



Strategic Planning Committee

Report title:

**HITHER GREEN RAILWAY STATION, STAPLEHURST ROAD, LONDON,
SE13 5NB**

Date: 14 March 2023

Key decision: No.

See [“Legal Requirements” in the guidance](#) for more information.

Class: Part 1

See [“Legal Requirements” in the guidance](#) for more information.

Ward(s) affected: Hither Green

Contributors: Antigoni Gkiza

Outline and recommendations

This report sets out the officer recommendation of approval for this planning application.

The case has been brought before members for a decision as thirteen valid objections have been received from the neighbouring properties.

Application details

Application reference number(s): DC/22/128559

Application Date: 23 September 2022

Applicant: Network Rail

Proposal: Prior Approval application for the construction of a new footbridge with lifts and staircases, new entrances to Fernbrook Road And Springbank Road SE13, together with the removal of existing footbridges and canopy infill at Hither Green Station SE13, under Part 18 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Background Papers: Submission drawings
Submission technical reports
Statutory consultee responses
Screening Opinion

Designation: PTAL 3
Lee Neighbourhood Forum
Local Open Space Deficiency
Air Quality

Screening: DC/22/129508 I Screening Opinion – not EIA development

1 SUMMARY

1 This report sets out the Officer's recommendation for the above proposal. The report has been brought before members for a decision as permission is recommended for approval, and there are three or more (17 no. and two petitions) valid planning objections. This application is being brought before committee following the Council consenting to quash the previous decision granted on 22 April 2022. The grounds of the claim in summary were:

- 1) The Council should have issued a committee decision, not a delegated officer level decision;
- 2) There were errors in the delegated report regarding the height of the development;
- 3) The Council did not consider the impact of a new station access point on Fernbrook Road and its impact on neighbouring amenity;
- 4) The Council did not consider the impact of lighting on neighbouring amenity;
- 5) The Public Sector Equality Duty (PSED) was not applied in coming to decision on the application.

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- 2 The claim was consented to the single ground 5 that refers to the Public Sector Equality Duty (PSED).

2 SITE AND CONTEXT

Site description and current use

- 3 The application relates to Hither Green Station, located on Fernbrook Road. The station has six tracks passing through it: Platforms 1 to 4 on the Charing Cross to Dover lines and platforms 5 and 6 on the Hither Green to Dartford lines.

The station building and main entrance are located between platforms 4 and 5 and are accessed via a steep ramp that passes beneath the London/north end of the station via subway. There are two separate existing footbridges connecting each of the platforms. There is no step free interchange between the platforms except platforms 4 and 5.

The station and tracks are elevated above street level with vegetation surrounding the station. Fernbrook Road runs parallel to the northeast side of the station and Springbank Road runs parallel to the south west side.

- 4 The site falls within Lee Neighbourhood Forum.

Image 1: Aerial View of Hither Green Railway Station



Character of area

- 5 The surrounding area is predominantly residential in character with terraced and semi-detached dwellings. To the west of the site is Brindishe Green Primary School and to the east the Chiltonian Industrial Estate.

Heritage/archaeology

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- 6 The property is not located within a conservation area, nor is it, or close to, a listed building or non-designated heritage asset.

Surrounding area

- 7 The site is located close to Brindishe Green Primary School, Mountsfield Park Playground and Manor House Gardens.

Local environment

- 8 The site falls within a Local Open Space Deficiency Area and an Air Quality Management Area.

Transport

- 9 The site has a Public Transport Accessibility Level (PTAL) score of 3 on a scale of 1-6b, 1 being lowest and 6b the highest. A number of bus stops are located on the surrounding roads serving the local area.

3 RELEVANT PLANNING HISTORY

- 10 **DC/08/070322/FT** – Formal observations to Network Rail in respect of the erection of a 15 metre mast at Hither Green Station, Staplehurst Road SE13. **Raised no objection** 21 November 2008.
- 11 **DC/10/074012/FT** – Prior Approval under Part 17 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 to increase the current length of the platforms at Hither Green Station, Staplehurst Road SE13. **Granted** 5 May 2010.
- 12 **DC/18/110297** – Notification under Part 8 of the Town and Country Planning (General Permitted Development) (England) Order 2015 in relation to the Hither Green Resignalling Works. **Advice Notice** Issued 10 January 2019.
- 13 **DC/22/125574** - Prior Approval application for the construction of a new footbridge with lifts and staircases, new entrances to Fernbrook Road And Springbank Road SE13, together with the removal of existing footbridges and canopy infill at Hither Green Station SE13, under Part 18 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. **Granted** 22 April 2022. Note: **quashed and withdrawn following pre-action correspondence and consent.**

4 CURRENT PLANNING APPLICATION

4.1 THE PROPOSALS

- 14 Prior Approval application for the construction of a new footbridge with lifts and staircases, new entrances to Fernbrook Road And Springbank Road SE13, together with the removal of existing footbridges and canopy infill at Hither Green Station SE13 , under Part 18 Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

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- 15 More specifically, the proposed development would comprise the following:
- Four new 16-person lift shafts to provide step free access to every platform. The lifts would provide access as follows:
 - Beside Springbank Road, providing access to platform 1;
 - On platform 2 and 3;
 - Between platform 4 and 5 with ramped access between the platforms at ground level;
 - On the far side of platform 6, providing access from a new entrance at Fernbrook Road.
 - New link bridges to connect the lifts and platforms
 - Ramp to connect platforms 4 and 5
- 16 A new footpath is proposed on the toe of the embankment, front side of the embankment to the Fernbrook Road side, to ensure there is no reduction in width of the existing road.
- 17 The submission advises that the primary objective of the proposal is to develop and deliver Access for All (AfA) facilities at Hither Green Station. This will be achieved by constructing an accessible route from at least one main station entrance and all drop off points associated with that entrance to each platform and between platforms served by scheduled passenger trains.
- 18 Funding to upgrade Hither Green Railway Station was secured in July 2018 as part of the Department for Transport's Access for All programme. Funding is used to create obstacle free, accessible routes from rail station entrances to the platforms. This generally includes providing lifts or ramps, as well as associated works and refurbishment along the route. Catford Station was also selected for updates as part of this package of funding.
- 19 The objective is to provide an unobstructed and obstacle free "accessible route", defined as:
- A route for a manually self-propelled wheelchair user to safely negotiate.
 - A distance, ideally not exceeding 400m, from the station entrance (or drop off point if further) to the appropriate point of entry/exit of trains at platforms.

