



Ministry of Housing,
Communities &
Local Government

Our ref: APP/P5870/W/20/3250891

Mr Rob Walker
Trowers & Hamblins LLP
3 Bunhill Row
LONDON
EC1Y 8YZ

10 May 2021

By email only: RWalker@trowers.com

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY KIER
LAND AT SHEEN WAY PLAYING FIELD, SHEEN WAY, WALLINGTON, SM6 8NR
APPLICATION REF: DM2019/00959**

1. I am directed by the Secretary of State to say that consideration has been given to the report of D J Board BSc (Hons) MA MRTPI, who held a public local inquiry starting on 28 September 2020 into your client's appeal against a failure by the London Borough of Sutton (the Council) to determine an application for planning permission for the erection of part one, part two storey building (4,943m²) for special needs school (Use Class D1) for 246 students with a range of learning difficulties, together with ancillary multi-use games area (MUGA), landscaping and parking, reference DM2019/00959 dated 8 May 2019.
2. On 17 September 2020, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendation. He has decided to allow the appeal and grant planning permission subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Ministry of Housing, Communities & Local Government
Mike Hale, Decision Officer
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Matters arising since the close of the inquiry

5. An application for a full award of costs was made by Kier against the Council (IR9). This application is the subject of a separate costs report by the Inspector and Secretary of State decision letter.
6. On 2 March 2021, the London Mayor published the new London Plan. Relevant emerging policies were considered by the Inspector at the Inquiry (IR18-21). Of those policies the Inspector noted those agreed as applicable to the appeal scheme are T4, T3, T5 and T6. The Secretary of State does not consider that the adoption raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

Policy and statutory considerations

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of the Sutton Local Plan (2018) and the newly adopted London Plan (2 March 2021). Therefore, those London Plan policies listed by the Inspector at IR17 have been superceded while those local policies set out at IR22-27 are extant. The latter include site allocation S97 which allocates the appeal site, for a school for special educational needs (SEN) and open space (IR23).
9. The Secretary of State considers that the policies in the new London Plan of most relevance to this appeal include the transport policies T3–T6, as set out at IR18-21.
10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance') as well as the Written Ministerial Statement – Planning for Schools Development (August 2011).

Main issues

Highways - Construction Traffic

11. The Secretary of State agrees with the Inspector's analysis at IR206- 231, her consideration of the disputed areas of the Construction Logistics Plan (CLP) and its implementation. In doing so he agrees that whether the CLP would be effective requires consideration of the whole and also whether it would meet the requirements of Sutton Local Plan policy S97 and the requirements SLP policy 36 (IR230).
12. For the reasons given at IR209-214 Secretary of State agrees that the Inspector's analysis with regards the disputed swept path analysis, and with his approach of assessing it on the basis of the worst case scenario (IR214). He further agrees at IR223 that the evidence demonstrates that there would be ample residual parking in the area to compensate for the parking that would be suspended as part of the Traffic Regulation Orders. He also therefore agrees there is no tangible evidence that the temporary parking restrictions would directly lead to highway safety issues (IR224). Furthermore, he agrees there is no highway safety reason to support the removal of the (traffic) island (IR226).

13. Therefore the Secretary of State agrees with the Inspector that the combination of measures presented by the Appellant provides enough information on the principles that would be deployed to ensure that development of the site would not have an adverse effect on the traffic flow on local roads during the construction period (IR230).
14. Overall, the Secretary of State agrees with the Inspector the scheme would not harm highway safety during the construction phase, having particular regard to the Transport Assessment, Construction Logistics Plan and Traffic Management Plan (IR231). In this regard he agrees with the Inspector that it would accord with Sutton Local Plan policies 36 and allocation S97 and paragraphs 108 and 109 of the Framework, and considers that it would accord with the new London Plan, principally policies T4 and T3.

Highways – Operational Matter

15. The Secretary of State has carefully considered and agrees with the Inspector's analysis at IR232- 251. For the reasons given the Secretary of State agrees that sufficient information has been provided to demonstrate that the site could accommodate parking for staff, provide an appropriate drop off and pick up solution for students and make provision for deliveries and that as such there would not be highway safety issues arising directly from the operation of the site as a SEN school (IR250).
16. Overall the Secretary of State agrees with the Inspector, that the scheme as presented does strike the right balance in terms of parking provision and that the scheme would not harm highway safety directly from the operational phase (IR251). In this regard he agrees with the Inspector that the scheme would accord with Sutton Local Plan policies 29, 36 and 37, and paragraphs 108 and 109 of the Framework, and considers it would accord with the new London Plan, principally policy T4 and also T3.

Other matters

17. For the reasons given at IR252-253 the Secretary of State agrees with the Inspector that the appeal proposal relates to an allocated site (IR252) and that the consideration of need does not attract any significant weight as the school and pupil places already exist (IR253). However, he also notes the Inspector considers the appeal scheme would not only maintain the existing situation, but also arguably come with improved facilities (IR253). Overall the Secretary of State attributes limited weight in favour of the scheme on this basis. For the reasons given at IR262 he agrees that there is no requirement for the Appellant to provide measures for future pupil numbers within this scheme.
18. The Inspector considered a number of matters relating to site constraint at IR254-261; the potential for increasing flood risk, the effect of the proximity to the railway line on the learning environment for students and the effect on air quality once the school is operational. For the reasons given the Secretary of State agrees with the Inspector that flood risk would not be a reason to resist the scheme and conditions to ensure that the scheme comes forward in accordance with the principles of the submitted information are reasonable and necessary (IR257). For the reasons given at IR259 and IR260-261 respectively, the Secretary of State is also satisfied that the proximity to the railway would not lead to a poor environment for future students and that air quality would not be reason to resist the scheme.
19. For the reasons given at IR263 the Secretary is satisfied there would be no significant, adverse impact on the amenities of the adjoining occupiers and that the scheme complies with Sutton Local Plan policy 29.

20. Finally, the Secretary of State understands that the site is currently informally used by local residents for recreational use and acknowledges this was a factor in the significant number of objections to the proposal. Having considered the Inspector's analysis at IR264-IR265 he also considers the planning harm from the partial loss of the existing informal space is lessened due to the scheme's provision in this regard. Accordingly, he attributes limited weight against the proposal from that harm.

21. I confirm that the Secretary of State for Housing, Communities and Local Government is named on the lease for the site acting on behalf of the Department for Education (DfE). The Secretary of State is content that the necessary procedures have been adhered to in this matter.

Planning conditions

22. The Secretary of State has given consideration to the Inspector's analysis at IR179-202, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 55 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 55 of the Framework and that the conditions set out at Annex A should form part of his decision.

Planning obligations

23. Having had regard to the Inspector's analysis at IR266-273, the planning obligation dated 29 October 2020, paragraph 56 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion that the submission of an updated Travel Plan (TP), Employment and Training, Highway Works and Residents Liaison are matters which can be addressed by condition and do not meet the statutory tests (IR273). Furthermore, the Secretary of State also notes that the TP monitoring fee and Biodiversity Contribution would be the remaining provisions dealt with through the planning obligation (also IR273). As such and for the reasons given the Secretary of State also agrees with the Inspector's conclusion that the obligation in so far as it relates to the TP monitoring fee and Biodiversity Contribution both comply with Regulation 122 of the CIL Regulations and the tests at paragraph 56 of the Framework.

Planning balance and overall conclusion

24. For the reasons given above, the Secretary of State considers that the appeal scheme is in accordance with local plan Policies 20 Education and Skills, Site Allocation S97, 29 Protecting Amenity, 36 Transport Impact and 37 Parking. It is further in accordance with London Plan transport policies T3-T6, and is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

25. The Secretary of State affords limited weight to need and the improvements to the facilities that are able to be provided at the new school.

26. Weighing against the proposal is the limited harm caused through the partial loss of space used for informal recreational use at the site.

27. Overall the Secretary of State considers that the material considerations in this case indicate a decision in line with the development plan – i.e. a grant of permission. The

Secretary of State therefore concludes that the appeal should be allowed and planning permission should be granted.

Formal decision

28. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex A of this decision letter for the erection of part one, part two storey building (4,943m²) for special needs school (Use Class D1) for 246 students with a range of learning difficulties, together with ancillary multi-use games area (MUGA), landscaping and parking, reference DM2019/00959 dated 8 May 2019.

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

Right to challenge the decision

30. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

31. A copy of this letter has been sent to London Borough of Sutton and Councillor Tim Foster (Rule 6 party), and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

MA Hale

Mike Hale

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

Annex A List of conditions

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

Site Location Plan – 24480-NOV-Z0-XX-DR-A-PL02 Rev PO.1
Proposed Site Plan – 24480-NOV-Z1-XX-DR-A-PL03 Rev PO.2
Ground Floor Plan – 24480-NOV-Z1-00-DR-A-PL04 Rev PO.2
First Floor Plan – 24480-NOV-Z1-01-DR-A-PL05 Rev PO2
Proposed Roof Plan – 24480-NOV-Z1-RF-DR-A-PL06 Rev PO.2
Proposed Building Sections – 24480-NOV-Z1-ZZ-DR-A-PL09 Rev PO.2
Proposed Site Sections – 24480-WWA-00-ZZ-DR-L-0401 Rev S2 PL03
Landscape Levels West – 24480-WWA-00-ZZ-DR-L-0105 Rev S2 PL02
Landscape Levels East – 24480-WWA-00-ZZ-DR-L-0104 Rev S2 PL06
Annotated Site Plan 24480-WWA-00-ZZ-DR-L-0101 Rev S2 PL07
Elevations – Sheet 1 of 2 – 24480-NOV-Z1-ZZ-DR-A-PL07 Rev P0.3
Proposed Elevations – Sheet 2 of 2 – 24480-NOV-Z1-ZZ-DR-A-PL08 Rev P0.3
Proposed Drainage General Arrangement Sheet 1 of 2 - TFA-MLM-ZZ-XX-DR-C-0020 Rev P04
Proposed Drainage General Arrangement Sheet 2 of 2 – TFA-MLM-ZZ-XX-DR-C-0021 Rev P04
Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0007 Rev P02
Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0007 Rev P03
Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0006 Rev P02
Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0006 Rev P03
Car Park and External Works Construction Details Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0005 Rev P05
Drainage Strategy (Infiltration) - Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0001 Rev P04
External Fencing and Access Strategy – 24480-WWA-00-ZZ- DR-L-0106 Rev S2 OU02
Network Rail Annotated Plan – 24480_WWA-00-ZZ-DR-L-0108 Rev S2-PL01
Existing Site Services Layout – 14855/SP/1
Existing Site Services Layout – 14855/SP/2
Impermeable Areas Plan – TFA-MLM-ZZ-XX-DR-C-0022 Rev P01
Exceedance Plan – TFA-MLM-ZZXX-DR-C-0023 Rev P01
24480-WWA00-ZZ-DR-SK-014 Rev S2-PL00 WWA_1849_
Tree Constraints Plan – LLD1600- CAT-DWG-001 Rev 00
Landscape Planting West – 24480_WWA_00_ZZ_DR_L_0302 Rev S2-PL03
Landscape Planting East – 24490- WWA-00-ZZ-DR-L-0301 Rev S2- CP08
Landscape Layout West – 24490- WWA-00-ZZ-DR-L-0302 Rev S2 CP07
Drainage details; TFA-MLM-ZZ-XX-DR-C-0001 P04; TFA-MLM-ZZ-XX-DR-C-0006 P02; TFA-MLM-ZZ-XX-DR-C-0007 P03; TFA-MLM-ZZ-XX-DR-C-0020 P04; TFA-MLM-ZZ-XX-DR-C-0021 P04; TFA-MLM-ZZ-XX-DR-C-0005 P05; TFA-MLM-ZZ-XX-DR-C-0006 P03; LLD1600-CAT-DWG-001;

2. The development must be begun no later than the expiration of three years beginning with the date hereof.
3. Prior to the construction of the development hereby approved above ground floor slab level, full details of the type and treatment of the materials, including

samples, to be used on the exterior of the building(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the construction of the development hereby approved and retained thereafter.

4. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.
5. Before any piling or foundation construction using penetrative methods takes place a Piling and Foundation Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. Any piling or foundation construction must be undertaken in accordance with the terms of the approved Method Statement.
6. No development shall take place until details of the implementation, adoption, maintenance and management of the sustainable drainage system shall have been submitted to and approved in writing by the local planning authority. Those details shall include:
 - a timetable for its implementation; and,
 - a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The school hereby permitted shall not be occupied until the sustainable drainage system for the site has been completed in accordance with the submitted details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

7. Prior to the commencement of above ground works a scheme shall be submitted to and approved in writing by the Local Planning Authority setting out the measures and works identified to accord with the principles of Secure by Design (New Schools). The development shall be carried out in accordance with the approved details.
8. No development shall take place until a Stage 1 Written Scheme of Investigation (WSI) has been submitted to and approved by the Local Planning Authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works. If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the Local Planning Authority in writing. For land that is included within the stage 2 WSI, no development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.

B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

9. Prior to the occupation of the development, full details of hard and soft landscaping including boundary treatments and a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping and tree planting shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards (in particular, BS 3882: Specifications for Topsoil, Recommendations (2015) and BS 8545: Trees from Nursery to Independence in the Landscape, Recommendations (2014) or other recognised codes of good practice). The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any tree(s) or plants that (within a period of five years after planting) are removed, die, or (in the opinion of the Local Planning Authority) are damaged or defective shall be replaced as soon as is reasonably practicable with others of a similar size/species/number as originally approved.
10. Prior to the commencement of development measures for the protection of trees shown to be retained shall be submitted to and agreed in writing by the Local Planning Authority. The measures shall be in accordance with the British Standard BS5837, Trees in relation to design, demolition and construction. Any works shall be carried out in accordance with the approved details and the protective measures shall only be removed on completion of the development.
11. Within 6 months of the commencement of development, a BREEAM New Construction 2018 Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE) or equivalent authorizing body, must be submitted to the Local Planning Authority and approved in writing.
12. Within 9 months of occupation of the development, a BREEAM New Construction 2018 Final (Post-Construction) Certificate, issued by the BRE or equivalent authorizing body, must be submitted to the Local Planning Authority and approved in writing to demonstrate that an 'Excellent' rating has been achieved. All the measures integrated shall be retained for as long as the development is in existence.
13. Prior to the commencement of above ground works an Energy Statement including 'as-designed' BRUKL outputs prepared under the Simplified Building Energy Model (SBEM), shall be submitted to the Local Planning Authority and approved in writing. The statement shall demonstrate how the school buildings will secure at least a 35% reduction in CO2 emissions below the target emission rate (TER) based on Part L2A of the 2013 Building Regulations and achieve at least a 20% reduction in total emissions (regulated and unregulated) through on-

site renewable energy generation. This should include consideration of all feasible renewable technologies, including the potential use of a low temperature ground source heat pump (GSHP). If a roof-mounted solar PV array is proposed, the Energy Statement should provide details of the number of units, layout, orientation, generating capacity and arrangements for maintenance. If the development is unable to meet the required reduction in CO2 emissions through the approved energy strategy, then a scheme to address any shortfall shall be provided to the Local Planning Authority and approved in writing. The development shall be carried out in accordance with the approved details.

14. Within six months of the first beneficial use of the development, BRUKL outputs prepared under the Simplified Building Energy Model (SBEM) should be submitted to the Local Planning Authority and approved in writing to demonstrate that the development has been carried out in accordance with the approved details. If the development is unable to meet the required reduction in CO2 emissions through the approved energy strategy, then any shortfall should be made up through the application of further sustainability measures unless otherwise approved by the Local Planning Authority in writing.
15. The development hereby approved shall be constructed in accordance with the overheating strategy described in the approved Thermal Comfort Report (Hopkins, March 2019) and thereafter retained.
16. Prior to commencement of above ground works a scheme for the specification of boilers to be installed in the scheme shall be submitted and agreed in writing. The scheme shall set out measures to demonstrate that the rated emissions of Oxides of Nitrogen (NOx) would not exceed 40 mg/kWh. The details shall be implemented as agreed and retained thereafter.
17. All Non-Road Mobile Machinery (NRMM) used during the course of the development that is within the scope of the Greater London Authority 'Control of Dust and Emissions during Construction and Demolition' Supplementary Planning Guidance (SPG) dated July 2014, or any subsequent amendment or guidance, shall comply with the emission requirements within. An inventory of all relevant NRMM must be registered on the NRMM register <https://nrmm.london/user-nrmm/register>. All NRMM should be regularly serviced and service logs kept on site for inspection. Records should be kept on site which detail proof of emission limits for all relevant plant/equipment.
18. The site and building works required to implement the development shall be only carried out between the hours of 08.00 and 18.00 Mondays to Fridays and between 08.00 and 13.00 on Saturdays and not at all on Bank Holidays and Sundays.
19. Prior to the commencement of above ground works a final detailed drainage design including drawings and supporting calculations and updated Drainage Assessment Form shall be submitted to the Local Planning Authority for review and approval, aligned with the September 2019 Flood Risk Assessment & Drainage Strategy and associated drawings. A detailed management plan confirming routine maintenance tasks for all drainage components must also be

submitted to demonstrate how the drainage system is to be maintained for the lifetime of the development. The development shall be carried out in accordance with the approved details and managed and maintained thereafter in accordance with the agreed management and maintenance plan.

20. Prior to the commencement of development, a scheme for habitat protection, creation and enhancements shall be submitted to and approved in writing by the Local Planning Authority. This will take the form of a Biodiversity Enhancement and Management Plan (BEMP), with a fully updated No Net Loss and Net Gain evaluation and in accordance with BS42020:2013. The BEMP will provide:
- a. Full details and plans of habitat area, creation methodologies, 5 years of aftercare, 25 years of management and 30 years of monitoring of habitats from creation.
 - b. Soft landscaping will detail biodiversity enhancement through planting schemes that provide nectar, pollen and fruit resources throughout the seasons, a variety of structural diversity and larval food plants, through no less than 60% native and local species by number and diversity. Substrate, provenance and numbers of all bulbs, seeds and plugs / whips / trees will be detailed, as will aftercare and ongoing management.
 - c. Ornamental plants will not include any genera or species on Schedule 9 of the Wildlife and Countryside Act (1981) or the LISI list and should be on the "RHS Perfect for Pollinators" lists (or of documented wildlife value), to provide increased resource availability.
 - d. Current substrate physio-chemical values / soil sampling analysis for the proposed meadow area and any necessary works required to deliver a semi-improved neutral or calcareous grassland
 - e. A timetable of delivery for all habitats
 - f. A monitoring report to the LPA (Biodiversity Team) on 1 November of each year of monitoring (Years 1-3 after creation, year 5, year 7, year 10 and every 5 years thereafter until year 30 post-completion), which will assess the condition of all habitats created and the requirement for any and all necessary management or replacement / remediation measures required to deliver the agreed upon values.
 - g. details of the contingency methods for management and funding, should the monitoring identify changes are required to ensure the habitat(s) are in the appropriate condition to deliver the required biodiversity values
 - h. Work shall be undertaken in accordance with the approved scheme and thereafter retained in perpetuity.
21. Prior to the commencement of development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, in line with the recommendations contained within the submitted ecological information (Ecological Impact Assessment (5.0, 2018) and supplementary documents). The CEMP shall be in accordance with BS42020:2013 and include full details on the following:
- a. The role and responsibilities of the on-site ecological clerk of works (ECoW) or similarly competent person;
 - b. seasonal timing of works;
 - c. measures to prevent entrapment of mammals;
 - d. measures to eradicate invasive non-native species (snowberry)

- e. construction lighting to ensure it is in accordance with Guidance Note 08/18 Bats and artificial lighting in the UK Bats and the Built Environment series by the Institute of Lighting Professionals and the Bat Conservation Trust

All works carried out during the construction period shall be undertaken in accordance with the approved CEMP

- 22. Prior to the occupation of the development, details of the cycle storage spaces, of which four of all spaces provided are capable of accommodating a larger cycle, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the development and shall be retained thereafter for the life of the development.
- 23. Prior to the commencement of above ground works an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The updated Travel Plan shall be implemented upon first occupation of the development hereby approved and in line with provisions and timescales set out within it.
- 24. The Multi Use Games Area shall be used in connection with the SEN school and for no other purpose.
- 25. The development shall not be occupied until the parking shown on the annotated site plan 24480-WWA-00-ZZ-DR-L-0101 S2 PL07 has been laid out and provided within the site. The parking shall be permanently retained exclusively for its designated purpose.
- 26. A minimum of sixteen car parking spaces, representing one in five of the total car parking spaces, and all minibus parking spaces shall be provided with electric vehicle charging points. The electric charging points shall be retained in good working order for the lifetime of the school.
- 27. Prior to above ground works commencing documentary evidence shall be submitted to the Local Planning Authority and agreed in writing to demonstrate that the development will achieve a minimum Green Space Factor (GSF) score of at least 0.5. The Council's GSF scoring system set out in the Council's 'Technical Guidance Note - Building a Sustainable Sutton' (June 2018) shall be used for this purpose. The development shall be carried out in accordance with the submitted details and thereafter retained.
- 28. Prior to commencement of the development hereby permitted the applicant shall establish a Residents Liaison Group, comprising representatives from the local community, Members of the Council, Planning and Highway Officers, the School's nominated Transport Coordinator, Site Manager, a representative from Kier, Education Authority (acting also as representative in advance of the school's nomination of a Transport Coordinator), and other interested parties as may be agreed. The developer will hold the first meeting no later than one month prior to

commencement of site preparation works and the Group will meet at three monthly intervals thereafter until the school is occupied.

