realistic to think that there can continue to be a main use of the building or land which will further social wellbeing or social interests of the local community.
- 345 The successful registration of the ACV identifies the asset within the community and consequently allows them the opportunity to be treated as a potential buyer, if and when the listed asset becomes available for sale. 'Bampton Green' will remain on the Council's asset list for five (5) years.
- 346 The registration of 'Bampton Green' as an ACV forms a material planning consideration, as identified by NPPF para 92(c) which focuses on the need to avoid unnecessary loss of valued community assets, however directs planning decision to positively plan for shared facilities, community spaces or local services to enhance residential environments and communities.
- 347 Evidence submitted by the ACV application identifies that the green is used by residents to interact with each other; the ball court is used for sports and physical activities by local children, young people and adults; the green open space is used by children and adults to spend time outside which is beneficial to their physical and mental well-being; and the mature trees provide shade and help to support better air quality.
- 348 It is acknowledged that the 'Bampton Green' provides a community benefit, however the proposal is not considered to be inconsistent with the status of the existing green as the local residents would still be able to use the greenspace and re-provided ballcourt. Additionally, owing to the ACV registration the applicant would have the opportunity to make a bid to purchase the land in the event of a sale.
- 349 The re-provided ballcourt and reduced landscaping/green area are considered to be of an equal quality to the existing and would continue to provide a space for social interaction, open outdoor space and tree would provide replacement and landscaping. Furthermore, the development area of the building only forms 8.1% (0.15ha of the 1.85ha) of the overall site and therefore the social interests of the community can continue. While the loss of green space and tree loss is acknowledged as substantial within the context of the estate, the benefit of

provided thirty-nine (39) 100% affordable dwellings for social rent is considered to outweigh the loss of the greenspace.

350 Multiple designs and development locations were considered for the proposal within the estate and it was concluded that the proposed location provided is the most appropriate with consideration to balancing tree loss, existing development and much needed housing provision.

351 It is therefore considered that the community asset would not be unnecessarily lost as a shared, community space owing to the fact that the proposal would provide high quality shared facilities and enhancements to the existing residential environment. Officers therefore consider that subject to high quality planting re-provision, the loss of thirty-four (34) trees, on balance, is acceptable to allow the provision of thirty-nine (39), 100% affordable social dwellings.

352 Some construction works are proposed within root protection areas and therefore a Condition would be attached to ensure they are protected.

### **7.8.3 Ground pollution**

#### *Policy*

353 The NPPF at para 170 states decisions should among other things prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil pollution. Development should help to improve local environmental conditions.

354 The NPPF states decisions should contribute to and enhance the natural and local environment by remediating and mitigating contaminated land, where appropriate (para 170). Further, the NPPF at para 178 and NPPG states decisions should ensure a site is suitable for its proposed use taking account of ground conditions and any risks arising from contamination.

355 The test is that after remediation, land should not be capable of being determined as “contaminated land” under Part 2A of the Environmental Protection Act 1990.

356 LPP 5.21 reflects national policy. DMP 28 further reflects national policy and seeks to ensure that future residents are protected from exposure to contaminants.

357 Further guidance is given in *Contaminated Land Statutory Guidance* (Defra, 2012)

#### *Discussion*

358 A condition requiring a land contamination report would need to be imposed to ascertain likely risks.

359 The recommended condition would align with the consultation responses received from Environmental Protection which have requested further information relating to land contamination.

#### **7.8.4 Air pollution**

##### *Policy*

- 360 The NPPF at para 170 states decisions should among other things prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality.
- 361 Proposals should be designed and built to improve local air quality and reduce the extent to which the public are exposed to poor air quality.
- 362 LP7.14 states new development amongst other requirements must endeavour to maintain the best ambient air quality (air quality neutral) and not cause new exceedances of legal air quality standards. Draft LP SI1 echoes this.
- 363 Further guidance is given in the Mayor of London's Air Quality Strategy.
- 364 CSP 7 and DMP 23 echo this.

##### *Discussion*

- 365 The application is accompanied by an Air Quality Assessment (Prepared by XCO2), dated June 2019. The assessment indicates that the pollutant concentrations will be within the relevant air quality objectives and concludes that based on the results of the assessment, it is not considered that the air quality would impact on the development.

#### **7.8.5 Natural Environment conclusion**

- 366 The development proposals are appropriate for the context of this urban area and a site which is characterised by its built urban form. The applicant has demonstrated that the proposals will safeguard both the natural environment and the health of surrounding residents and future residents of the proposed development.

## **8 LOCAL FINANCE CONSIDERATIONS**

367 Under Section 70(2) of the Town and Country Planning Act 1990 (as amended), a local finance consideration means:

- a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy (CIL).