4.2 COMPARISON WITH PREVIOUS SCHEME

- 20 The previous scheme relates to the quashed decision DC/22/125574, which was granted on 22 April 2022.
- 21 Network Rail has submitted a revised prior approval application (under Part 18 of the GPDO 2015) for the Hither Green Access for All scheme. The key changes are listed below as set out in the submitted Revised Submission Details document:
- The road crossings, accessible drop off and disabled parking bays have been removed. These were previously included as aspirations, on land not within

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Network Rail's control, subject to agreement with the local authority and do not require Part 18 prior approval.

- Entrances have slightly been altered. The original street entrance drawings were based on historic, incomplete topographical survey data. Since then, further survey work has been completed to help inform the design which has resulted in minor changes. The changes include the reduction in height of retaining walls at the top of the embankments and the staircases being set back in line with the lift shafts.
- National Rail Signage has been removed. National Rail signage will be displayed on the exterior side of the lift shafts and totem poles will be in the street approaches. Neither are illuminated.
- Temporary stair has been removed (Street Level Plans) – the construction methodology has changed meaning this temporary pedestrian access is no longer required. Passengers will continue to use the existing stepped entrance at the far end of platform 1.
- Fencing and street lighting have been removed (Street Level Plans) – Fencing will be installed to secure the railway boundary and prevent trespass and does not require Part 18 prior approval. Greater detail on the proposed lighting is now provided in the Lighting Layout drawing. It should be noted that the streetlights do not require Part 18 prior approval and are shown for information.
- Vegetated retaining wall has been removed (Platform Level Plans) – The intention is to provide planting on top of the retaining walls with trailing plants hanging over.
- Top of lifts height has been reduced from 34.5m to 33.78m – this is due to the optimization of design by reducing the bridge soffit clearance above the tracks which in turn reduces the lift shaft height as there is a set dimension from bridge level to top of lift shaft.
- Introduction of glazing on the main bridge span around the lift shaft areas. This is to improve internal natural light within the bridge span and ultimately improve passenger experience. The glazing will be stippled (obscure) to prevent any overlooking of neighbours.
- Internal reconfiguration including (Platform Level Plans):
 - Relocation of the access gate to nature reserve. The existing gate to the nature reserve is now being retained.
 - Relocation of the proposed ramped access route at platforms 4 and 5. The layout of the lift, stairs and ramped access has been altered to improve passenger experience, improve construction techniques, reduce the amount of imported fill material and also reduce the land take of the nature reserve. In summary a reduction of environmental impact and cost.
 - Internal stairs have been removed. The wraparound stairs in between platforms 4 and 5 have been replaced by a straight flight of stairs.

22

Network Rail has submitted a set of revised drawings/documents regarding the prior approval application (under Part 18 of the GPDO 2015) for the Hither Green Access for

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All scheme in January/February 2023. The key changes are listed below as set out in the submitted Schedule of Changes document:

- The structure on both Fernbrook Road and Springbank Road has been moved away from the rear of each platform by approximately 750mm to allow the safe installation of relocated high voltage cables.
- The wingwalls to both new street entrances have slightly increased in length and height to suit the increased gradients of the embankment slopes as a result of the above point.
- The perforated weathering steel enclosure alongside Springbank Road has been reduced in length.
- The gabion basket wall alongside the new path in Fernbrook Road has been removed.
- The fence line in Fernbrook Road now runs alongside the new footpath then abuts the wingwall rather than returning up the embankment slope.
- Saplings have been added to the embankment area.
- The lift shafts now show an open side at very high level with gutter.
- The angle of the outer staircase has been altered leading to a reduction in the massing of the side elevation.
- The height of the street Totem pole in Springbank Road, and location of Totem pole in Fernbrook Road has been modified to reduce its visual impact.
- The bike racks and bench seating to the street entrance have slightly altered to improve passenger flow.
- The pedestrian crossings have been removed from the CGI's.

5 ENVIRONMENTAL IMPACT ASSESSMENT

- 23 The current application was not accompanied by an Environmental Statement and is judged to be a materially different scheme for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The Local Planning Authority has therefore undertaken a screening exercise in accordance with Regulation 8 of the 2017 Regulations.
- 24 The proposal is judged to be a Schedule 2 development described as an Urban Development Project pursuant to Schedule 10B to the 2017 Regulations meeting the exclusion threshold based on a site size exceeding 5 Hectares.
- 25 The Local Planning Authority adopts a Screening Opinion under Regulation 8 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the Regulations) that an Environmental Statement is not required. This Screening Opinion has been placed in the planning register.

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6 CONSULTATION

6.1 PRE-APPLICATION ENGAGEMENT

26 No pre-application engagement was sought regarding this application.

6.2 APPLICATION PUBLICITY

27 There is no requirement under Part 18, class A of the GPDO to undertake consultation in respect of this application type.

28 In this instance, given the significant public interest for the application, consultation has been undertaken by the Local Planning Authority.

29 Site notices were displayed on 5 October 2022.

30 Letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 3 October 2022.

31 Fourteen responses received, comprising thirteen objections and one support. In addition, two petitions containing 56 signatures across 52 properties were received objecting to the proposed development.

6.2.1 Comments in objection

Comment	Para where addressed
Design	
Out of character from the local area	102 – 103
Large scale, massing and bulk, alien in its context	102 – 103
The vertical clearance over the track bed at platforms 1 – 4 and at platforms 5 – 6 does not appear to be fully reflected in a reduction in the overall height of the structure.	92 – 94
Increase in the height of the bridge deck and in the Fernbrook Road stairs under the previous scheme.	82, 92 – 94
All glazing facing residential properties on the main structures should be obscured glazed.	21, 102 – 103
Concrete walls at the top of the embankments should be green walls to soften the visual impact.	103

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<p>No information has been provided regarding the proposed colour of the bricks and the Council should ensure the brick choice would match the surrounding context.</p>	<p>102 – 103 The design quality will be secured by condition.</p>
<p>Neighbouring amenity</p> <p>Overbearing sense of enclosure</p> <p>Increment noise disturbance from additional footfall, traffic and loss of trees</p> <p>Visually intrusive as it would sit on an elevated position</p> <p>Loss of trees will result in overlooking, loss of privacy and light pollution</p> <p>The proposed entrance on Fernbrook Road could be repositioned in order to achieve the reduction in the negative impact of the local amenity</p> <p>Block of daylight/sunlight</p> <p>Security lights would cause light pollution and intrusion</p> <p>No mitigating screening has been proposed</p> <p>No information has been provided regarding the illumination of the Network Rail logo on the elevations of the lifts.</p> <p>Using the entrance on Fernbrook Road during the night could be daunting in terms of personal security especially for people with the protected characteristics under the Equality Act 2010.</p>	<p>74 – 90</p> <p>104 – 108</p> <p>74 – 90</p> <p>21, 102 – 103, 100 – 101</p> <p>82</p> <p>71 – 86</p> <p>110 – 111</p> <p>21, 102 – 103</p> <p>21</p> <p>106, 109, 124 – 127</p>
<p>Traffic, Parking and Highways</p> <p>Congested streets and pavements from large numbers of passing pedestrians</p>	<p>104 – 105</p>