29. No construction works shall commence until an updated Construction Logistics Plan; including an alternative route from the south for large construction vehicles and associated traffic management plans, details of a timetable for the implementation of the Traffic Regulation Orders, footway parking and other temporary highways infrastructure works, have been submitted to and agreed in writing by the Local Planning Authority. This shall include evidence that the Construction Logistic Plan and associated traffic management plans have, if appropriate, been through the Road Safety Audit process and comments and amendments have been addressed and submitted to and agreed in writing with the Local Highway Authority. The development shall be carried out in accordance with revised and updated CLP.
30. Prior to commencement of development or site clearance a Construction Employment and Training Strategy shall be submitted for approval in writing by the Council. The Employment and Training Strategy shall demonstrate how the construction phase of the project will ensure that the following are provided during the construction phase:
 - i) 2 Apprenticeship.
 - ii) 2 Traineeships.
 - iii) 2 Work Experience (16+).
 - iv) Attendance at 2 Council Events and Employer Encounters.
 - v) Delivery of an employment and skills plan on a quarterly basis which provides a monitoring update on the implementation of the Employment and Training Strategy.
31. No development shall commence until a scheme for the provision of highway works during the construction phase of the scheme has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include a timetable for the provision of those works and the development shall be carried out in accordance with the approved details.
32. No development shall commence until a scheme for the provision of off site highway works has been submitted to and agreed in writing by the Local Planning Authority. The agreed works shall be carried out prior to the first beneficial use of the school and retained thereafter.
33. The development shall be carried out in accordance with the Car Park and Access Management Plan dated April 2019.



Report to the Secretary of State

by **D J Board BSc (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Date 8 February 2021

TOWN AND COUNTRY PLANNING ACT 1990
COUNCIL OF THE LONDON BOROUGH OF SUTTON
APPEAL MADE BY KIER

Inquiry Held on 28 September – 7 October 2020

Sheen Way Playing Field, Sheen Way, Wallington, SM6 8NR

File Ref: APP/P5870/W/20/3250891

Abbreviations used in this report

AQIA	Air Quality Impact Assessment
BP4	Fourth Bullet Point 4 WMS
BP7	Seventh Bullet Point WMS
CIL	Community Infrastructure Levy
CLP	Construction Logistics & Traffic Management Plan v4
CMPAMP	Car Park & Access Management Plan
Council	The Council of the London Borough of Sutton
DAS	Design & Access Statement
DfE	Department for Education
DFD	Designing for Deliveries 2016
DLP	Draft Local Plan
DRP	Design Review Panel
DSP	Delivery and Service Plan
EA	Environment Agency
EiP	Examination in public
FTE	Full Time Equivalent
GLA	Greater London Authority
HGV	Heavy Goods Vehicle
LBS	London Borough of Sutton
LFRA	Lead Flood Risk Authority
LP	London Plan
LPA	Local Planning Authority
MUGA	Multi Use Games Area
NPPG	National Planning Policy Guidance

OGV	Ordinary Goods Vehicle
R6	Rule 6 Party
RTD	Round Table Discussion
SEN	Special Educational Need
SLP	Sutton Local Plan 2018
SoCG	Statement of Common Ground
SPG	Supplementary Planning Guidance
TfL	Transport for London
The Appellant	Kier
The Framework	National Planning Policy Framework
The Trust	Orchard Hill Academy Trust
TPO(s)	Temporary Parking Order(s)
TRO(s)	Traffic Regulation Order(s)
TP	Travel Plan
UGS	Urban Green Space
WMS	Written Ministerial Statement

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Sheen Way Playing Field, Sheen Way, Wallington, SM6 8NR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Kier against the Council of the London Borough of Sutton.
- The application Ref DM2019/00959 is dated 8 May 2019.
- The development proposed is Erection of part one, part two storey building (4,943m²) for special needs school (Use Class D1) for 246 students with a range of learning difficulties, together with ancillary multi-use games area (MUGA), landscaping and parking.

Summary of Recommendation: That the appeal be allowed and planning permission granted subject to conditions.

Procedural Matters

1. The appeal was recovered by the Secretary of State by letter dated 17 September 2020 for the following reason:
 - *the appeal relates to proposals against which another Government Department has raised major objections or in which another Government Department has a major interest.*
2. The appeal was made against the failure of the Council to determine the planning application. There is not, therefore, a formal decision of the Council. The statement of case¹ makes it clear that, had it been in a position to determine the planning application, the Council would have refused planning permission for the development.
3. The Council's putative reasons for refusal, had an appeal against non-determination not been made, are given as follows:
 - 1) The application fails to provide evidence of the efficacy of mitigation measures within the Transport Assessment, Construction Logistics Plan and Traffic Management Plan including other related documents and appendices to ensure that during the construction phase of the development the proposal would not cause adverse impacts on the local highway network and so the proposed development would result in significantly increased safety risk to highway users and pedestrians. The application is therefore contrary to Policies 108 and 109 of the National Planning Policy Framework, Policies 6.3 and 6.12 of the London Plan and Policies 29 and 36 of the Sutton Local Plan 2018.
 - 2) The application fails to provide sufficient evidence or data to demonstrate that the site can accommodate parking for staff, pick up and drop offs of students. Neither does it demonstrate how site management will operate such that delivery vehicles arrive on site as required, and do not create any vehicle stacking on the surrounding streets. The application is therefore contrary to Policies 108 and 109 of the National Planning Policy Framework, Policies 6.3, 6.12 and 6.13 of the London Plan and Policies 29, 36 and 37 of the Sutton Local Plan 2018.

¹ CD 9.1

4. Cllr Tim Foster, Independent Ward Councillor Beddington North Ward, (Rule 6 Party) was granted Rule 6 party status. He subsequently took a full and active part in the presentation and testing of evidence at the Inquiry and the case presented is reflected within this Report.
5. The address and description of development reflect those on the application form. As those accurately identify the appeal site and describe the development sought, I have used them in the banner heading.
6. On 1 October 2020 I undertook a site inspection. This was unaccompanied to the site and surrounding areas in accordance with an itinerary agreed between the parties. I then undertook an accompanied visit with representatives of all the main parties to the site of the existing Carew Manor School.
7. Following the Inquiry closing the Appellants submitted a signed section 106 agreement. The main provisions are summarised as follows:
 - Travel Plan (TP) - to encourage sustainable travel to and from the development and monitoring fee;
 - Employment and Training – including an employment and skills plan and employment and training strategy;
 - Biodiversity – provision for a biodiversity contribution and a biodiversity enhancement and management plan;
 - Highway works – temporary and permanent; and
 - Residents Liaison Group.
8. The Council submitted a Community Infrastructure Levy (CIL) Regulations compliance statement² which set out its view as to whether the obligations would accord with Regulation 122 of the CIL Regulations. The Council and the Appellant did not agree regarding whether the obligations would meet the relevant tests and this matter is considered later in this report. The obligations are discussed further below.

Costs

9. At the Inquiry an application for costs was made by Kier against the Council of the London Borough of Sutton. This application is the subject of a separate Report.

The Site and Surroundings

10. The site and surroundings are described in the evidence and the statement of common ground (SoCG)³. The appeal site at present is an undeveloped open area. It is accessed via Sheen Way and Headley Avenue. It is partly fenced off, has mature boundary trees and hedges and is accessible by a footpath. The site has not been adopted as a formal open space but it is accessed informally by local residents. A portion of the site has been securely fenced off for use as

² CD 5.3

³ ID22

playing fields for the nearby High View school. The surrounding area comprises a mix of residential and commercial uses.

11. In close proximity to the site there is a railway line to the north, Purley Way industrial estate to the north and east and the residential dwellings along Godalming Avenue and Headley Avenue to the south and those on Sheen Way to the West. Furthermore, the site is located on the boundary between the London Borough of Sutton (LBS) and the London Borough of Croydon (LBC). A representative of the LBC attended the Inquiry. The submissions made on behalf of the LBC are summarised and discussed further below [144].
12. The site is not located within a Conservation Area and does not contain any Listed or Locally Listed Buildings. It is not located within proximity to such designations where impact on setting would be a material consideration. The site has a Public Transport Accessibility Level rating 1b⁴, although it is within a short walking distance of Waddon train station. The site is located within Flood Zone 1 and is not within an area at risk of flooding, as identified by the Environment Agency Flood Risk Map.

Planning History

13. The appeal site has not been the subject of any other relevant planning applications or appeals. There is a short planning history of 'other' schemes set out in the SoCG⁵.

Planning Policy

14. The Statutory Development Plan relevant to this appeal comprises the following:
 - The London Plan: Spatial Development Strategy for London Consolidated with Alterations since 2011 (2016) (LP);
 - Sutton Local Plan (February 2018) (SLP).
15. The Development Plan is supported by Supplementary Planning Documents (SPD). In this case the SPD that are relevant are: Transport Assessments and Travel Plans SPD (2008) and Planning Obligations SPD (2014)⁶.
16. As shown on the Sutton Policies Map extract Fig 3⁷, the site falls within the following:
 - Archaeological Priority Area,
 - Green Corridor,
 - Urban Green Space and
 - Site Allocation 97 'Former Playing Fields'.

⁴ CD 2.4.1 para 3.11- A PTAL assessment indicated that the site has a rating of 1b (very poor). The PTAL assessment is included in Appendix B of the TA

⁵ ID22 paragraph 5.1

⁶ CD 13.9 and CD 13.10

⁷ ID22 SoCG page 10

The London Plan

17. There is agreement that the relevant LP Policies are 6.3, 6.12 and 6.13. Policy 6.3 is concerned with 'Assessing effects of development on transport capacity' and requires that development proposals should ensure that impacts on transport capacity and the transport network, at both a corridor and local level, are fully assessed and that development should not adversely affect safety on the transport network. 6.12 is a policy that is concerned with increasing road capacity. Policy 6.13 contains the maximum parking standards and the provision that is required for electrical charging points, parking for disabled people and the minimum cycle parking requirements and notes that an appropriate balance needs to be struck between promoting development and preventing excess car parking provision.

Emerging Policy

18. The Draft London Plan (DLP) (Intention to Publish Jan 2020) has not yet been adopted. Nonetheless, there are policies that are not proposed to be modified which can be afforded weight⁸⁹. It was agreed that the policies applicable to the appeal scheme are T4, T3, T5 and T6 and can be afforded weight in this case.
19. DLP policy T3¹⁰ is a strategic policy which is concerned with transport capacity, connectivity and safeguarding. Parts A and B of the policy relate to Development Plans. Parts C, D and E set out that development proposals should identify new sites or routes that are or will be required for local public transport and active travel connections, where appropriate.
20. DLP policy T4¹¹ sets out criteria for assessing and mitigating transport impacts that would arise as a result of development proposals. DLP policy T5 sets out cycle parking standards for development proposals.
21. Draft Policy T6¹² is concerned with car-parking. The relevant sections state that car-parking should be restricted in line with levels of existing and future public transport accessibility and connectivity. It goes on to set out that car-free development should be the starting point for all development proposals in places that are (or are planned to be) well-connected by public transport. Developments elsewhere should be designed to provide the minimum necessary parking with disabled persons parking in line with Part E of the policy. This policy establishes the maximum car parking standards that are applicable to various development categories and the provisions that are required for disabled persons' parking, motorcycle parking and electric vehicle charging points. The policy also requires that adequate provision is made for efficient deliveries and servicing and emergency access. The policy requires that a Parking Design and Management Plan should be submitted alongside all applications which include car parking provision, indicating how the car parking will be designed and managed, with

⁸ National Planning Policy Framework Paragraph 48

⁹ Indeed, on 29 January 2021 the Secretary of State wrote to the Mayor to confirm that he is content for the new ELP to be published, with no further changes.