368 The weight to be attached to a local finance consideration remains a matter for the decision maker.

369 The CIL is therefore a material consideration.

370 The proposed development is CIL liable and the applicant will claim social housing exemption, which is expected to be granted.

## 9 EQUALITIES CONSIDERATIONS

372 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

373 In summary, the Council must, in the exercise of its function, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and those who do not;
- foster good relations between people who share a protected characteristic and persons who do not share it.

374 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the decision maker, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

375 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/publication-download/technical-guidance-public-sector-equality-duty-england> and <https://www.equalityhumanrights.com/en/publication-download/services-public-functions-and-associations-statutory-code-practice>

376 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

377 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further

information and resources are available at:  
<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance>

378 The planning issues set out above do not include any factors that relate specifically to any of the equalities categories set out in the Act, and therefore it has been concluded that there is no impact on equality.



## **10        HUMAN RIGHTS IMPLICATIONS**

379        In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant including:

- Article 8: Respect for your private and family life, home and correspondence
- Protocol 1, Article 1: Right to peaceful enjoyment of your property

380        This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as Local Planning Authority.

381        Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with the above Convention Rights will be legitimate and justified. Both public and private interests are to be taken into account in the exercise of the Local Planning Authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

382        This application has the legitimate aim of providing thirty-nine (39) new 100% affordable dwellings for social rent. The rights potentially engaged by this application, including respect for your private and family life, home and correspondence and the freedom to enjoy one's home are not considered to be unlawfully interfered with by this proposal.

11 **CONCLUSION**

384 This application has been considered in the light of policies set out in the development plan and other material considerations.

385 The thirty-nine (39) proposed dwellings for 100% affordable, social rent will meet a defined need, addressing the shortage of affordable housing in the borough.

386 It is acknowledged that the 'Bampton Green' provides a community benefit, however the proposal is not considered to be inconsistent with the status of the existing green as the local residents would still be able to use the greenspace and re-provided ballcourt. It is considered that the community asset would not be unnecessarily lost as a shared, community space owing to the fact that the proposal would provide high quality shared facilities and enhancements to the existing residential environment.

387 Subject to the imposition of conditions the development is judged acceptable and in accordance with the development plan.

## 12 RECOMMENDATION

388 That the Committee resolve to **GRANT** planning permission subject to the following conditions and informatives:

### 12.1 **CONDITIONS**

#### 1. **Full Planning Permission Time Limit**

The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

**Reason:** As required by Section 91 of the Town and Country Planning Act 1990.

#### 2. **Develop In Accordance with Approved Plan**

The development shall be carried out strictly in accordance with the application plans, drawings and documents hereby approved and as detailed below:

Existing Block Plan (Drawing No. 3391-LB-000-GF-DR-A-0100 (Rev P1)); Demolition Site Plan (Drawing No. 3391-LB-000-GF-DR-A-0101 (Rev P1)); Proposed Block Plan (Drawing No. 3391-LB-000-GF-DR-A-0102 (Rev P1)); Proposed Site Plan (Drawing No. 3391-LB-000-GF-DR-A-0103 (Rev P1)); Proposed Ground Floor Plan (Drawing No. 3391-LB-000-GF-DR-A-0150 (Rev P1)); Proposed First Floor Plan (Drawing No. 3391-LB-000-01-DR-A-0151 (Rev P1)); Proposed Second Floor Plan (Drawing No. 3391-LB-000-02-DR-A-0152 (Rev P1)); Proposed Third Floor Plan (Drawing No. 3391-LB-000-03-DR-A-0153 (Rev P1)); Proposed Fourth Floor Plan (Drawing No. 3391-LB-000-04-DR-A-0154 (Rev P1)); Proposed Roof Plan (Drawing No. 3391-LB-000-05-DR-A-0155 (Rev P1)); Fire Strategy – Ground Floor (Drawing No. 3391-LB-00-GF-DR-A-2100 (Rev P1)); Fire Strategy – Typical Upper Floor (Drawing No. 3391-LB-000—XX-DR-A-2101 (Rev P1)); Fire Strategy – Fourth Floor (Drawing No. 3391-LB-000-04-DR-A-2102 (Rev P1)); Landscape GA 1 of 2 (Drawing No. 3391-LB-000-GF-DR-L-0601 (Rev P1)); Landscape GA 2 of 2 (Drawing No. 3391-LB-000-GF-DR-L-0602 (Rev P1)); Tree Removal Plan (Drawing No. 3391-LB-000-GF-DR-L-0603 (Rev P1)); Tree Proposal Plan (Drawing No. 3391-LB-000-GF-DR-L-0604 (Rev P1)); Planting Proposals (Drawing No. 3391-LB-00-GF-DR-L-0605 (Rev P1)); Rainwater Strategy – Ground Floor (Drawing No. 3391-LB-000-GF-DR-A-2200 (Rev P1)); Rainwater Strategy – Typical Upper Floor (Drawing No. 3391-LB-000-XX-DR-A-2201 (Rev P1)); Rainwater Strategy – Roof Plan (Drawing No. 3391-LB-000-05-DR-A-2202 (Rev P1)); View of the Main Entrance (Drawing No. 3391-LB-000-XX-DR-A-1501 (Rev P1)); View of the Main Courtyard (Drawing No. 3391-LB-000-XX-DR-A-1500 (Rev P1)); Elevations (Drawing No. 3391-LB-00-XX-DR-A-3000 (Rev P1)); Elevations (Drawing No. 3391-LB-00-XX-DR-A-3001 (Rev P1)); Elevations (Drawing No. 3391-LB-00-XX-DR-A-3002 (Rev P1)); Street Elevation (Drawing No. 3391-LB-00-XX-DR-A-3003 (Rev P1)); Site Sections (Drawing No. 3391-LB-00-XX-DR-A-3500 (Rev P1)); Sections (Drawing No. 3391-LB-00-XX-DR-A-3501 (Rev P1)); Existing Sections (Drawing No. 3391-LB-00-XX-DR-A-3510 (Rev P1)); Brick Rib Details – 1 (Drawing No. 3391-LB-XXX-XX-DR-A-6000 (Rev P1)); Brick Rib Details – 2 (Drawing No. 3391-LB-XXX-XX-DR-A-6001 (Rev P1)); Flat Types – 1B2P (Drawing No. 3391-LB-000-ZZ-DR-A-8000 (Rev P1)); Flat Types – 1B2P (Drawing No. 3391-LB-000-ZZ-DR-A-8001 (Rev P1)); Flat Types –

**Reason:** To ensure that the development is carried out in accordance with the approved documents, plans and drawings submitted with the application and is acceptable to the local planning authority.

### **3. Construction Logistics Management Plan**

(a) No development above ground shall commence on site until a Construction Logistics Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate the following:-

- (i) Rationalise travel and traffic routes to and from the site;
- (ii) Provide full details of the number and time of construction vehicle trips to the site with the intention and aim of reducing the impact of construction vehicle activity;
- (iii) Provide full details of how the impacts of construction activities and associated traffic will be managed; and
- (iv) Measures to deal with safe pedestrian movement.

(b) The measures specified in the approved details shall be implemented prior to commencement of development and shall be adhered to during the period of construction.

**Reason:** In order to ensure satisfactory vehicle management and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011), and Policy 5.3 Sustainable design and construction, Policy 6.3 Assessing effects of development on transport capacity and Policy 7.14 Improving air quality of the London Plan (2016).

### **4. Site Contamination**

(a) No development or phase of development (including demolition of existing buildings and structures, except where prior agreement with the Council for site investigation enabling works has been received) shall commence until :-

- (i) A desk top study and site assessment to survey and characterise the nature and extent of contamination and its effect (whether on or off-site) and a conceptual site model have been submitted to and approved in writing by the local planning authority.
- (ii) A site investigation report to characterise and risk assess the site which shall include the gas, hydrological and contamination status, specifying rationale; and recommendations for treatment for contamination encountered (whether by remedial works or not) has been submitted to and approved in writing by the Council.

(b) If during any works on the site, contamination is encountered which has not previously been identified (“the new contamination”) the Council shall be notified immediately and the terms of paragraph (a), shall apply to the new contamination. No further works shall take place on that part of the site or adjacent areas affected, until the requirements of paragraph (a) have been complied with in relation to the new contamination.

(c) The development shall not be occupied until a closure report has been submitted to and approved in writing by the Council.

This shall include verification of all measures, or treatments as required in (Section (a) i & ii) and relevant correspondence (including other regulating authorities and stakeholders involved with the remediation works) to verify compliance requirements, necessary for the remediation of the site have been implemented in full.

The closure report shall include verification details of both the remediation and post-remediation sampling/works, carried out (including waste materials removed from the site); and before placement of any soil/materials is undertaken on site, all imported or reused soil material must conform to current soil quality requirements as agreed by the authority. Inherent to the above, is the provision of any required documentation, certification and monitoring, to facilitate condition requirements.

**Reason:** To ensure that the local planning authority may be satisfied that potential site contamination is identified and remedied in view of the historical use(s) of the site, which may have included industrial processes and to comply with DM Policy 28 Contaminated Land of the Development Management Local Plan (November 2014).