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Large increase of waiting cars which would increase noise disturbance and pollution	104 – 105
Increase of parking issues due to the loss of parking spaces	21, 104 – 105
Biodiversity	
The construction of concrete walls cannot replace the loss of greenery and biodiversity	103, 112 – 114
No landscaping plan has been submitted and should be conditioned.	103, 112 – 114
Loss of trees would cause more pollution	103, 112 – 114

32

A number of other comments were also raised as follows:

Design	Para where addressed
The new entrances should be located closer to the original entrance to avoid anti-social behaviour. No engineering reasons have been provided to justify this.	67 – 72
The proposed new entrance in Fernbrook Road is far away from the existing station and underpass, which would increase the walking distance of passengers.	An unobstructed and obstacle free “accessible route is defined as “A distance, ideally not exceeding 400m, from the station entrance (or drop off point if further) to the appropriate point of entry/exit of trains at platforms”. The proposed configuration would not exceed the above requirement.
The introduction of a slope in the deck of the bridge between platforms 4/5/6 would reduce the overall height. Reference has only been made to Network Rail design guidance and not the maximum gradient that is permissible under such guidance or part M of Building Regulations.	95 – 96
The supporting letter is misleading as it shows the existing relationship between	See drawing 416-FP-ZZ-DRG-A-000015 – REV P05 in combination with the Cover Letter.

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the station and the neighbouring properties and not the proposed;	Officers note that the platform levels would remain as existing.
The Council should ask the applicant to provide comparative sections of the existing and proposed situation, showing the relative position of the houses with heights and distances	See drawing 416-FP-ZZ-DRG-A-000015 – REV P05 in combination with the Cover Letter.
The applicant has not provided a detailed design appraisal to explain whether or not the development ought to be and could reasonably be carried out elsewhere on the land.	67 – 72
What additional track possessions would be required and why the construction programme cannot be amended to fit the available possessions.	97 -98
The suggested vertical clearance has not been implemented at the same standards in other stations.	The current assessment relates to the application at Hither Green Railway Station and the design standards of other stations cannot be taken into consideration.
During the local meeting it was confirmed that the bridge height could be reduced to 3.5m and as such it could be modified, and revised plans should be submitted Could this be applied to the stair and link to the lift tower facing Fernbrook Road?	93 -95
Traffic, Parking and Highways	
Network Rail has not provided any evidence to demonstrate that there would not be any increase in passenger numbers	99
Neighbouring amenity	
No report has been provided by a suitably qualified lighting engineer detailing the level of light spillage or increase in light to	109 – 111

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the front of residential properties adjoining in accordance with the Institution of Lighting Professionals guidance levels.	
Network Rail logo illuminance levels should be precluded and there are concerns as to whether such an illuminated advertisement may benefit from deemed consent under Schedule 1, Part 3, Class 1 to the Town and Country Planning (Control of Advertisement) (England) Regulations 2007 or some other provision.	21
Other issues	
Network Rail failed to properly engage with the local community before the submission of the previous prior approval application and there has not been any engagement since then.	35 - 42
The applicant has provided no substantive evidence in writing regarding the funding arrangements.	115
The applicant could enter into a section 106 legal agreement under the Town and Country Planning Act 1990 putting in place a binding obligation to take defined steps to mitigate harm or nuisance subject to agreed triggers	116

6.2.2 Comments in support

Comment	Para where addressed
Fully supported and long overdue to provide no step access to all platforms	The comments have been addressed throughout the report.

7 RE-CONSULTATION

- 33 The applicant provided updated drawings (see para 22) and letters were sent to residents and business in the surrounding area and the relevant ward Councillors on 8 February 2023.

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34 Sixty-seven responses received, comprising ten objections and fifty-seven letters of support.

7.1.1 Comments in objection

Comment	Para where addressed
<p>General</p> <p>Based on a report of a private consultancy for the value for money of Access for All schemes, such schemes represented good value for money. Therefore, moving the access closer to the bus stops and local centre would make the station more attractive to a wide range of potential users and help integrate bus and train travel.</p> <p>The WebTAG guidance issued by Government makes it clear that decisions shouldn't just be based on factors that can be monetised to provide a Benefit Cost Ratio (BCR)</p> <p>Little to no effort has been made to the changes raised.</p> <p>An EIA Screening Opinion would probably not be necessary, and the documents should be made public</p> <p>Network Rail should find more funding to move this entrance to the west and futureproof the development for a potential new ticket office nearer to public transport.</p> <p>It would be preferable for there to be lifts only to avoid detracting from the accessibility aims of the scheme</p>	<p>67 -72</p> <p>115</p> <p>22</p> <p>23 – 25</p> <p>115</p> <p>18</p>
<p>Design</p> <p>The Fernbrook Road access should be moved closer to the bus stops, local centre and existing station entrance. There does not appear to be any practical reason why the scheme cannot be redesigned</p>	<p>67 -72</p>

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<p>The lifts would be far away from the bus stop and people with visual impairments would struggle to use the station.</p>	<p>100 – 101</p>
<p>The proposed tower would have a detrimental impact and look out of place in relation to a narrow residential road (Fernbrook).</p>	<p>102 – 103</p>
<p>The revised drawings do not show the hanging signage and further evidence should be required in order to confirm why a 2.3m vertical clearance cannot be achieved.</p>	<p>The hanging signage does not require prior approval and therefore further evidence is not required as part of this application.</p>
<p>The automatic shutter doors are not shown on the plans</p>	<p>The automatic shutters do not require prior approval and therefore they are not required as part of this application.</p>
<p>Neighbouring amenity</p> <p>Hundreds of passengers would be milling out onto Fernbrook Rd in the evening rush hour, causing an increase in noise disturbance and incidents of anti-social behaviour from passengers coming home during the night.</p> <p>An entrance far away from the main station and the row of shops with passive surveillance would jeopardise the safety for the most vulnerable, especially in the evenings.</p> <p>Removal of some aspects of the proposal, such as the street level staircases, bike racks, and bench seating, would mitigate some of this risk in terms of safety.</p> <p>Intrusion, visual impact and block of daylight</p> <p>Significant increase in noise and footfall</p>	<p>99, 104 – 111</p> <p>109 – 111</p> <p>The street level staircases, bike racks, and bench seating do not require prior approval.</p> <p>21, 102 – 103, 100 – 101</p> <p>99, 104 – 111</p>
<p>Traffic, Parking and Highways</p> <p>Numerous passengers arriving at Hither Green station would get picked up or dropped off by cars. Fernbrook Road would have more vehicles, idling pollution and traffic jams as this is a bus route.</p>	<p>21, 104 -105</p>