¹⁰ CD 13.13.1

¹¹ CD 13.13.1

¹² CD 13.13.3

reference to Transport for London guidance on parking management and parking design.

Sutton Local Plan

22. In the adopted SLP, the site is included in Policy 20 d)¹³ 'Education and Skills' which confirms that '*The Council has allocated a site at Sheen Way Playing Fields, Wallington for a Special Educational Needs school in the long term to 2025 Site Allocation S97*'. The appeal site is formed from part of the area allocated under S97.

23. The site allocation 'S97 Former Playing Fields' is allocated for a special education needs school and open space. Any development scheme should pay particular regard to the following:

- Providing a school for special educational needs (SEN);
- Retaining the remainder of the site for open space;
- Ensuring the underground cabling and its safety corridor are kept free from all built development and private property in order to allow maintenance as necessary;
- Ensuring that local school use for sport on part of the site is respected and its requirements are taken into account in designing the new park;
- Ensuring traffic flow on the local roads network is not unduly affected;
- Ensuring that the park is accessible from a number of points and is overlooked for the purposes of safety and security; and
- The need to provide flood risk assessment and appropriate Sustainable Urban Drainage System measures.

24. The Council's putative reasons refer to SLP policies 29¹⁴, 36¹⁵ and 37¹⁶. Policies 20 and 40 are also relevant in so far as they relate to the site allocation made under reference S97. The relevant part of policy 20 is outlined in paragraph 22 above and policy 40 is a general policy regarding the reading of site allocations.

25. Policy 29 is titled protecting amenity. In particular it seeks to ensure that new development would not have an adverse impact on the occupiers of dwellings that adjoin a scheme or are nearby. Part g) of the policy specifically refers to the effect of traffic movements to, from and within a site and car parking. The Council confirmed the focus of their case at the Inquiry to be the effects on the local highway network and this part of the policy is relevant in that context. In addition, the Rule 6 party and local residents who spoke at the Inquiry raised issues on this topic, particularly regarding the loss of on street car parking. As such I deal with this policy and its relevance to those matters in my conclusions.

¹³ CD 13.8.3

¹⁴ CD 13.8.8

¹⁵ CD 13.8.14

¹⁶ CD 13.8.15

26. Policy 36 is concerned with transport impacts. It sets out that development proposals will be assessed for their impact on the highway and public transport network as well as the local environment. It seeks development to be located so as to minimise any adverse impact on the highway network and to maximise the use of sustainable modes of transport. It states that applicants should set out how they propose to manage and mitigate the transport impacts of schemes. In particular the need for transport assessments and travel plans. In this case the initial application included both a Transport Assessment (TA)¹⁷ and a TP¹⁸.
27. Policy 37 refers to parking and sets out that new developments should provide car parking in accordance with the Council's maximum standards. It also sets out the need to take into account public transport accessibility levels, existing publicly available parking provision and usage in the vicinity of a site. The compliance of the scheme with this policy is considered further within my conclusions.

National Policy

28. The key reference within the National Planning Policy Framework (The Framework) referred to at the Inquiry was paragraph 94¹⁹. This sets out that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities; and local planning authorities are advised to take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should give great weight to the need to create, expand or alter schools through preparation of plans and decisions on applications; and should work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.
29. Paragraph 108²⁰ of the Framework sets out criteria for assessing sites which may be allocated for development in places or specific applications for development. These criteria refer to the need for safe and suitable access to the site and the mitigation of significant impacts from the development on the transport network.
30. Paragraph 109²¹ of the Framework advises that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
31. The Framework is clear that other statements of government policy, such as Written Ministerial Statements (WMS), may be material when deciding applications²². Therefore, the Policy Statement – *Planning for Schools' Development issued jointly by the Secretaries of State for Education and Communities and Local Government in August 2011*²³ is a material consideration in the assessment of the proposed development. In particular the statement sets

¹⁷ CD 2.4.1, 2.4.2

¹⁸ CD 2.4.14

¹⁹ CD 13.1.8

²⁰ CD 13.1.10

²¹ CD 13.1.10

²² Paragraph 6 of the National Planning Policy Framework

²³ CD 13.2

out key principles for the consideration of proposals for the development of schools.

The Proposal

32. The scheme is set out in detail in the submitted Design and Access Statement (DAS)²⁴. However, the following provides a summary of the scheme. The proposed development involves the construction of a purpose built SEN School (Use Class D1) to cater for 246 students aged 7 to 18 suffering from autistic spectrum disorder and/or moderate learning difficulties. The overall school cohort would be split between 53 pupils for Primary School (KS1/ 2), 150 pupils for Secondary School, (KS3/ 4) and 43 in further education (Post 16). There would be up to 120 members of staff, including 30 teachers and 60 teaching assistants.
33. The development would provide modern purpose built spaces, which would allow the Trust to deliver a best practice educational experience in an environment where the students can flourish and reach their full potential. It is intended that the school would be designed specifically around the pupil needs, giving teaching spaces for primary, secondary and 6th form in a layout that encourages creativity and interaction with students of all key learning stages.
34. The school would comprise: Two main teaching wings: part single, part 2-storey building in height (single storey primary wing towards residential properties) and (two storey secondary wing with a central courtyard to join all spaces towards the railway line); separate wings for primary and secondary classrooms (basic teaching area); direct access to external space (shared sports pitches); A car park with a drop off point and 5 residential parking spaces would be located at the front of the site, with access provided from Headley Avenue. A courtyard space, outdoor dining with space for mini netball, informal soft play and kick about would be provided, a Multi Use Games Area as well as community space. The school would be securely fenced.

Agreed Facts Between the Appellant & Council

35. The site-specific allocation in the SLP 2018 for site S97 (Former Playing Fields, Sheen Way, Wallington), in accordance with SLP policies 20 and 40, is for a SEN school and open space. While the protection of green space is a key priority, the adoption of the Local Plan has been through Examination in Public (EiP) and has been consulted upon with the Greater London Authority (GLA) without comment.
36. This in principle issue has been addressed through the planning process and the proposed development of the site complies with national, London wide and local policy.
37. The site is undeveloped and has had de facto public access (although this has been unauthorised access). Therefore, it is not designated as Public Open Space. The principle of the loss of the former playing fields site has been established through the appropriate regulatory procedure, in the allocation of the site as part of the Local Plan process. There is, therefore, policy support for the school, the

²⁴ CD 2.2

- retention of the playing field for Highview Primary School and the creation of open space in the remaining area of the site, owned by the Council, which would have unrestricted public access.
38. The allocated site is designated in the SLP as an Urban Green Space (UGS) (defined as areas of open space which is only open to certain sections of the public, such as sports clubs). The land to the west of the appeal site would have restrictions on public access as it is designated to be used by Highview Primary School and would be classed as UGS. However, the land to the south west of the appeal site would be used by the public without restriction, and therefore not meet the definition of UGS.
39. The Application is accompanied by the DAS prepared by Noviu Architects²⁵. This describes the site, its context, constraints and opportunities, landscape and building proposals, building form and massing. It sets out a detailed rationale for the design of the scheme. At the application stage it was subject of a Design Review Panel (DRP)²⁶, which concluded that the proposal demonstrates a high level of thought, care and consideration at its core, and that the response to what could have been a challenging brief is thorough and demonstrates the experience of the architect team. The Appellant fully participated in the DRP process at the Council's request.
40. The report of the DRP was positive about the school design and they made five key recommendations including two transport related matters, namely 1) consideration of the car park area and entrance area which could be made less tarmac dominated, less purely functional, and could contribute more to the overall landscape and character approach of the proposals; and 2) flexibility around future access to the site, both in terms of vehicle access to the north-east and in terms of the potential for community access to facilities. A response to the DRP's recommendations was provided by the Appellant²⁷. This sought to address key points about the scheme: integration of the car park and drop off into the scheme; location of the Multi Use Games Area; relevance of the existing school history to the appeal scheme; the landscape strategy and the design of the grounds and the flexibility of future site access for vehicles and the community.
41. The Development has been designed and located to ensure the cabling and its safety corridor are kept free from all built development and private property in order to allow maintenance as necessary. The existing sports field has been retained and access to the SEN changing facilities would be provided.
42. The proposal includes: Four minibus parking spaces for school-owned minibuses; Five disabled parking spaces; 69 standard car parking spaces (hardstanding); and replacement of five on street parking places for the public.
43. The Construction Logistic Plan (CLP) proposes that all parking for Kier and their subcontractors can be accommodated on-site. Cycle parking is expected to be required for some pupils, staff and visitors. A total of 24 long stay cycle parking spaces (including four enlarged adapted spaces) for staff and students are proposed with a further four spaces for visitors.

²⁵ CD 2.2

²⁶ CD 4.1

²⁷ Appendix 4 to the Appellant's Statement of Case

44. As stated at paragraph 5.147 of the Planning Committee report, officers considered that cycle parking provision was acceptable. In particular that the Council's minimum cycle parking standards for schools require for long-stay provision at one space per eight staff and pupils and short-stay provision at one space per 100 pupils. Should this standard be applied, the proposal would require 49 cycle parking spaces overall. However, it is argued in the TA²⁸ that, based on experience with Carew Manor SEN and other similar schools, a relatively low proportion of staff and students would be expected to cycle to the school. Consequently, a lower provision of 24 cycle parking spaces is proposed, but with capacity for this provision to be increased subject to demand as identified in the TP. This was considered acceptable by officers in formulating their recommendation.
45. The site has a low risk of tidal flooding but has some risk of surface water flooding. The flood risk and drainage strategies²⁹ were submitted with the application and issues of clarification addressed during the submission period (subject to recommended conditions).
46. The Lead Flood Risk Authority³⁰ (LFRA) had no objection to the development subject to conditions requiring details of a final detailed drainage design including drawings and supporting calculations; updated drainage assessment & drainage strategy; associated drawings and evidence to demonstrate that the sustainable drainage scheme has been completed in accordance with the submitted details.
47. Further, the Environment Agency³¹ (EA) has assessed the scheme and the 'Flood Risk Assessment & Drainage Strategy' and raised no objections subject to a condition, which states that whilst the principles and installation of sustainable drainage schemes are to be encouraged, no drainage systems for the infiltration of surface water drainage into the ground are permitted other than with the express written consent of the Local Planning Authority (LPA), which may be given for those parts of the site where it has been demonstrated there is no resultant unacceptable risk to controlled waters.
48. The Appellant is committed to complying with an agreed approach to Biodiversity. The Council considers this can be secured via the recommended conditions and planning obligation. This is addressed in further detail later in this report [177, 190, 267, 269, 270, 273].
49. The development has been positioned and designed to ensure that the building and use can co-exist with the railway to the northwest. Any issues of noise created by the school, would be limited, specific and, as standard, mitigated by a school management plan and subject to recommended conditions.
50. The Air Quality Assessment was completed as part of the overall Air Quality Impact Assessment³² (AQIA) and relevant Supplementary Planning Guidance³³ (SPG) by considering emissions from the development (traffic flow and energy

²⁸ CD 2.4.1

²⁹ CD 2.5.15; CD 2.5.24

³⁰ CD 3.1.5

³¹ CD 3.1.9

³² CD 2.5.1; CD 2.5.2

³³ Section 6.1 of CD 2.5.2

consumption) and these were compared against set benchmarks in the LP. The transport related emissions associated with the proposed development are below the relevant benchmarks and are in accordance with the SPG and no further action or mitigation is therefore necessary.