## **5. Future Heat Network**

(a) No development above ground shall commence until written information, drawings and sections showing a scheme for the provision for future connection of the thirty-nine (39) units hereby approved to a potential site wide ambient temperature heat network using heat pumps or an alternative low carbon heat source have been submitted to and approved in writing by the Local Planning Authority. This should include how the design would accommodate the plant space required for such network/s and for how the individual dwellings have been designed to allow for and accommodate this future connection.

(b) If a future network becomes available, all thirty-nine (39) units must be connected in accordance with part (a), unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To comply with Policies 5.1 Climate change and mitigation, 5.2 Minimising carbon dioxide emissions, 5.3 Sustainable design and construction, 5.5 Decentralised energy networks and 5.7 Renewable energy in the London Plan (2016) and Core Strategy Policy 7 Climate change and adapting to the effects and Core Strategy Policy 8 Sustainable design and construction and energy efficiency (2011).

## **6. Site Wide Maintenance Plan**

(a) Prior to commencement of above ground works, a site-specific Maintenance Plan must be submitted to and approved in writing by the Local Planning Authority, which should include the following:

- (i) Description of maintenance schedule;
- (ii) Details of who will maintain the proposed drainage system together with the full list of Sustainable Urban Drainage System elements over

- the lifetime of the development, confirming any adoption arrangements;
- (iii) Confirm who will maintain the full proposed drainage system with individual SuDS elements over the lifetime of the development, confirming any adoption arrangements;
  - (iv) Provide evidence that access (e.g. easement or rights of way for access) will be physically possible for maintenance to be carried out as SuDS features should be located within public space;
  - (v) Provide a plan for the safe and sustainable removal and disposal of waste periodically arising from the drainage system. A maintenance manual should also be produced to pass to the future maintainer. If other parties are responsible for different parts of a scheme, this should be clearly shown on the plan;
  - (vi) Outline clearly the frequency of maintenance activities/timetables associated with each drainage system and SuDS elements, linking these into the site plan. Some of these information can be obtained through each proprietary product's manufacturer's instructions and specifications;
  - (vii) Reference to CIRIA RP992 The SuDS Manual Update Paper RP992/23 for a guidance on completing a SuDS Maintenance Plan;
  - (viii) Reflect the technical details and specifications of the final proposed drainage strategy including individual SuDS elements associated (including proposed geocellular storage and proposed surface water pipes) in the plans and drawings.

(b) The development shall be carried out in accordance with the approved scheme and thereafter the approved scheme is to be retained in accordance with the details approved therein.

**Reason:** To prevent the increased risk of flooding and to improve water quality in accordance with Policies 5.12 Flood risk management and 5.13 Sustainable drainage in the London Plan (2016) and Objective 6: Flood risk reduction and water management and Core Strategy Policy 10 Managing and reducing the risk of flooding (2011).

## **7. Surface Water and SuDS**

(a) Prior to commencement of development above ground, a revised scheme for Surface Water Management, must be submitted to and approved in writing by the Local Planning Authority. The detail should include:

- (i) Confirmation of all area of site development within the 1.85ha area that will contribute to runoff;
- (ii) An explanation (drawing) of methodology in determining both impermeable and permeable areas used in the detailed calculation sheets;
- (iii) An explanation of how the London Plan Policy 5.13 and individual drainage hierarchy has been followed and identify that options as close to the top as possible are proposed, include an assessment of optimising Sustainable Urban Drainage Systems on the proposed landscape masterplan and landscape area. Runoff should be stored in shallow landscape features and where this is not possible, deeper tank or pipe storage must be justified;

- (iv) Include also an assessment if rainwater harvesting could be implemented on the site. All area of contributing runoff (can comprise of roofs, hard surfaces such as road, car parks, paving, proposed carriageway, new footpath and re-contouring of the area) should be represented;
- (v) An updated surface water control calculations which also factor in the whole developed area of the site, as the calculations relating to volume control did, contributing to surface runoff (not limited to 3440m<sup>2</sup> of pervious area) in the proposed site's developed area;
- (vi) An updated flow route drawing showing how surface water will be drained post-development during exceedance events to demonstrate that water will be directed away from the proposed flats;
- (vii) Revised SuDS layout drawing including all key proposed drainage strategy features, for example geocellular tank and other site surface sewer network pipes;
- (viii) Reflecting on the all area of site development within the 1.85 Ha area above, provide existing Greenfield runoff rates including for the 1 in 30 year and 1 in 100 year events.

(b) The development shall be carried out in accordance with the approved scheme and thereafter the approved scheme is to be retained in accordance with the details approved therein.