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Biodiversity	
The proposal would cause environmental damage.	103, 112 – 114
Loss of trees, biodiversity and emissions absorption	103, 112 – 114
The fact that a large number of mature trees will have to be cut down to make way for this large structure, goes against the council's own air quality action plan 2022-27, and removes a 'nature wall' that currently acts as both a noise reducer from passing trains and contributes to cleaner air.	103, 112 – 114
The Council is asked to seek to maintain the 'green' nature of Hither Green and require the applicant to maintain the existing trees on the embankment and replace those that have been - or will be - lost, as well as using greenery to help any new structure to blend in.	103, 112 – 114

7.1.2 Comments in support

Comment	Para where addressed
General	The comments included in this section have been addressed throughout the report.
The lack of lifts restricts people with health issues from using the station	
The improvements at the station have been long overdue and essential for the wider local community	
The current layout of the station is not safe and secure for young children and vulnerable people, people carrying luggage and prams	
The 2010 Equalities Act requires to ensure that older people are not prevented from remaining active and engaged members,	117 – 123

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and the council has an obligation to support equal access for everyone

People carrying heavy shopping bags and luggage when travelling would benefit from the provision of lifts.

Upgraded technologies should be utilised to make the environment accessible to all and not excluding people from the benefits that train travel affords.

The current access to the station by either a steep slope or several sets of staircases is dreadful and almost impossible for wheelchair users and a major hindrance to local people.

Those with significantly reduced mobility are effectively blocked from using the station and its train services.

It is unacceptable to have such an inaccessible station in 2023, and to fail to address this would be deeply discriminatory.

The inaccessible platforms lead people to use other stations

Network Rail's justifications in their current application are being supported.

The broader benefits for the community should not be prevented by a local NIMBY minority

Stair free access is a requirement.

The waste of tax payer money should stop and the essential upgrade should be approved.

The proposal conforms to the LDF (core strategy and associated DPDs) and the London Plan. It reflects the intention in the 2006 Urban Design and Development Framework relating to strengthened and safer pedestrian links in the station area.

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<p>The benefits to the entire community completely outweigh the minor inconvenience of a very small part of the local population</p> <p>These changes to the station really will make an incredible difference to us all in Hither Green and those that need to use the station to change trains.</p> <p>Lift access is a very basic requirement for a London borough.</p> <p>Future generations of families and people should live more independent.</p>	
<p>Design</p> <p>The current layout of the station and its overall presentation is dreary and depressing</p> <p>The different staircases were built for lower passenger numbers than the station now serves</p> <p>The designs for the new additions to the station are a great improvement from the existing dereliction.</p> <p>The fantastic design will improve the sense of place and arrival, and provide a balance on both sides of the railway line, and would give Hither Green a strong identity</p> <p>The proposed design would be simple and elegant, and it would integrate nicely with the area and improve the public realm.</p> <p>High quality materials would blend into the surrounding vegetation.</p> <p>The retention of the main entrance to the station is highly supported. The new entrance on Fernbrook Road will not be that much further down from the main entrance.</p>	<p>The comments included in this section have been addressed throughout the report.</p>

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<p>The proposed scheme would facilitate a long-term modernisation and the new plans are visually attractive and in-keeping with the current station and the surrounding area</p>	
<p>Neighbouring amenity</p> <p>Concerns regarding overlooking are derisory</p> <p>The current inadequate lighting is not conducive for anyone to feel safe late at night or early in the morning</p> <p>The improvements to CCTV and lighting at the station are being supported.</p> <p>It is expected that only those with accessibility needs will use the new entrance on Fernbrook, and it should make minimal difference to the number of people using the Springbank Road entrance too, which already feels quiet even at rush hours.</p> <p>Due to the lack of bright lighting at the moment, the station feels unsafe to access as a woman or vulnerable person</p> <p>The use of opaque materials to prevent overlooking and the fact that the lifts are quieter than trains should be sufficient to make this work for everyone in the community.</p> <p>The improvement of the appearance of the station would help to create a safer space for people using public transport as there are currently several issues with unsocial and criminal behaviour surrounding the station</p> <p>The street access will lower rush hour pressure and crowding (particularly on platform 6).</p> <p>Willing to deal with any inconvenience caused by the construction works as it will</p>	<p>The comments included in this section have been addressed throughout the report.</p>

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mean the community would have a much better facility once it is complete.	
<p>Traffic, Parking and Highways</p> <p>The improvements bicycle storage at the station are being supported.</p> <p>The need for car journeys would be reduced.</p>	The comments included in this section have been addressed throughout the report.
<p>Biodiversity</p> <p>The proposal has been designed to fit in the locality, including retaining tree cover where possible, adding new planting and adding some architectural flair.</p> <p>Any opportunities to improve biodiversity and offset nature reserve loss would be welcome</p>	The comments included in this section have been addressed throughout the report.

7.2 INTERNAL CONSULTATION

35 The following internal consultees were notified on 9 November 2022.

36 Highways: raised no objections subject to conditions. See 'Assessment' section below for further details.

7.3 EXTERNAL CONSULTATION

37 The following External Consultees were notified on 11 November 2022 and on 8 February 2023.

38 Lee Neighbourhood Forum: no comments received.

39 Lewisham Cyclists: no comments received. Notified on 3 October 2022 and on 8 February 2023.

7.4 LOCAL MEETING

40 A Local Meeting was held on the 15th November 2022 as 10 or more objections had been received. The meeting was held virtually and was chaired by Councillor Eva Kestner.

41 28 people attended the local meeting.

42 The summary note of the local meeting has been attached as Appendix 1.

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8 POLICY CONTEXT

8.1 LEGISLATION

43 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).

44 Class A, Part 18 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Class A states:

45 Class A – development under local or private Acts or Order

46 Permitted development

47 A. Development authorised by—

- a) a local or private Act of Parliament,
- b) an order approved by both Houses of Parliament, or
- c) an order under section 14 or 16 of the Harbours Act 1964 (orders for securing harbour efficiency etc, and orders conferring powers for improvement, construction etc of harbours), which designates specifically the nature of the development authorised and the land upon which it may be carried out.