The Case for the Appellant

51. The Appellant considers that the scheme makes provision for a well-designed, bespoke SEN school, on a site that is allocated in the SLP. The School will be a replacement school for the existing premises at Carew Manor which are not fit for purpose. It is needed and meets the requirements of Site Allocation S97. Council Officers were satisfied that the School could and would be constructed and operated without any unacceptable highway safety impacts.

Planning policy with respect to schools

52. Paragraph 94 of the Framework requires local planning authorities to '*give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications*' (paragraph 94 a)). It is the Appellant's case that the appeal scheme falls under the rubric of an alteration of a school and the Council does not appear to dispute this.
53. The WMS³⁴ has never been withdrawn by the Government. Therefore, in accordance with paragraph 6 of the Framework it remains a material consideration. The WMS is two pages long, whereas the Framework deals with the requisite policy approach to schools in a single paragraph. More specifically the WMS is instructive as to the breadth of the requirements on local planning authorities when handling planning applications relating to schools. Having set out the Government's commitment to '*ensuring there is sufficient provision to meet growing demand for state-funded school places*', the WMS continues: '*The Government wants to enable new schools to open, good schools to expand and all schools to adapt and improve their facilities*'. The Appellant's view is that this confirms that the Government's concern, both as expressed in the WMS itself and in paragraph 94 a) of the Framework, rests not only with the creation and expansion of schools, but also with their alteration, or, specifically, their adaptation and improvement. The Appellant submits that the proposed development clearly benefits from this strong policy support.
54. Of the series of bullet-points which follow the text of the WMS, the fourth and seventh are of particular relevance to this appeal. The fourth bullet-point states: '*Local authorities should make full use of their planning powers to support state-funded schools applications. This should include engaging in pre-application discussions with promoters to foster a collaborative approach to applications and, where necessary, the use of planning obligations to help to mitigate adverse impacts and help deliver development that has a positive impact on the community*' (BP4).
55. The seventh bullet-point states: '*A refusal of any application for a state-funded school, or the imposition of conditions, will have to be clearly justified by the local planning authority. Given the strong policy support for improving state education, the Secretary of State will be minded to consider such a refusal or*

³⁴ CD 13.2

imposition of conditions to be unreasonable conduct, unless it is supported by clear and cogent evidence' (BP7).

56. Officers and the Appellant worked hard, over a considerable period of time, to ensure that the application was acceptable and that it could be supported. The Appellant's highway witness confirmed in cross-examination, that he and his colleagues had enjoyed a constructive relationship with Officers in dealing with the application. These efforts were successful, leading the Council's Planning Officers to recommend to the Planning Committee that, if the Council had been in a position to have determined the application, permission should have been granted³⁵. Ultimately this was not reflected in the resolution of the Planning Committee. Members resolved that planning permission would have been refused.
57. The policy support for the creation, alteration and improvement for schools is reflected in LP Policy 3.18³⁶. At the local level the appeal site is allocated for a SEN school in the SLP, and Policies 20³⁷ and 40³⁸ refer. The Council accepts that there is policy support for schools at the National, London and local levels. It has, however, misconstrued and failed properly to apply the provisions of paragraph 94 a) of the Framework and discounted the WMS.

Construction Traffic

58. In considering this issue the Appellant considers that it is important to give due consideration to the approach taken by Officers, as reflected in the Committee Report³⁹. That approach was misrepresented in the written evidence of both the Council's highways and planning witnesses. The Council's highway witness at paragraph 2.9 of her Proof of Evidence, suggests that the recommendation within the Committee Report *'was to approve planning permission, albeit with a narrative that the merits of the application were finely balanced against the disadvantages of the appeal site which would be exacerbated'*.
59. She added: *'It was acknowledged that whilst the revised CLP gave a degree of reassurance that there was a theoretical swept path analysis for HGV movements that may be workable in practice, it could not offer complete certainty'*. The Council's planning witness noted⁴⁰ that the adopted Site Allocation S97 (criterion v) *'specifically aims to secure commitment that development at the Appeal Location ensures traffic flow on the local roads network are not unduly affected'*, she goes on to state⁴¹ that since the Council's Strategy and Resources Committee Meeting in July 2017 *'there was an unproductive history in terms of design development to address these transport constraints'*. The Appellant considers that these statements, and others like them, misrepresent the process and progress that Officers went through, in discussions with the Appellant, during the pre-application process.

³⁵ CD 6.1

³⁶ CD 13.4.9

³⁷ CD 13.8.3

³⁸ CD 13.8.17

³⁹ CD 6.1

⁴⁰ paragraph 3.2.2 of her Proof

⁴¹ paragraph 3.11

60. The Committee Report⁴² acknowledges that the application site was allocated for the purpose of a SEN School in the SLP. It goes on to set out that while it was recognised that the site *'presents some challenges because of the restricted access'*, the decision to include the site as an allocation was considered to be sound by the Planning Inspectorate after the EiP. Here highway safety is not identified as an issue which is required to be addressed or overcome. The fifth criterion of the allocation does not mention safety, but instead states that *'Any development scheme should pay particular regard to ... Ensuring traffic flow on the local roads network is unduly affected'*. Had safety been identified as an issue, then it would have been expressly cited in the S97 criteria, given the intrinsic importance of that issue. It was not, which suggests that the concern of the drafters of the Local Plan was with traffic flows and congestion, rather than highway safety itself.
61. At Section 7 of the committee report summary⁴³, Officers state that the *'most finely balanced considerations have been around the assessment of the proposed construction logistics plan as there have been serious concerns about the adequacy of the approach roads to the site to accommodate construction traffic from the community and Ward Councillors'*. When Officers refer to the considerations which have been the most finely balanced, they are referring to the pre-application process. The report continues by noting that they were not without foundation, explaining that: *'due to the exceptional challenges presented by this case officers have worked with the applicant over several months to ensure that their approach to ensuring that disruption from construction traffic in the narrow roads leading to the site is minimised or mitigated. Normally such detail is reserved to be agreed prior to the commencement of the development by condition if permission is granted, but in this case, appreciating the challenges of the access, negotiations have reached a position where the Council's highways team has confidence that the construction logistics plan will work effectively in practice'*.
62. The Appellant contends that while the most finely balanced issues during discussions between the Appellant and Highways Officers were those connected with the CLP those issues were no longer finely balanced at the time it was reported to committee. Indeed, they had been resolved to Officers' satisfaction, enabling them to be confident and sure that the CLP would work in practice. This is at odds with the conclusion referred to by the Council's highway witness. Indeed, the issue of the potential difference between *'a theoretical model and the reality of a situation'* is raised by Officers but they go on to confirm that the scheme could be supported.
63. The Committee Report is clear that Officers were satisfied that they had ensured that construction vehicles could safely pass through the highway network. Pivotal to this was the submission by the Appellant of Revision 4 of the CLP⁴⁴, and associated documents, referred to in paragraph 2.13 – 2.14 of the Report. In addition, Officers reiterate their confirmation that they were certain that the CLP

⁴² CD 6.1, notes in Section 4: Site Allocation in the Local Plan“(p. 5 of the Report) of the “Summary of the key issues for consideration”

⁴³ CD 6.1

⁴⁴ CD 2.4.6

- Rev 4 would be workable in practice⁴⁵. In summary, Officers were as sure as they could be that the Appellant's proposals for the construction stage of the scheme would work and would not give rise to any safety issues.
64. Both Members of the Planning Committee, notably, the Rule 6 Party (Cllr Foster) and others (e.g. Cllr Matthey) have indicated at various stages in the application and appeal process that their concerns could potentially have been assuaged if the Appellant had undertaken a live route test. The Appellant's decision not to undertake a live route test, having initially raised it as a possibility, was not because it had been concluded that the route would not in fact be workable.
65. The Appellant's highway witness has explained in both his written and oral evidence why the decision not to have undertaken a live route test was taken. In the first place, despite his extensive experience of complicated schemes and constrained sites, he has never been asked to undertake a live route test. In addition, the Appellant's planning witness stated in his oral evidence that he has never been involved in a scheme in which a live route test was required to be undertaken. Secondly, swept path analyses comprise the standard industry method of assessing vehicle routes, and identifying any mitigation required to make them workable. The swept path tests undertaken by the Appellant, in particular those associated with CLP Revision 4, confirmed that the identified routes for construction traffic could safely and practicably accommodate the vehicles of the kinds that are planned to be used. As such it was unnecessary to undertake a live route test. Thirdly, in order for a live route test to be meaningful, it would require to be undertaken with all of the proposed mitigation in place, which would not have been practicable.
66. The position was clearly understood by Officers, who explained it to the committee in the Addendum Report⁴⁶. The Council's highways witness expressed a shared opinion with Members that a live route test should have been performed, presumably to supplement any perceived deficiencies in the information provided in the swept path analyses, she herself undertook swept path analyses with respect to a low loader for the purposes of her Proof of Evidence⁴⁷. Therefore, the Appellants submit it demonstrates that she does in fact consider that swept path analyses serve a useful purpose.
67. So far as the Construction Logistics Plan Rev 4⁴⁸ is concerned, the Appellant would highlight the following points:
68. First, reverting to the issue of low loaders, it is correct that these vehicles are mentioned in the CLP⁴⁹. There does appear to be a degree of ambiguity as to precisely which vehicles are being referred to by the term 'low loader'. However, it is clear from the CLP itself, that one of the changes that was introduced in Rev 4 was that the *'specifications of the chosen crane and articulated vehicles have been changed to smaller vehicles with no footpath overhang'*⁵⁰. This is then

⁴⁵ paragraphs 5.103, 5.115 – 5.119, and the Officer Response, in Appendix A – Letters of representation to the Report, to the first of the comments raised.

⁴⁶ CD 6.1.1 (at paragraphs 3.8 – 3.10)

⁴⁷ paragraphs 5.17 – 5.18 of Stephanie Howard Proof of Evidence

⁴⁸ CD 2.4.6

⁴⁹ Final para Page 5

⁵⁰ Page 4

elaborated upon⁵¹. This demonstrates that the largest vehicle (excluding the 80T crane which is proposed to be used on the construction route) is an articulated vehicle with 12m trailer. Further, if a larger 'low loader' were to be used, and would, as the Council suggested, be unable to access the site, then why would the Appellant propose this as it would not make any practical sense.