**Reason:** To prevent the increased risk of flooding and to improve water quality in accordance with Policies 5.12 Flood risk management and 5.13 Sustainable drainage in the London Plan (2016) and Objective 6: Flood risk reduction and water management and Core Strategy Policy 10 Managing and reducing the risk of flooding (2011).

## **8. Piling Operations**

(a) No piling or any other foundation designs using penetrative methods shall take place, other than with the prior written approval of the Local Planning Authority, until a Piling Method Statement (detailing depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water.

(b) Any piling must be undertaken in accordance with the terms of the approved piling method statement.

**Reason:** To prevent pollution of controlled waters and to comply with Core Strategy (2011) Policy 11 River and waterways network and Development Management Local Plan (November 2014) DM Policy 28 Contaminated land.

## **9. Materials/Design Quality**

(a) No development above ground shall commence on site until a detailed schedule and specification/samples of all external materials and finishes/windows and external doors/roof coverings/other site specific features to be used on the building(s) have been submitted to and approved in writing by the Local Planning Authority.

(b) The development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the design is delivered in accordance with the details submitted and assessed so that the development achieves the necessary high standard and detailing in accordance with Policies 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character.

#### **10. Refuse and Recycling Facilities**

(a) The storage of refuse and recycling facilities as approved shall be provided in accordance with the Refuse and Recycling Strategy in Section 9 of the Design and Access Statement (Prepared by Levitt Bernstein), dated June 2019 and Ground Floor Plan (Drawing No. 3391-LB-000-GF-A-0150 (Rev P1)).

(b) All proposed Refuse and Recycling Facilities shall be provided in full prior to first occupation of any building and permanently retained and maintained, thereafter.

**Reason:** In order that the local planning authority may be satisfied with the provisions for recycling facilities and refuse storage in the interest of safeguarding the amenities of neighbouring occupiers and the area in general, in compliance with Development Management Local Plan (November 2014) DM Policy 30 Urban design and local character and Core Strategy Policy 13 Addressing Lewisham waste management requirements (2011).

#### **11. Cycle and Mobility Scooter Parking Provision**

(a) Prior to first occupation, full details of the fifty-four (54) cycle parking and twelve (12) mobility scooter (and associated charging) facilities shall be submitted to and approved in writing by the Local Planning Authority as indicated on the plans hereby approved (Cycle/Scooter Strategy) in Section 9 of the Design and Access Statement (Prepared by Levitt Bernstein), dated June 2019, Ground Floor Plan (Drawing No. 3391-LB-000-GF-A-0150 (Rev P1)) and Landscape Site Plan (Drawing No. 3391-LB-000-GF-DR-L-0601 (Rev P1)) unless otherwise agreed in writing.

(b) All cycle and mobility scooter parking spaces, as approved, shall be provided and made available for use prior to occupation of the development and maintained thereafter.

**Reason:** In order to ensure adequate provision for cycle parking and to comply with Policy 14: Sustainable movement and transport of the Core Strategy (2011).

#### **12. Hard Landscaping Details**

(a) Prior to commencement of above ground works, drawings showing hard landscaping of any part of the site not occupied by buildings (including details of the permeability of hard surfaces) must be submitted and approved in writing by the Local Planning Authority.

(b) All hard landscaping works which form part of the approved scheme under part (a) shall be completed prior to occupation of the development.



**Reason:** In order that the local planning authority may be satisfied as to the details of the proposal and to comply with Policies 5.12 Flood risk management and 5.13 Sustainable Drainage in the London Plan (2015), Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and Development Management Local Plan (November 2014) Policy 25 Landscaping and trees, and DM Policy 30 Urban design and local character.

### **13. Soft Landscaping**

(a) Prior to the commencement of above ground works, a scheme of soft landscaping (including details of all trees or hedges to be retained and proposed plant numbers, species, location, suitability and size of trees and tree pits) and details of the management and maintenance of the landscaping for a period of five (5) years shall be submitted to and approved in writing by the local planning authority.

(b) None of the trees shown as being retained on the permitted plans shall be felled without the prior written consent of the local planning authority.

(c) All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development, in accordance with the approved scheme under part (a). Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.

**Reason:** In order that the Local Planning Authority may be satisfied as to the details of the proposal and to comply with Core Strategy Policy 12 Open space and environmental assets, Policy 15 High quality design for Lewisham of the Core Strategy (June 2011), and DM Policy 25 Landscaping and trees and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

### **14. Bird/Bat Boxes**

Prior to the commencement of above ground works, details of the number and location of the bird/bat boxes to be provided as part of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority and shall be installed before occupation of the building and maintained in perpetuity.