48 Conditions

49 A.1 Development is not permitted by Class A if it consists of or includes—

- a) the erection, construction, alteration or extension of any building, bridge, aqueduct, pier or dam; or
- b) the formation, laying out or alteration of a means of access to any highway used by vehicular traffic, **unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained.**

50 A.2 The prior approval referred to in paragraph A.1 is not to be refused by the appropriate authority nor are conditions to be imposed unless they are satisfied that—

- a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land; or
- b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.

51 Interpretation of Class A

52 A.3 For the purposes of Class A, “appropriate authority” means—

- a) in Greater London or a metropolitan county, the local planning authority;

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- b) in a National Park, outside a metropolitan county, the county planning authority;
and
- c) in any other case, the district planning authority.

8.2 MATERIAL CONSIDERATIONS

- 53 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.
- 54 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.
- 55 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 aforementioned directions and the test of reasonableness.
- 56 In this instance, officers are considering how the submission meets the requirements of Class A, Part 18 of the General Permitted Development Order.

9 PLANNING CONSIDERATIONS

- 57 Part 18, Class A
- 58 Development is permitted under Part 18, Class A where development is authorised by a local or private Act of Parliament, which designates specifically the nature of the development authorised and the land upon which it may be carried out.
- 59 Section 16 of the Railway Clauses Consolidation (RCC) Act 1845 contains powers of alteration, maintenance and substitution.
- 60 Section 16 of the RCC Act 1845 states, *“Subject to the provisions and restrictions in this and the special Act, and any Act incorporated therewith, it shall be lawful for the company, for the purpose of constructing the railway, or the accommodation works connected therewith, herein-after mentioned, to execute any of the following works; (that is to say,)... They may from time to time alter, repair, or discontinue the before-mentioned works or any of them, and substitute others in their stead; and They may do all other acts necessary for making, maintaining, altering, or repairing, and using the railway”*.
- 61 Subsequently, the development is considered to fall under this part of the GPDO.
- 62 Pursuant to part A.1 of Class A, Part 18, development is not permitted by Class A if it consists of or includes:-
- a) the erection, construction, alteration or extension of any building, bridge, aqueduct, pier or dam; or,

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- b) the formation, laying out or alteration of a means of access to any highway used by vehicular traffic,

63 unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained.

64 **Condition A2 states that prior approval cannot be refused unless the authority is satisfied that the development ought to be and could reasonably be carried out elsewhere on the land, or the design or external appearance would injure the amenity of the neighbourhood and is reasonably capable of modification so as to avoid such injury.** For clarity, the exact wording is listed below.

65 For such Prior Approval, Part 18 details that only the location and design or external appearance of a development can be considered. Development is not to be refused, nor are conditions to be imposed, unless:

- a) The development ought to be and could reasonably be carried out elsewhere on the land; or
- b) The design or external appearance of any building or bridge would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.

9.1 ASSESSMENT

Discussion

Condition A.2 – Location

66 Development is not to be refused, nor are conditions to be imposed, unless:

- a) The development ought to be and could reasonably be carried out elsewhere on the land;

67 Network Rail have provided a justification as to why the proposed development should be at the proposed location and cannot reasonably be carried out elsewhere on the land. The submitted Cover Letter states that the main constraints of the site are the existing station configuration, operational and physical constraints, including the station and the elevated platforms, minimization of the impact on green infrastructure and disruption on passengers and the local community, and challenging construction access.

68 Network Rail confirms that the bridge must be constructed in the proposed location for the following reasons:

- a) The area close to the station is too narrow at the London end of the station. Therefore, construction and permanent work at this location would block the main entrance, affect signal sighting and potentially require platform widening and track slews;
- b) The existing footbridge locations cannot be replaced as these must remain in place during the construction. The existing footbridges are in poor conditions and their style and design are not suitable to accommodate the addition of lifts;

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- c) The platform area between the station building and existing footbridges is particularly narrow on platforms 4 and 5;
- d) It cannot be located at a further distance from the station as it would be significantly far from the station building and the main entrance, which would increase the length of walking routes;
- e) There is a steep, non-compliant ramp leading from the public subway up to the station building on platforms 4 and 5. This cannot be altered to achieve an acceptable inline/length.

- 69 The Council's Highways Officer has been consulted and confirmed that the above evidence is considered sufficient enough to cover the location analysis for the proposed development. Officers in their own assessment also consider this sufficient and reasonable reason and evidence.
- 70 In addition, Network Rail confirmed during the virtual local meeting on 15 November 2022 that two more different alternatives were explored regarding the potential locations of the proposed lifts. One of the options was to construct the lifts close to the existing subway but the narrow platforms and the existing signalling equipment would not allow the installation of the lifts at this location. In addition, given then current layout of the domain access, any proposed development would demand significant costs and there would be insufficient access to construct. This alternative would, also, involve the installation of an additional lift, which would get passengers from street level up to platform level. Then, the users of the station would have to walk along the platform to get another lift to get to the rest of the platforms.
- 71 The second option that was explored was to construct the 'Access for All' structure towards the main station building but this would cause problems to the civil engineering work and construction work. In addition, it would have an adverse impact to the station operations and the existing access arrangements to and from the station and to and from the platforms.
- 72 The two alternative options that Network Rail had investigated, due to engineering and construction issues, were not considered to be suitable for the proposed 'Access for All' scheme. Given the above justifications and explanation of the constraints of the above locations, Officers are satisfied that the proposed location for the construction of the proposed development would be reasonably acceptable.

Condition A.2 – Design/external appearance and its impact on neighbouring amenity

- 73 Development is not to be refused, nor are conditions to be imposed, unless:
- b) The design or external appearance of any building or bridge would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury.
- 74 It is noted that the previous design included the location of the proposed lifts on the Eastern side of the main bridge span. The current scheme places the lifts on the Western side of the main bridge span to reduce the impact on the nature reserve, improve constructability and reduce the volume of the imported fill materials required. These changes are welcomed and are considered to be an improvement of the scheme as they would provide a more environmentally friendly approach.

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Image 2: Indicative 3D Visual



Lift Shaft beside Springbank Road, providing access to platform 1

- 75 The lift shaft would be located beside Springbank Road and would provide access to platform 1. The top of the shaft level would be 14.38m from street level. The street level is 19.00m above sea level. The lift shaft height would be 33.38m above sea level, which would be the same at the lift shaft at Fernbrook Road. The only variable is the street level height above sea level and all dimensions are external.
- 76 Opposite the proposed location of the lift shaft there is a collection of dwellings. The face of the lift shaft would be located at a distance of 28.5m from the nearest properties and the glazed upper entrance would be located at a distance of 24m from the nearest properties, Nos. 2A Brightside Road and 38 Springbank Road. It is noted that the revised drawings indicate that the length of the perforated weathering steel enclosure alongside Springbank Road has been reduced.
- 77 Given the proposed height, the separation distance from the neighbouring properties and based on the assessment that follows below regarding the height requirements, Officers are satisfied that the proposed lift shaft beside Springbank Road would not have any adverse impact on neighbouring amenity and is not capable of modification as there is a standard height of lift shafts and the height of the structure has been determined by train clearance.
- 78 Furthermore, a new entrance is being proposed as part of the development, which would have a width of approximately 8m and a height of around 4.2m above street level, and would adjoin the wingwall. Given its separation distance from the face of the neighbouring properties and its moderate scale, Officers are satisfied that it would not have any harmful impact on neighbouring amenity.
- 79 It is noted that the revised drawings show that the wingwalls to the new street entrance have slightly increased in length and height to suit the increased gradients of the embankment slopes.