69. It is clear from the CLP and from the evidence of the Appellant's highway witness⁵², that the construction vehicles identified in Rev 4 would not result in any footpath intrusion or overhang. The Council's highways witness (and by extension, its planning witness) nevertheless insisted that the construction traffic would pose a safety risk, given the lack of 'any margin of acceptable tolerance to account for 'on-site' variations when the project commences'⁵³. The Appellant's proposed means of safely accommodating on-site, or indeed off-site, variations are amply addressed in the CLP. As set out in the summary at Section 2.1 of the CLP, deliveries will be planned in advance and co-ordinated with local parties to minimise disruption; delivery times will incorporate any requirements stipulated by local planners and authorities; no deliveries will be allowed to approach the site until their designated delivery time; all deliveries will be pre-booked on the Appellant's booking system; and deliveries will be timed to avoid peak times and specific situations such as refuse collection.
70. In addition to this, delivery vehicles will notify the site in advance and on arrival will report to the Appellant's Dedicated Traffic Management Marshall, who will implement a safe access procedure to site, while Traffic Marshalls will walk vehicles to and from the site. Moreover, as the CLP also explains, to ensure that the construction access route is accessible, Traffic Regulation Orders (TROs) in the form of single yellow lines, and double yellow lines at junctions will be in operation during construction hours, as specified in Section 2.4 of the CLP. Section 2.5 of the CLP sets out the Appellants proposals for delivery bookings and timings which explains how delivery journeys will be minimised whenever possible. It also sets out a forecast of the average amount of lorry deliveries that will be required throughout the construction phase of the project, spread over the 60 week construction programme.
71. In these circumstances, in the Appellant's submission, the plan comprised by the CLP is clearly amply capable of responding to and dealing with on-site and again off-site variations of the kind envisaged by the Council's highway witness and considered by her to generate a potential safety risk. For example, the 80T crane having its route into the site blocked by parked cars. The combination of TROs and marshalling by qualified banksmen, in circumstances where the crane itself will be driven by a specially qualified and experienced driver, is more than adequate to accommodate such a possibility. Plainly, the route of the crane, as well as that of other construction vehicles, in the vicinity of the site, will be checked by Marshalls as required, in order to ensure that it is clear of obstructions. As with the question of vehicle size, apart from anything else, this is a matter which is straightforwardly in the Appellant's own interests. It is in the Appellant's own interests, that is to say, to do its best to ensure that the construction programme is not delayed and works smoothly and efficiently, and it

⁵¹ pp. 11 – 13 of the CLP

⁵² including Table 4.1 of his Proof and the commentary thereon

⁵³ see Proof of Mr Hurren, paragraph 5.2

- would be very much against the Appellant's interests to allow for situations in which the crane, or any other vehicle, were to arrive at the site on any given day or days, only to find that access to it was blocked. This is not a significant risk, and one that, realistically, can be discounted.
72. Again so far as the 80T crane is concerned, Mr Hurren stated, in his oral evidence, that the intention was that this would be, at most, one trip into the week and one trip out, although this would be contingent on whether the crane was required to be used in connection with other projects. This does not immediately tally with what is said on p. 13 of the CLP Rev 4.
73. During the Inquiry the Appellant submitted a copy of a document which sets out their response to comments made by the LBS⁵⁴. The Appellant advised that this document was emailed to the Council in February 2019. In particular the Appellant refers to the provision of a tracking drawing that showed no overhang along the route⁵⁵. This was with the exception of the Headley Avenue and Godalming Avenue where the overhang is stated to be minimal at about 64mm.
74. The CLP does not contain any undertaking that the crane would be kept on site for three week periods. The assurance that is given there is considerably more limited than that. What is said is that, throughout the final procurement process, the Appellant will liaise carefully with the proposed sub-contractors to ensure that the crane can be kept on site for as long as possible, and that it would endeavour to keep the crane on site for at least batches of three weeks at a time while it is required on site. This aspiration is, however, expressly qualified by the consideration that the Appellant would only be able to confirm this once negotiations with the sub-contractors were underway and other commitments were confirmed closer to the time. Accordingly, Officers reached their conclusions with respect to the scheme in the knowledge that there was a degree of uncertainty with regard to this issue, and were not misled, whether by the CLP or otherwise.
75. The Council suggests that the Appellant's proposal to reduce the number of parking spaces in the vicinity of the site by 28, with 13 permanently unavailable during the construction phase, and the remainder unavailable on weeks days between 07:00 and 17:00 would have significant impacts⁵⁶. Specifically, that local residents affected, including parents of young children, elderly and disabled people would be unable to park outside their homes.
76. The Appellant considers that TROs are regularly used when construction is ongoing. When pressed, in cross-examination, on the question of how these considerations justified any sort of safety risk, the Council's witness suggested that people's parking inconsiderately or even illegally, might lead to an increased incidence of accidents. The Appellant considers that this is pure speculation, unsubstantiated by any evidence.
77. The parking beat surveys undertaken by the Appellant, the results of which were accepted by both Officers and TfL, shows that there will be ample residual parking in the area, even with the TROs in place. The Appellant took the view

⁵⁴ ID8

⁵⁵ 4662-007-039 referenced on page 3 of ID8

⁵⁶ paragraphs 5.25 – 5.38 of Stephanie Howard's Proof of Evidence

that the numbers of vehicles accessing the site were sufficiently low, with the majority (some 75%) of movements being by Ordinary Goods Vehicles rather than HGVs⁵⁷, that it would be more effective and efficient to manage these vehicle movements in the ways described in the CLP, with a lesser effect on parking and hence on residential amenity. Therefore, it is the Appellant's submission that it cannot be the case that the introduction of temporary parking restrictions in the vicinity of the site will have any ramifications in terms of highway safety.

78. The scheme also includes proposals for half footway parking on Capel Avenue and removal of the traffic island at the Chase/Stafford Road. These are measures requested by the Council. The Council's highways witness did not raise concerns regarding the half footway parking⁵⁸. The Council's witness initially argued that it would be unsafe to remove the traffic island. This position is contrary to the position of the Council Highway Officers. However, it changed its position on this matter during the conditions/obligations session instead asserting that the island should in fact be removed.
79. The Appellant is a highly reputable and responsible construction company, operating building sites across the country, and contracted by the DfE to do that at the appeal site. It can be expected to, and will, maintain high standards, in accordance with the Considerate Constructors' scheme. The Appellant will operate the construction operation at the site safely and with a view to minimising the impacts on residential amenity while construction is on-going.
80. The Appeal Site is allocated for a school in S97 of the Local Plan. The fact that the site is so allocated entails that the Council has approved it in principle for a SEN school. Any school will, inevitably, involve both construction and operational traffic. The appeal proposals must be assessed against this background, or baseline. There is no cogent evidence to show that the construction traffic will pose a safety risk. There is cogent evidence, as presented by the Appellant, to show that it will not. Given the extensive pre-application processes, together with the fact that the application for the proposed development was supported by what was in effect a full and detailed CLP (normally the subject of a condition at the permission stage) it is difficult to see how the Appellant's proposals could be improved upon.

Operational Traffic

81. So far as operational traffic is concerned the Appellant reinforces the point that the appeal site has been allocated for a SEN school in the SLP. Any SEN school will generate a certain amount of operational traffic and in terms of mode share a preponderance of minibuses. Local residents may object to this, but it is the inevitable concomitant of building a SEN school. These fall firmly within the class of state-funded schools which, the Government and Ministers have said, confirmed and emphasised, are much needed.
82. Second, it is clear from the Committee Report that Officers, for their part, have never had any concerns about the safe operation of the School, whether in terms of traffic or otherwise.

⁵⁷ see David Hurren Rebuttal Proof, paragraph 1.16

⁵⁸ see paragraph 5.42 of Stephanie Howard's Proof of Evidence

83. Third, as a general proposition the Appellant considers that very considerable weight should be placed on the evidence of the Principal of Carew Academy⁵⁹ where this issue is concerned. Not only is he very experienced in dealing with SEN schools, but he is also very experienced in managing the car park, and traffic, at the existing Carew Manor School. He was well placed to confirm, as he did, that the arrangements at that School, which are comparable to those proposed for the School at Sheen Way, operate as intended, and efficiently and safely. He also confirmed, as one might expect, that safety is of the utmost priority for the Trust⁶⁰, and not a matter which it takes lightly. It is also highly relevant that, as Mr Watkins confirmed in his evidence, he had a significant input into the design of the car park and was in a position to ensure that that design met the Trust's needs.
84. Fourth, the Appellant considers that the Council's case with respect to the safety of operational traffic at the School rests on a number of misconceptions. To begin with, there appears to be some concern on the part of the Council relating to the level of management that the School car park will require. Thus, the Council's highway witness⁶¹ states that for the car park to function '*the Appellant would need to apply strict operational control consistently on a daily basis*' (of course, it is the Trust who will in fact be operating the car park, not the Appellant). The suggestion appears to be that the need for operational control – which the Appellant and the Trust do not deny indicates that the design of the car park is defective. This assertion demonstrates a misunderstanding of how SEN schools operate.
85. It is in fact entirely standard for SEN schools to operate strict operational controls with respect to their parking arrangements. There is nothing unusual about this; it is to be expected; and it comprises a key part of such schools' overall operations. The requirement for strict operational control in the present case cannot be taken as an indication that the design of the car park is defective. On the contrary, the fact that operational controls will enable the car park to function efficiently and safely is indicative of the fact that the design is entirely fit for purpose.
86. The Council's entire case with respect to operational matters appears to derive from unwarranted assumptions made with respect to the swept path drawings to be found in Appendix C to the Car Park Access and Management Plan (CPAMP)⁶², including in particular the drawings showing movements 5 to 8 of 16. On this matter for the Appellant there are two points to be made.
87. Number one, as the Appellant's highways witness pointed out in paragraph 4.43 of his Proof, the drawing in question⁶³ demonstrates the maximum capacity of the car park, and it is not expected that this will occur regularly if at all. As he further explains, the TA⁶⁴ includes an assessment of arrival and departure patterns based on observations at Carew Academy; and this shows that pupils

⁵⁹ Mr Watkins

⁶⁰ The Orchard Hill Academy Trust is a multi-academy trust. The Carew Academy is one of the schools in the Sutton and Croydon group of the trust

⁶¹ paragraph 6.4 of her Proof

⁶² CD 2.4.3

⁶³ drawing 4662-007-034 P1

⁶⁴ CD 2.4.1

arrived over a 45 minute period from 08:00 to 08:45. Accordingly, it is not the case that pupils will all arrive at the same time. It is key that *'in fact, as the car park is beginning to fill, cars will be allowed to leave'*. This evidence is borne out by that of the Principal.