**Reason:** To comply with Policy 7.19 Biodiversity and access to nature conservation in the London Plan (2016), Policy 12 Open space and environmental assets of the Core Strategy (June 2011), and DM Policy 24 Biodiversity, living roofs and artificial playing pitches and local character of the Development Management Local Plan (November 2014).

## **15. Living Roof**

(a) The development shall be constructed with a (732.69m<sup>2</sup>) living roof laid out in accordance with the Roof Plan (Plan no. 3391-LB-000-05-DR-A-0155 (Rev P1)) hereby approved, and maintained thereafter.

(b) A living roof section (to scale), access and watering provision arrangements for the proposed living roof along with details for management/establishment guarantees for a minimum of two growing seasons shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby approved and maintained in perpetuity.

(c) The living roof must be seeded and plug planted with locally appropriate wildflowers.

(d) The living roofs shall not be used as an amenity or sitting out space of any kind whatsoever.

(e) Evidence that the roof has been installed in accordance with (a)-(c) shall be submitted to the Local Planning Authority for its approval in writing prior to the first occupation of the development hereby approved and thereafter maintained in perpetuity.

**Reason:** To comply with Policies 5.10 Urban greening, 5.11 Green roofs and development site environs, 5.12 Flood risk management, 5.13 Sustainable Drainage and 7.19 Biodiversity and access to nature conservation in the London Plan (2016), Policy 10 managing and reducing flood risk and Policy 12 Open space and environmental assets of the Core Strategy (June 2011), and DM Policy 24 Biodiversity, living roofs and artificial playing pitches of the Development Management Local Plan (November 2014).

## **16. External Lighting**

(a) Prior to first occupation, full details (including beam orientation, illumination, schedule of equipment and directional hoods (or similar)) of the external lighting outlined in Section 7 of the Design and Access Statement (Prepared by Levitt Bernstein), dated June 2019 shall be submitted to and approved in writing by the Local Planning Authority.

(b) Any such external lighting as approved in part (a) shall be installed and retained permanently.

**Reason:** In order that the local planning authority may be satisfied that the lighting is installed and maintained in a manner which will minimise possible light pollution to the night sky and neighbouring properties and to comply with DM Policy 27 Lighting of the Development Management Local Plan (November 2014).

## **17. Delivery and Servicing Plan**

(a) The development shall not be occupied until a Delivery and Servicing Plan has been submitted to and approved in writing by the Local Planning Authority.

(b) The plan shall demonstrate the expected number and time of delivery and servicing trips to the site, with the aim of reducing the impact of servicing activity.

(c) The approved Delivery and Servicing Plan shall be implemented in full accordance with the approved details from the first occupation of the development and shall be adhered to in perpetuity.

**Reason:** In order to ensure satisfactory vehicle management and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

### **18. Travel Plan**

(a) Prior to first occupation, a Travel Plan, in accordance with Transport for London's document '*Travel Planning for New Development in London*' must be submitted to and approved in writing by the Local Planning Authority. The development shall operate in full accordance with all measures identified within the Travel Plan from first occupation.

(b) The Travel Plan shall specify initiatives to be implemented by the development to encourage access to and from the site by a variety of non-car means, shall set targets and shall specify a monitoring and review mechanism to ensure compliance with the Travel Plan objectives.

(c) Within the timeframe specified by (a) and (b), evidence shall be submitted to demonstrate compliance with the monitoring and review mechanisms agreed under parts (a) and (b).

**Reason:** In order that both the local planning authority may be satisfied as to the practicality, viability and sustainability of the Travel Plan for the site and to comply with Policy 14 Sustainable movement and transport of the Core Strategy (June 2011).

### **19. Accessible, Adaptable and Wheelchair User Dwellings**

(a) The detailed design for four (4) wheelchair dwellings hereby approved shall meet the required standard of the Approved Document M4(3) of the Building Regulations (2015), all other dwellings shall meet the required standard of the Approved Document M4(2) of the Building Regulations (2015).

(b) Prior to commencement of above ground works, written confirmation from the appointed Building Control Body shall be submitted to and approved in writing by the Local Planning Authority to demonstrate compliance with (a).

(c) The development shall be carried out in accordance with the approved details under part (b).

**Reason:** To ensure that there is an adequate supply of wheelchair accessible housing in the Borough in accordance with Policy 1 Housing provision, mix and affordability and Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

### **20. Plumbing and Pipes**

Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, re-enacting or modifying that Order), no plumbing or pipes, including rainwater pipes, shall be fixed on the

external faces/front elevation of the building(s), unless otherwise agreed in writing.