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Image 3: Indicative 3D Visual of Springbank Road



Lift shaft on platforms 2 and 3

- 80 The shaft would be located between platforms 2 and 3, and the top of the lift shaft would be in line with the rest of the proposed lift shafts. The proposed lift shaft would measure approximately 9.7m above platform level (platforms 1 – 4 level). The proposed lift shaft would be located at a significant distance from any neighbouring properties and as such, it is not considered to have any adverse impact on neighbouring amenity. In addition, Network Rail has confirmed that there is a standard height of lift shafts and the height of the structure has been determined by train clearance and as such Officers are satisfied that the proposed lift shaft is not capable of any modifications.

Lift Shaft on platforms 4 and 5 with ramped access between the platforms at ground level

- 81 The shaft would be located between platforms 4 and 5, and the top of the lift shaft would be in line with the rest of the proposed lift shafts. The proposed lift shaft would measure approximately 10.7m above platform level (platforms 5 – 6 level). The proposed lift shaft would be located at a significant distance from any neighbouring properties and as such, it is not considered to have any adverse impact on neighbouring amenity. In addition, Network Rail has confirmed that there is a standard height of lift shafts and the height of the structure has been determined by train clearance and as such Officers are satisfied that the proposed lift shaft is not capable of any modifications.

Lift shaft on the far side of platform 6, providing access from a new entrance at Fernbrook Road.

- 82 The shaft would be located on the far side of platform 6, providing access from a new entrance at Fernbrook Road. The top of the shaft level would be 18.78m from street level. The street level is 14.60m above sea level. The lift shaft height would be 33.38m above sea level, which would be the same as the lift shaft at Springbank Road. The only variable is the street level height above sea level and all dimensions are external.
- 83 Opposite the proposed location of the lift shaft there is a collection of dwellings. The face of the lift shaft would be located at a distance of 30m from the nearest properties and the

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glazed upper entrance would be located at a distance of 25.5m from the nearest properties, Nos. 36-40 Fernbrook Road.

- 84 Given the proposed height, the separation distance from the neighbouring properties and based on the assessment that follows below regarding the height requirements, Officers are satisfied that the proposed lift shaft beside Springbank Road would not have any adverse impact on neighbouring amenity and is not capable of modification as there is a standard height of lift shafts and the height of the structure has been determined by train clearance.
- 85 Furthermore, a new entrance is being proposed as part of the development, which would have a width of around 8m and a height of approximately 6.5m above street level, and would adjoin the retaining wall. Given its separation distance from the face of the neighbouring properties and its moderate scale, Officers are satisfied that it would not have any harmful impact on neighbouring amenity.
- 86 It is noted that the revised drawings show that the wingwalls to the new street entrance have slightly increased in length and height to suit the increased gradients of the embankment slopes. In addition, the fence line in Fernbrook Road now runs alongside the new footpath then abuts the wingwall rather than returning up the embankment slope.

Image 4: Indicative 3D Visual of Fernbrook Road



New link bridges to connect the lifts and platforms

- 87 The proposed straight bridge would extend from east to west, providing level access from the new lift shafts to all platforms. The existing footbridge connecting platform 5 and 6 and the existing access bridge connecting platforms 1 and 4 would be removed after the completion of the proposed works and new canopies would be installed to cover the gaps.
- 88 Given the proposed location and based on the assessment below that followed the local meeting that the Council held between Network Rail and local residents, Officers are satisfied that the proposed footbridge would not have any adverse impact on neighbouring amenity and is not capable of modification due to its long span and the potential clashing with other parts of the station.

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Ramp to connect platforms 4 and 5

- 89 The proposed ramped access route would link platforms 4 and 5 and it would not be visible from the neighbouring properties. As such it would not cause any harmful visual impact on the neighbouring dwellings.
- 90 Officers have assessed the development against any harm and have concluded that there would not be any harmful impact on amenity through the built form. Any concerns will be secured by condition.
- 91 A number of concerns has been received regarding the 'Access for All' scheme at Hither Green and its impact on the amenity of the neighbouring properties.
- 92 Network Rail states in the submitted Cover Letter that in order to minimise the visual impact on neighbouring properties, the vertical bridge circulation has been moved as close as possible to the platforms. There is a standard height of lift shafts, and the height of the structure has been determined by train clearance.
- 93 Furthermore, during the virtual Local Meeting, Network Rail confirmed that the minimum vertical clearance required is 5.2m, which has been proposed for the development at Hither Green Station. In addition, it was confirmed that the height of the bridge would be 3.5m. It is noted that Network Rails has stated that at the time of the local meeting, the structural design was in its preliminary level and as such the final height was unknown. However, a bridge height of 3.5m was mentioned as that is the typical bridge height found on some other 'Access for All' schemes. However, Network Rail have explored this further and have concluded that it is not possible to reduce the height from 4.3m because Hither Green is a more complex station.
- 94 More specifically, sections of the bridge span are much greater than a normal two track overbridge found on previous schemes, making structural members larger, namely 450mm deep chords top and bottom with 3000mm high truss members. The applicant has provided a detailed drawing which indicates the aforementioned points. Furthermore, the internal height of the bridge needs to be compliant and make allowance for signage to be hung from the ceiling. If this was a typical footbridge serving two platforms signage would be positioned on the end walls, however at Hither Green the signage needs to be hung from the ceiling to provide clear direction to passengers. In addition, the bridge width at Hither Green is wider than previous schemes to cater for the number of passengers, and so proportionally the proposed height will provide a comfortable feel. Network Rail notes that from an engineering/structural perspective, a bridge height of 3.5m cannot be achieved and if a height of 4.3m is not acceptable then the scheme cannot progress.
- 95 Concerns were also raised regarding the height of the lift shafts and whether a slope could be introduced to reduce the total height of the structure. Network Rail confirmed that the clearance height from the running rail to the soffit of any new structure is 5.2 metres. This guideline has been implemented to platforms 1 to 4 as they sit at a similar level. Platforms 5 and 6 sit approximately 1m lower and as such it would appear as 6.2m above platform 6, which is the main reason why the proposed lift shaft at Fernbrook Road would appear higher.
- 96 Regarding the proposed footbridge, a straight bridge was considered the best solution in this location as pivoting the bridge would cause clashing with an existing staircase or the station building. Concerns were raised regarding the height of the structure and the potential introduction of slopes to mitigate its overall height. Network Rail confirmed that