88. Point number two is that, as the Principal explained in cross examination and re-examination, the approach to the drawings contained in Appendix C to the CPAMP should be dynamic not static. The intention is that there will be a smooth, regulated flow of vehicles in and out of the car park over the arrival and departure period, with pupils being safely dropped off and picked up in the dedicated area in front of the school building. It is clear, in the Appellant's submission, from the evidence before the Inquiry, that this can and will work safely.
89. The Council's case with respect to the issue of operational traffic appears to rest on a twofold misconception, namely, to the effect that the arrangement of the car park is such that pupils will be dropped off and picked up willy-nilly surrounded by moving vehicles, on the one hand, and, on the other, that vehicles will stack on the road outside the appeal site as they queue to enter the car park, given its limited capacity. Neither concern has any foundation. As the evidence of the Appellant clearly demonstrated, pupils will not be dropped off or picked up surrounded by moving traffic. Rather, both exercises will take place in the safe confines of the dedicated drop-off/pick-up area. Nor will there be any stacking on the road, given the dynamic operation of the car park, and the fact that when and if the car park reaches capacity, vehicles, having dropped off or picked up their passengers, can leave.
90. Compared with mainstream secondary schools, the proposed School is relatively small, with 246 pupils and 120 FTE staff. The School car park has been designed in accordance with the specifications set out by the Principal, and will be managed by experienced and well-trained staff, including the Principal himself. While local residents may object, and evidently do object, to the prospect of minibuses and other traffic traversing the cul de sac providing the access to the appeal site, the concerns expressed by the Council's highway witness with respect to the safety of operational traffic are, in the Appellant's submission, entirely baseless.
91. Finally, under the heading of operational traffic, the issue of the 23 car parking spaces on the green grass crete area adjacent to the car park requires consideration. While there may or may not be an issue as to whether or not these potential spaces should be included within the car parking allowance attributable to the school, and may or may not be an issue concerning the question of compliance with Policy 37 of the SLP, it is difficult to see how these issues give rise to any concerns about safety during the operational stage of the development. In any case, the matter is perfectly capable of being dealt with by condition.

Other matters

92. The Appellant would respectfully submit that it was entirely right that Inquiry time should have been devoted to those matters which are of concern to the Rule 6 Party and others, including Cllr Matthey, but not encompassed by the Reasons for Refusal or two main issues. In particular those discussed in the round table discussion (RTD), such as the site allocation, flood risk, and air quality. The

Appellant is also hopeful that these matters have been dealt with by the Appellant, and indeed the Council, to the Inspector's satisfaction. It was right that they should have been aired; but, none of them could reasonably be regarded as constituting grounds for dismissing the appeal.

Conclusion and Planning Balance

93. The Appellant submits that the planning balance weighs firmly in favour of the proposed development, and that the appeal should be allowed. It is common ground that there is a need for the School. The Council's planning witness suggested that while there is a need for the School, that need is not urgent since the Trust can continue to educate pupils in the interim at Carew Manor. The Appellant disagrees and submits that the need for the new facilities that the School will provide is, in fact, urgent. The evidence of the Appellant's witnesses is backed up by the Carew Manor Visit Report dating back from March 2013⁶⁵. This confirms that the facilities which the extant school currently provides are wholly inadequate and not fit for purpose. They need to be replaced by the state-of-the-art facilities which the proposed development will provide as a matter of urgency. In addition, there is strong policy support at the National, London and local levels for the alteration of and improvement to the facilities which the Trust can offer which the new School at the allocated appeal site will provide.
94. The construction and operational traffic associated with the proposed development is an inevitable concomitant of any school on the allocated site. There are significant planning benefits associated with the proposed development⁶⁶. Finally, the evidence to suggest that there might, potentially, be safety concerns during the construction and operational stages of the proposed development does not withstand scrutiny. Those concerns were not shared by the Council's Officers, who spent considerable time and effort assessing the Appellant's planning application, and ultimately concluded that the scheme could, and should, be supported. They have not been substantiated by the Council's evidence before the Inquiry.
95. Finally, reference must be made to section 149 of the Equality Act 2010, which requires public bodies, in the exercise of their functions, to have due regard to the need, inter alia, to promote equality of opportunity between persons who have a protected characteristic and those who do not (where disability is a protected characteristic. Both the Inspector and the Secretary of State must have such due regard in making their recommendation and decision respectively on this appeal.
96. For all of the above reasons, the Appellant invites the Inspector to recommend to the Secretary of State that the appeal should be allowed.

The Case for the Council

97. The Council consider that it is plain from the evidence at the Inquiry that the Appellant has failed to demonstrate that during the construction phase and operational phase that the scheme would not result in adverse impact on the

⁶⁵ Appendix RW3

⁶⁶ Proof of evidence of Mr Gunne-Jones.

- local highway network resulting in a significantly increased safety risk to highway users and pedestrians.
98. In addition, the Appellant does not provide sufficient evidence or data to demonstrate that the site can accommodate parking for staff, pick up and drop off of students. Furthermore, it does not demonstrate how site management will operate such that delivery vehicles arrive on site as required, and do not result in vehicle stacking on the surrounding streets. The scheme is in direct conflict therefore to the LP, SLP and the Framework. It cannot be allowed to proceed.
99. The Council's case is that site allocation S97 makes it clear that the appeal site is a constrained one. Policy S97 requires any development scheme to pay particular regard to a number of factors. Of particular importance for this scheme is factor (e), which directs regard to be had to ensuring traffic flow on the local road network is not unduly affected.
100. The Appellant was fully aware of the highway constraints at the appeal site. This could not have come as a surprise. However, despite this, the Appellant has failed to ensure the safety of those impacted by the scheme both at the construction stage and the operational stage.
101. It is notable that at the planning committee of May 2020, 183 individual letters of objection were received from 138 separate addresses compared to a single letter in support. It is also significant that the LBC has appeared at the Inquiry to voice their serious objection to elements of the proposed construction traffic routing.
102. The issues arising from this scheme meant that a detailed CLP was necessary at the application stage⁶⁷. Far from allaying the Council's concerns, it is considered that this document exposes the flawed approach of the Appellant. It is no answer to say that the Council's highway officers signed it off. The Council submit that during the Inquiry it became clear that there were very worrying inconsistencies between the contents of the CLP and the actual intended practice of the Appellant.
103. First, it is clear that the Appellant's swept path analysis do not set out the true situation. The Council has demonstrated that there is a difference between a theoretical outcome and the reality. To demonstrate that the scheme is acceptable it is necessary to apply a real world approach to the theory. In the present case, it is clear from the swept path and tracking that in so far as the crane usage is concerned it leaves no margin for anything other than the most precise driver skills to avoid overhang in respect of Headley Avenue. Two issues arise from this. First, to operate in this manner is contrary to the relevant guidance. It leaves no margin for tolerance whatever. A margin of 0.5m is regarded as a reasonable standard.
104. Designing for Deliveries 2016, Freight Transport Association (DFD), Page 8, section 3.1, 3rd bullet states: *'Design standards must not rely on the ultimate performance of vehicle and driver as this adds to delivery times and causes driver stress particularly in poor weather conditions. Therefore, recommendations must incorporate reasonable tolerances and safety margins.'*

⁶⁷ see also SLP Policy 36b

DFD, Page 9, 4th paragraph: *'With the addition of suitable safety factors and tolerances to allow for different drivers and different performances these diagrams provide the basis for design layouts for different types of facility. A good starting point is to allow at least 0.5m clearance to kerbing or vertical obstructions on each side of the swept vehicle path.'*

105. As agreed by the Appellant's highway witness, within the Autodesk Vehicle Tracking programme, there is an option to add an automatic 'clearance offset', to add in the safety margin as you complete the swept path. The Appellant failed to apply any buffer. No satisfactory response was given for not applying this buffer. The only conclusion that can be drawn is that the Appellant was aware that the scheme would fail to demonstrate acceptability if the appropriate buffer were applied.
106. Furthermore, the Appellant refused to undertake a route test which could have demonstrated the reality of the situation. Their reasons for refusing to do so were not sustainable and the Council made clear at the Inquiry that such a test would be possible.
107. A further worrying and unexplained issue arose at the Inquiry regarding an earlier tracking exercise which, contrary to the submitted swept paths, does show an overhang at Headley Avenue from the crane. This is clear from a late document⁶⁸ submitted by the Appellant during the course of the evidence of the planning witness. At point 6 it is stated: *'The contractor will use an 80T all-terrain crane rather than the previously assessed large mobile crane. The all-terrain cranes are able to perform sharper turning manoeuvres than one axle or even crab steer cranes. This will allow to reduce the potential for footway overhang to a minimum position. In this context a new tracking drawing has been produced (Drawing no 4662-007- 039) and showing no overhang along the route with the exception of the junction of Headley Avenue and Godalming Avenue. At this junction the footway overhang will be minimal i.e. approximately 64mm'.*
108. The Appellant's planning witness was unable to explain why there was a difference between the two tracking outcomes. However, this demonstrates that there is no reasonable margin and that overhang will occur leading to safety risks. Although the CLP attempts to assert that this is because a revised crane was used, in fact, ID7 makes clear that the revised crane had also been used at that stage when the overhang was evident.
109. Another worrying aspect of the Appellant's evidence concerned the frequency of the crane movements. This was an explicit concern of the Council's highway officers. ID7 made clear at point 8 that the highway officers regarded it as 'unacceptable' for the crane to *'enter the site on a Monday morning and depart on a Friday afternoon over a 9 week period. This is considered unacceptable and it is suggested that a vehicle of this size should remain on site for the duration of time where it is required.'*
110. The submitted CLP on which the highway officers made their recommendation appears to allay their concerns on this point and states in terms that: *'Throughout the final project procurement, which can only be carried out once*

⁶⁸ ID7: Temporary Access Arrangements – Response to LB Sutton Comments

the full contract is in place, we will liaise carefully with the proposed sub-contractors to ensure that the crane can be kept on site for as long as possible, we will endeavour to keep the crane on site for at least batches of 3 weeks at a time whilst it is required on site'. The Appellant has announced at this Inquiry that the original two trips per week will be the norm. The CLP text does not say this or even allude to this frequency. It leaves one to doubt why it was not referenced and instead the 3 week batch approach set out when it was clear that this is not what is proposed or even likely. Clearly this was a key concern of officers, and on reading the CLP it would have appeared to them to have been addressed. However, from the evidence at the Inquiry it is clear that the true situation is quite different. The Appellant's highway witness was unable to explain why the actual intended frequency of 2 movements per week had been omitted and confirmed that the highway officers had relied on the CLP when providing their support for the scheme.

111. It is absolutely plain from TfL's response that they do object as the required reduction to 30 parking spaces had not occurred and similarly LBC attended the Inquiry to object to the routing of vehicles through it area.
112. Other aspects of the Appellant's evidence fail to demonstrate the safety of the scheme concern the use of average size vehicles in their analysis instead of the most onerous. There was simply no credible reason why they chose to use vehicles smaller than the largest that would actually use the site. Using smaller vehicles is misleading as to the manoeuvrability achievable and it was agreed that there would be a variance in size of minibus used, but they had planned for the average. In such a tightly constrained car park the Appellant should have designed for the largest possible. This approach is also contrary to guidance which suggest that the approach should be to *'use the most onerous vehicles likely in a particular situation'*⁶⁹. The larger minibus is used at the school now, which is very large. It was at the school on the site visit.
113. The Council's concerns regarding the congestion on site and the lack of reality around the so called *'looping'* system were also amply demonstrated at the Inquiry. As demonstrated by the movements the car park quickly becomes congested and blocked. The Principals' suggestion that the diagrams made it look busy but it would not be seems aspirational rather than founded in the evidence.
114. Further, the Appellant failed to acknowledge obvious differences between the present environment at Carew Manor and the location and characteristics of Sheen Way. The arrangements are so heavily reliant on the individual management that failure to appreciate the significant challenges in respect of the entirely different situation bodes very ill for the safety considerations surrounding the operation of the scheme. In short, a scheme that is so reliant on human management is a clear indication that the highway issues are significant and demonstrably unacceptable. They leave no margin for human or other error at great potential cost to the public interest and local community.