**Reason:** In order that the local planning authority may be satisfied with the details of the proposal and to accord with Policy 15 High quality design for Lewisham of the Core Strategy (June 2011) and DM Policy 30 Urban design and local character of the Development Management Local Plan (November 2014).

## **21. Construction Deliveries and Hours**

(a) No deliveries in connection with construction works shall be taken at or despatched from the site other than between the hours of 8 am and 6 pm on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on Sundays or Public Holidays.

(b) No work shall take place on the site other than between the hours of 8 am and 6 pm on Mondays to Fridays and 8 am and 1 pm on Saturdays and not at all on Sundays or Public Holidays.

**Reason:** In order to safeguard the amenities of adjoining occupants at unsociable periods and to comply with Paragraph 120 of the National Planning Policy Framework and DM Policy 26 Noise and Vibration, and DM Policy 32 Housing design, layout and space standards of the Development Management Local Plan (November 2014).

## **22. Protected Species Survey – Breeding Birds**

(a) Construction work and removal of vegetation on site should be outside of the bird nesting season considered to be between March and September inclusive. If this is not possible, a bird nesting check by a suitable qualified ecologist should be undertaken within 24 hours of work starting on site.

(b) If a nest is found, works should stop in this area and a "no work buffer zone" should be created until the chicks have fledged.

**Reason:** The Natural Environment & Rural Communities Act 2006, Section 40, imposes a duty on public bodies "to have regard" to the conservation of biodiversity in England, when carrying their normal functions and the Lewisham Biodiversity Action Plan (BAP) contains a number of targets and actions, habitat and species that need to be considered.

## **23. Protected Species Survey – Dead-wood Invertebrate Species**

(a) Prior to construction, log piles should be created on site where they can remain undisturbed for at least three years.

(b) Where stag beetle larvae is unearthed during removal of trees and roots (dug up from 0.1-0.5 metres deep). The stag beetle larvae and wood mould will be translocated to a newly constructed pile log pile. The larvae should be covered by a thick layer of soil.

**Reason:** The Natural Environment & Rural Communities Act 2006, Section 40, imposes a duty on public bodies "to have regard" to the conservation of biodiversity in England, when carrying their normal functions and the Lewisham

Biodiversity Action Plan (BAP) contains a number of targets and actions, habitat and species that need to be considered.

#### **24. Parking Management Plan**

(a) A Parking Management Plan must be submitted to and approved in writing by the Local Planning Authority, prior to first occupation of any building hereby approved.

(b) The plan must include:

- (i) Details of how informal parking would be managed and enforced;
- (ii) Details of how active and passive provision for Electric Vehicle Charging Points will be provided in accordance with London Plan;
- (iii) How informal parking will be enforced;
- (iv) How the management of informal parking will ensure service/emergency access; and
- (v) How it will improve pedestrian accessibility.

**Reason:** In order to ensure adequate provision for disabled parking and to comply with Policy 14: Sustainable movement and transport of the Core Strategy (2011).

#### **25. S278 Highway Works**

(a) Prior to first occupation details of the following highways works (including drawings and specifications) must be submitted to and approved in writing by the Local Planning Authority, including:

- (i) Improvement works within 5m of the junction of Windrush Lane and Perry Vale (including the installation of tactile paving and dropped kerbs);
- (ii) The installation of dropped kerbs and tactile paving on the public Highway at the vehicular access into the estate from Inglemere Road; and
- (iii) Improvement works within 5m of the junction of Sunderland Road and Perry Vale, to improve the informal crossing and pedestrian accessibility between the application site and the eastbound bus stop on Perry Vale.

(b) Prior to occupation the works as required under (a) must be completed and evidence of approval from the Highways Authority to this work must be submitted and approved by the Local Planning Authority.

**Reason:** To secure highways improvement works on the public highway and to accord with Policy 14: Sustainable movement and transport of the Core Strategy (2011).

#### **26. Development Phasing**

(a) Prior to commencement of development, details (including but not limited to full elevations, fencing specifications, layout, seating specification, surfacing materials, hoop specification) of the re-provided ballcourt must be submitted to and approved in writing by the Local Planning Authority.

(b) The re-provided ballcourt must be provided in full prior to demolition of the existing ballcourt.

**Reason:** In order to comply with Policy 3.1 and 3.6 London Plan Policy (2016) and DM Policy 32 of the Lewisham Core Strategy (2011).

## **27. Protected Species Survey - Bats**

(a) Prior to works commencing on the garages, a suitably qualified ecologist should carry out an internal inspection to confirm no bats are present.

(b) Prior to removal of any tree or pruning of dead-wood on retained trees, an assessment has to be undertaken to determine if the feature to be removed has potential to support roosting bats.