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due to the long span of the bridge a continuous gradient would be dangerous, causing issues of stability for buggies and wheelchairs. In addition, the Department of Transport has specific standards for gradients. Given the length of the proposed span there could potentially be a drop of 600mm to 700mm, which would not be noticeable and would introduce a ramp, which would not be as safe as the current proposal. Therefore, the above information demonstrate that Network Rail have thoroughly considered whether the proposed development could be modified and it has been concluded that the current design is the most appropriate scheme for the provision of an 'Access for All' development.

- 97 During the local meeting, Network Rail confirmed that due to insufficient possession access this solution is considered to be the most suitable in the CP6 control period and any other alternative locations would be significantly difficult and costly to achieve. For clarity, Network Rail Control Periods are the 5-year timespans into which Network Rail, the owner and operator of most of the rail infrastructure in Great Britain, works for financial and other planning purposes. Each Control Period begins on 1 April and ends on 31 March to coincide with the financial year. Control Period 6 (CP6) covers the period from 1 April 2019 to 31 March 2024.
- 98 The possession strategy that has been adopted is considered to be the most viable solution by Network Rail given the constraints of the site and the available funding. It was confirmed that Network Rail and BAM Nuttall engineering teams have investigated thoroughly the proposed development in order to comply with the possession strategy that would be required for the specific railway lines and the available funding.
- 99 Concerns were also raised regarding the potential anticipated increase of vehicle traffic and foot flow. Network Rail confirmed during the local meeting that have undertaken an assessment and the findings showed that the proposed development would not cause a significant increase in the number of people that would use the station. The potential future increase would mainly relate to people that would need to use the lifts such as people holding a blue badge, using wheelchairs or carrying buggies. Therefore, there is no major anticipated increase in passenger flow and no traffic management would be required.
- 100 Furthermore, some objections refer to the significant distance of the proposed entrances from the closest bus stops and the problems that this could create for people with mobility issues or visual impairments. The new entrance at Fernbrook Road would be located between four bus stops. The closest bus stops (Hither Green Station (Stop Z) & (Stop U)) to the west of the proposed entrance would be located at a distance of approximately 120m – 150m and the closest bus stops (Fernbrook Crescent (Stop V) & (Stop Y)) to the east would be located at a distance of approximately 100m – 130m from the new entrance. Similarly, the new entrance at Springbank Road would be located at a distance of around 150m from the closest bus stop to the east (Springbank Road / Hither Green Station (Stop A)).
- 101 An unobstructed and obstacle free “accessible route is defined as “A distance, ideally not exceeding 400m, from the station entrance (or drop off point if further) to the appropriate point of entry/exit of trains at platforms”. Therefore, the proposed location of the new entrances would fall significantly below this requirement.

Materials

- 102 The proposed lift towers would be finished in brickwork in a mix of browns and creams and the footbridge would be made of steel frame with internal glazing and exterior

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punched/mesh effect screen in weathering steel. The introduction of glazing on the main bridge span around the lift shaft areas would improve the provision of internal natural light within the bridge span and ultimately improve passenger experience. The glazing will be stippled (obscure) to prevent any overlooking of neighbours.

- 103 The wing walls in the outer embankments behind platforms 1 and 6 would be concrete walls, comprising natural vegetation on their face. Both entrances on Springbank and Fernbrook Roads would feature concrete green roofs to allow flora and fauna to continue growing along the embankments. In addition, the staircases would be made of steel frame with tall obscure glazing, which would prevent overlooking of the neighbouring properties. Finally, the roofs would be finished in kingspan trapezoidal sheeting, the slope within the nature reserve triangle would be made of gabion baskets or sheet piling and the circulation area between platforms 4 and 5 would be paved with planters and seating. It is noted that the revised drawings show that the gabion basket wall alongside the new path in Fernbrook Road has been removed and more saplings have been added to the embankment areas.

Noise disturbance

- 104 Concerns were raised regarding the proposed noise levels that would be generated because of the new development. It is noted that the proposed lifts would be hydraulic type, which cause minimal noise. They would not feature any alarms or sirens and the voice announcements within the lift cars is unlikely to be heard from any neighbouring properties. In addition, the 'Access for All' scheme will fund the installation of a Ticket Vending Machine (TVM) and a minimum of 1 oyster reader at each entrance, subject to agreement with the Train Operating Company (TOC). The existing decibel level will not be increased and will be aligned with the environmental standard/code of practice.
- 105 Network Rail confirmed that a noise impact assessment has not been carried out for the proposed development. However, a previous exercise was used regarding the public announcement speakers and their noise levels at platform and station levels. The existing speaker and announcement system would remain unchanged and there would not be any additional speakers installed street level and on the new staircase. Furthermore, the proposed roller shutters would be soft closing automatically controlled roller shutters, which do not cause any significant noise disturbance.
- 106 The comments received during the consultation period made reference to the potential disruption that could be caused during the construction period. Network Rail confirmed during the local meeting that all construction areas would be secured with hoardings, there would be CCTV to monitor the sites in order to avoid any vandalism or theft. Designated walking and traffic routes would be introduced and traffic marshals would control the vehicle movements during the construction period. In addition, noise screening blankets would be used to mitigate any noise disruption.
- 107 Regarding the piling activities, Network Rail would use the pressing type piling which is considered to create the least noise and vibration in order to reduce the levels of disruption for the neighbouring properties and to minimise disruption to the operation of the station itself. In addition, surveys would be conducted to the structural integrity of the neighbouring properties in order to ensure that the proposed construction works would not cause any damages to the buildings. Network Rail will send notification letters to the neighbouring properties before any activities that would cause nuisance.
- 108 The Council's Highways Authority has requested that Network Rail should provide an outline construction management plan, to provide suitable mitigation methods where and

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if required for the surrounding highway network. A construction management plan would be secured by condition.