(c) Assessments outlined in (a) and (b) above involve either a climbed inspection or from equipment such as cherry-pickers, MEWP's or scaffold tower, and inspecting all features (of value to roosting bats) using an endoscope. These inspections should be undertaken by a suitably licensed bat ecologist, and in the case of climbed inspections, a qualified tree climber. Inspection surveys should be undertaken during favourable weather conditions (i.e. when the weather is dry and the temperature is above 10 degrees C), in case any bats are disturbed during inspection and fly.

(d) If evidence of a bat roost is confirmed, then a European Protected Species Mitigation License will need to be obtained from Natural England in order that the works can progress within the confines of the legislative framework.

**Reason:** All bat species are fully protected under The Conservation (Natural Habitats, &c.) Regulations 2010 (as amended) through their inclusion on Schedule 2 and the Wildlife and Countryside Act 1981 (as amended) through their inclusion on Schedule 5.

## **28. Affordable Housing**

At least 100% of the thirty-nine (39) residential units hereby granted permission shall be provided and maintained in perpetuity as affordable housing for social rent to meet the needs of householders whose incomes are not sufficient to permit them to access and afford to rent on the open market. The affordable housing shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.

**Reason:** In order to meet the affordable housing needs of the borough and comply with Core Strategy Policy 1 of the Lewisham Core Strategy (2011).

## **29. Specialist Residential Accommodation**

All thirty-nine (39) residential units hereby granted permission shall be provided and maintained in perpetuity as over 55's accommodation in accordance with Section 4.4 of the Planning Statement (Prepared by BPTW), dated June 2019 hereby approved.

**Reason:** In order to meet the housing needs of the borough and comply with Core Strategy Policy 1 of the Lewisham Core Strategy (2011).

## INFORMATIVES

### A. **Positive and Proactive Statement**

The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, positive and proactive discussions took place with the applicant prior to the application being submitted through a pre-application discussion. As the proposal was in accordance with these discussions and was in accordance with the Development Plan, no contact was made with the applicant prior to determination.

### B. **Thames Water - Waste Comments**

A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 3577 9483.

There are public sewers crossing or close to your development. If you're planning significant work near our sewers, it's important that you minimize the risk of damage. We'll need to check that your development doesn't limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes.

### C. **Thames Water - Water Comments**

The proposed development is located within 15m of Thames Waters underground assets, as such the development could cause the assets to fail if appropriate measures are not taken. Please read our guide 'working near our assets' to ensure your workings are in line with the necessary processes you need to follow if you're considering working above or near our pipes or other structures. Should you require further information please contact Thames Water. Email: [developer.services@thameswater.co.uk](mailto:developer.services@thameswater.co.uk)

There are water mains crossing or close to your development. Thames Water do NOT permit the building over or construction within 3m of water mains. If you're planning significant works near our mains (within 3m) we'll need to check that your development doesn't reduce capacity, limit repair or maintenance activities during and after construction, or inhibit the services we provide in any other way. The applicant is advised to read our guide working near or diverting our pipes.

Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

If you are planning on using mains water for construction purposes, it's important you let Thames Water know before you start using it, to avoid potential fines for improper usage. More information and how to apply can be found online at [thameswater.co.uk/buildingwater](http://thameswater.co.uk/buildingwater).

**D. Local Colony of Swift Birds**

Please also note and inform the applicant that there is a local colony of swifts and swift boxes (including a microphone to play calls) appropriately located would be a very worthwhile enhancement. This is inexpensive and will exponentially increase the chances of uptake.

**E. Surface Water and SuDS**

To encourage greater consistency in both the applications and the Lead Local Flood Authority information requests, since April 2019, Lewisham Council and 32 other Lead Local Flood Authorities in London has introduced the London Sustainable Drainage Proforma to accompany Sustainable Drainage strategies submitted with planning applications. It sets a clear standard for the information that should be provided in a Sustainable Drainage strategy for all development in London. The proforma is intended to ensure that key information is provided, reducing the need to request additional information throughout the assessment process and preventing delays in approval. Please visit <https://www.london.gov.uk/what-we-do/environment/climate-change/surface-water/london-sustainable-drainage-proforma#acc-i-56812>.

The proforma would also direct the applicant to ensure that the proposed development meets the following policy and guidance:

- Lewisham Core Strategy Policy 10
- London Plan Policy 5.13 and draft New London Plan Policy SI13
- The National Planning Policy Framework
- The Lewisham SuDS Design and Evaluation Guide
- The London Plan Sustainable Design and Construction SPG
- DEFRA non-statutory technical standards for sustainable drainage
- Environment Agency climate change guidance
- CIRIA C753 The SuDS Manual
- Lewisham River Corridors Improvement Plan SPD





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