Safety/Security and Lighting

- 109 CCTV and lighting would be introduced at the new entrances to provide additional security and help prevent any antisocial behaviour. In addition, a new footpath on the toe of the embankment on Fernbrook Road side is proposed to be introduced leading to the existing station entrance. The proposed footpath would feature additional lighting and is considered to be an improvement to the current excluded and dark side of this road.
- 110 During the virtual local meeting, Network Rail confirmed that the lighting at street level would be compliant with the local authority standards to meet the minimum lux levels and to minimise the impact on neighbouring amenity. The proposed lighting would be in the form of LED fittings either on columns or attached to the structure. The proposed street lighting would be the same as the existing street lighting.
- 111 The lighting details would be secured by condition.

Ecology

- 112 It is noted that the site is currently a Borough grade Sites of Importance for Nature Conservation (SINC). The location of proposed footbridge is not included in the SINC area, only the two proposed entrances would be constructed within the SINC area.
- 113 Network rails has confirmed that a Preliminary Ecological Appraisal was carried out and did not identify any protected species within the area of the proposed development. Further results are being anticipated in terms of biodiversity count in order to keep any potential losses to absolute minimum. The existing vegetation and trees at the embankments would be removed in order to construct the proposed development. However, additional vegetation will be introduced on completion.
- 114 Due to the proximity of the proposed development to a SINC area, a soft landscaping scheme would be secured by condition.

Other issues

- 115 Concerns were raised for the lack of sufficient evidence form Network Rail regarding the funding arrangements, their employee salaries and whether there is opportunity to secure additional funding. Officers note that the funding arrangements for any proposed development are not a required document that has to be submitted with a Prior Approval application.
- 116 In addition, it has been suggested whether the applicant could enter into a section 106 legal agreement under the Town and Country Planning Act 1990 putting in place a binding obligation to take defined steps to mitigate harm or nuisance subject to agreed triggers. Officers note that according to the Planning Practice Guidance paragraph 009 *"By its nature permitted development should already be generally acceptable in planning terms and therefore planning obligations would ordinarily not be necessary. Any planning obligations entered into should be limited only to matters requiring prior approval and should not, for instance, seek contributions for affordable housing."* Therefore, planning obligation for prior approval are only likely to be necessary if they relate to matters requiring prior approval. As it has already been mentioned previously in the report, the matters requiring prior approval under Part 18, Class A are A.2(a) and A.2(b). Although, A.2(b) refers to the impact on neighbouring amenity, this is specifically

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concerned with the design or the external appearance of the development rather than the ongoing use of the building. It is considered that an obligation could not relate to either of those two elements requiring prior approval, given the location and design of the development are both determined prior to the beginning of the development. Therefore, a planning obligation concerning antisocial behaviour or nuisance does not relate to a matter requiring prior approval and would not meet the defined legal tests.

10 EQUALITIES CONSIDERATIONS

117 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.

118 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.

119 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.

120 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>

121 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

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122 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>

123 The proposed ' Access for All' scheme would constitute an improvement to equality. Any potential impacts on equality given the facts and the planning issues set out above would be mitigated by condition. Officers have given full weight to all the representations received in reaching a decision.

11 HUMAN RIGHTS IMPLICATIONS

124 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

125 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.

126 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.

127 This application has the legitimate aim of upgrading an existing railway station under the Governments Access for All scheme. The rights potentially engaged by this application, including Article 8 and Protocol 1 are considered to be unlawfully interfered with by this proposal.

12 CONCLUSION

128 In light of the above, officers consider the proposals to be acceptable in regard to siting and appearance, and are satisfied it would not injure the amenity of the public realm, or neighbouring occupiers.

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- 129 The proposed works are considered to require prior approval, and prior approval should be granted by virtue of Class A, Part 18 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

13 RECOMMENDATION

- 130 That the Committee resolve to **GRANT** permission subject to the following conditions and informatives:

13.1 CONDITIONS

1) SOFT LANDSCAPING DETAILS

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

2) EXTERNAL LIGHTING

- a) Prior to occupation of the development a scheme for any external lighting that is to be installed at the site, including measures to prevent light spillage shall be submitted to and approved in writing by the local planning authority.
- b) Any such external lighting as approved under part (a) shall be installed in accordance with the approved drawings and such directional hoods shall be retained permanently.
- c) The applicant should demonstrate that the proposed lighting is the minimum needed for security and working purposes and that the proposals minimise pollution from glare and spillage.

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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).

3) **CONSTRUCTION MANAGEMENT PLAN**

No development 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:

- a) Rationalise travel and traffic routes to and from the site.
- b) 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.
- c) Measures to deal with safe pedestrian movement.

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 T7 Deliveries, servicing and construction of the London Plan (March 2021).

4) **MATERIALS/DESIGN QUALITY**

No development above ground shall commence on site until a detailed schedule and specification/samples of all external materials and finishes to be used on the structure(s) have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the local planning authority may be satisfied as to the external appearance of the building(s) and to comply with Policy 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.

13.2 **INFORMATIVES**

1) **REASON FOR GRANTING PRIOR APPROVAL**

In reaching the decision to grant prior approval under Part 18 of the Town and Country Planning (General Permitted Development) Order 2015 the Council has

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considered that the development could not reasonably be carried out elsewhere on the land; and that the design or external appearance would not injure the amenity of the neighbourhood.

2) **CONSTRUCTION**

You are advised that all construction work should be undertaken in accordance with the "London Borough of Lewisham Code of Practice for Control of Pollution and Noise from Demolition and Construction Sites" available on the Lewisham web page.

3) **LIGHTING CONTROL**

The assessment of the light spill and lux level at the window of the nearest residential premises shall follow the guidance provided in The Institution of Lighting Engineers, Guidance Notes for the Reduction of Obtrusive Light.

14 BACKGROUND PAPERS

- 131 Submission drawings
- 132 Submission technical reports and documents
- 133 Statutory consultee responses
- 134 Screening Opinion

15 GLOSSARY

Glossary

Abbreviation	Definition
Bridge deck	The road, railway or pedestrian walkway that forms the surface of a bridge
Bridge soffit	The underside of a bridge

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Embankment	Artificially raised ground, commonly made of rock or compacted soil, on which a new railway or road is constructed.
Track bed	The groundwork onto which a railway track is laid.
Lift shaft	The vertical shaft in a building which contains a lift (elevator) platform or cab, and through which it is moved from floor to floor.
Piling	Driving and embedding piles of wood, concrete or steel deep into the ground, to support buildings/structures at the foundation level.
Slewing	The horizontal re-aligning of existing track without full reconstruction.
Vertical clearance	The vertical height between the tops of the rails and the underside of the bridge
Possession	A possession is the term used by the rail industry for the action of placing special protective measures to prevent access to sections of track by unauthorised trains. This is done to enable safe asset intervention activities (maintenance, renewals, refurbishment, or enhancements) by maintenance and engineering staff.

16 REPORT AUTHOR AND CONTACT

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