⁶⁹ Stephanie Howard proof Appendix SCH-H, document page 56

115. It is further no answer to leave everything to condition. It is necessary to ensure that adequate evidence demonstrates the acceptability of the scheme before imposing conditions for which it is not possible to ascertain their efficacy⁷⁰.
116. The Appellant's approach to the 23 flexible car spaces is confused. To the DRP they stated they were part of the minimum required. At the Inquiry they say it is only required on an ad hoc basis. However, laid out as they are and given the other operational constraints identified by the Council, it is inevitable they will be routinely used for car parking. It is not reasonable to expect the Council to engage resources to enforce a condition preventing its use having regard to the inevitability of its breach.
117. The scheme is clearly contrary to the development plan and national policy guidance. It is not considered that the WMS adds anything of substance to the clear guidance in the Framework. However, regardless of this, even giving the greatest of weight to the proposed new school, it is clear that highway safety concerns cannot be disregarded to the detriment of the public interest and local community. The LP, SLP and the Framework make clear that where there are unacceptable local impacts including in respect of highway safety, the scheme should be refused.
118. Accordingly, in this case, the balance is firmly in favour of highway safety and the scheme should not proceed.

The Case for the Rule 6 Party (R6) (Cllr Tim Foster)

119. Cllr Foster represents the Beddington North ward where there are six schools; two primary and four SEN, three of which are run by The Trust. The R6 considers that a replacement building for the Carew Manor School is appropriate and overdue. That is not a comment on the teaching nor the current location because the Parkland setting, the enormous grounds and the interesting nature of the building must to some extent be stimulating. Rather it is a reflection on the latest technology and equipment that can aid specialist education need and the benefits that a modern environment can offer the student body. It is accepted and acknowledged that there would be efficacy from a modern building. However, it is not just a matter of a building, it is the environmental package that supports it to provide the very best for the most disadvantaged children. The proposals presented by the Appellant do not offer this, they just offer compromise.
120. There was a school site search initiated in December 2014. That was a search for primary and secondary school sites which reported in part in November 2015 and then a Post Consultation Update in December 2016⁷¹. Within the latter document, there is reference to the document Local Plan Issues and Preferred Options, referred to by Andy Webber, the Head of Planning at Sutton and put out for Consultation in February and March 2016. The detail of that serves to confirm the fact that the entire search focus was on primary and secondary schools.

⁷⁰ see *Satnum v Secretary of State* [2019] EWHC 2631(Admin) [para58] regarding the necessity for assessments to be robust and the precautionary principle

⁷¹ Appendix 2 and 3 of R6 Statement of Case

121. The document offers a draft policy on education with the same focus, which states: (a) The Council will provide or support the provision of facilities to meet the accommodation needs for additional primary and secondary school places to serve the general increase in population across the Borough and (b) In order to ensure that the appropriate number of educational sites is available to allow future schools to be built to meet a range of possible housing and growth scenarios. The document goes on to list potential sites for secondary schools and primary schools and then, in the document's first reference to SEN - Allocate a site at Sheen Way Playing Fields, Wallington for a Special Educational Needs school in the long term to 2025 (Potential Site Allocation S97).
122. The document invites in Consultation Question 20, the following options: Do you agree with the draft policy on education? If not, please give details. Do you have any views on how this need should be met and the list of potential school sites in the draft policy? So, the LBS proposed a draft policy on education that had no details on SEN educational need, current provision, strategies or criteria for future need. However, it produced an apparently arbitrary allocation of the site from 2025. Later in the document, the site allocations are shown in diagrammatic form and on page 304 where the '*Possible Future Use Options*' include Open Space, Residential and SEN School, wholly different from the introductory site allocations and it further notes the PTAL Rating incorrectly as Level 2 and Level 3.
123. In summary, contrary to the statement made by the strategic planning officer in his timeline⁷² and the submission put before the planning committee, there is no evidence of any search for a SEN school site in fact no separate reference to SEN education in the Issues and Preferences, aside from that site allocation for Sheen Way.
124. In spring of 2016 the Trust advised the LBS that they were going to bid for a Free School, which would effectively see them granted the funding to build a new school for pupils with moderate learning difficulties, which would replace the existing school provision on the Carew Manor site. The Free School bid was based on the projected demand for places at the school and the fact that the restrictions in the current building and site would not allow for any expansion to meet pupil needs. DfE and The Trust were advised at the end of September that their bid for a new Free School to replace the current Carew Academy, had been approved.
125. The Proof of Evidence and corrected statement of the Principal set out that he did not start work on the Car Park Plan in September 2015 but rather in September 2016. This was still three months before, on 6 December, the Housing Economy and Business Committee briefed Members on the impending Consultation on the Local Plan. A pre-announcement was made on Twitter on 25 November 2016 but the main consultation did not commence until January 2017. For the local Beddington and Wallington Local Committee, the consultation process was introduced at a meeting on 10 January 2017. Therefore, the R6 position of questioning the original site allocation remains.

⁷² Appendix 1 R6 Statement of Case

126. There have been other aspects regarding this application brought to the fore by the Appellant and their witnesses that are surprising in the context of the Appeal.
127. The first was voiced by the Appellant's highway witness when he expressed surprise that Members of the Planning Committee did not follow Officers' recommendations and instead voted against the Planning Application. No member of the Appellant's specialists, actually attended what was the first full virtual Planning Committee Meeting for the LBS. It was left to Highways Officers to answer Members' questions and when supported, for example, by a CLP that even in its fourth iteration, still fails to describe the construction vehicles in a manner that most understand.
128. Residents have provided a photograph of what we would all view as a low loader⁷³. It is stuck in Godalming Avenue and causing a local traffic holdup and shows the sense in not using one on this project. The CLP re-directs low loaders on a route recommended by the LBC yet allows General Construction Vehicle to continue to use the junction of Purley Way/Stafford Road.
129. The junction of the Purley Way and Stafford Road is an acute angled junction with a slip road to reduce the impact of the angle. However, that slip road is bordered on the right by a pedestrian refuge and on the left by pedestrian railings that are already showing damage from vehicle impact. What exacerbates the manoeuvring difficulty is that there is a centre bund running down the middle of Stafford Road opposite the turn, meaning it is impractical.
130. The Appellant has re-specified a low loader by informing the Inquiry that the articulated vehicle with the 12 metre trailer is a low loader. Misunderstandings are easy to understand in such circumstance but with no clear definition of the vehicles and only marginal swept paths to support the plan, the CLP failed to convince Members of the Planning Committee and offers no more certainty now.
131. The units that would come to site are shown to be 9.7 metres long by 3.0 metres wide. When questioned about heights, the Appellant's highway witness responded that Kier Construction run building sites all over the country and that they check routes and height constraints as a matter of course. Simply put Kier Construction should refer to their transport consultants for the data and expertise.
132. In the discussion about the pre-application assessments and exchanges between the Appellant's consultants and the Highways Officers, an overhang on the crane of 67mm was found acceptable. It did not add a margin for error and as such creates the essence of danger to pedestrians or perhaps structural damage.
133. The same vagueness applied to the operation of traffic marshals. Traffic surveys offer a scale of the current volume of traffic on the Chase. The marshals can have an idea from their proposed base of traffic travelling westbound, but they have no control nor method of gauging eastbound traffic. This can create tailbacks if they have a stationary HGV waiting to be walked into Capel Avenue. The planned location of the Marshals' Base is next to a car dealership that has a

⁷³ ID20 Appendix 1

high traffic turnover of its own. Like the car park management plan that shows three stars to represent marshalling of that area, the detail and reassurance it would provide is missing.

134. There is also still no satisfactory explanation of why the Appellant has consistently rejected the concept of a live test. There was an expectation of this during the pre-application process. This did not happen after the Appellant's disappointing decision to withdraw from that important process.
135. Efforts to secure access through the Morrison's estate continued into October 2019, apparently with support at MP level, which was contemporaneous with the final rejection of the idea of a live test. If the Appellant had been confident of their own projections, further months of dialogue with Sutton's Highways Officers could have been saved. Members of the Planning Committee were at a loss to understand this action. Reference has been made to Members not taking Officers' advice. However, it must be remembered that Sutton's most senior officer, the Chief Executive, had committed to writing that *'.....access to the site is through narrow residential streets which will present significant risk to local residents, especially children, and to the project as a whole.'*
136. The Appellant's evidence also leant heavily of traffic surveys, parking beats and industry standard figures. As well as the Chief Executive, the local MP, Councillors and local residents have repeatedly raised concerns regarding the level of existing traffic in the locality. This impacts on road safety and environmental health relating to emissions and traffic pollution. Evidence has also been presented with regard to existing plans that will exacerbate the already heavy local traffic. These are:
- The Croydon Local Plan has published plans to put 12,000 new homes on the Purley Way between 5 Ways and the Lombard Roundabout;
 - Planning Reference DM2018/02044: Prologis are advanced in their construction of a large depot on former MOL land on Beddington Lane creating HGV and delivery traffic;
 - Planning Reference DM2019/00863: SUEZ have a site making incinerator fuel from waste – projected 350 HGV movements per day in and out;
 - Planning Reference DM2020/00781 is a third application by the owners of 283 Stafford Road where offices were converted to flats and permission is sought to build further on site and reduce already limited parking. Residents of the Chase are already blighted by parking from the flats and fear further disruption if the plan progresses;
 - A proposed HGV ban on Beddington Lane through Beddington Village will have an impact on the school site;
 - If it progresses, increased traffic will use the A23 Purley Way which is a source of LBCs concerns on the HGV ban. If it does not proceed, there will be a significant escalation of traffic at the junction of Plough Lane/Croydon Road.
137. All these issues are live and current and impact traffic volumes and pollution levels on the major roads and in any case, it makes the use of 'Industry standard' traffic modelling inappropriate.

138. The proposed development seeks to squeeze a school for SEN children onto such a constrained site accessed through narrow streets, bordered by a railway line and houses. The site is a natural soakaway for surface water flooding from the estate roads and the railway and on an estate bordered on four sides by the areas busiest and most polluted roads. The Air Quality Report submits the concept of the Croydon Road, on the northern side of the railway as a polluting factor. That traffic will make the transport of pupils, predominantly by minibus, private hire or parental vehicles, longer and less tolerable for the passengers. More importantly, it makes the operation of the car park far less predictable.
139. A view of the current '*end of school day*' pick up routine at Carew Manor was seen at the site inspection. A far more complex operation is proposed at the appeal site, but the drop off plans are, in essence unworkable. It assumes the timely and straightforward arrival and parking of staff cars prior to the arrival of any school transport. It then assumes the timely and regulated arrival of minibuses and cars that will be managed with no control of the order of that arrival. Vehicles arriving at the Headley Road entrance to the car park will proceed clockwise to the drop off area. The distance from entry to drop off is one of the shorter measures within the precincts of the car park and one can envisage a traffic interrupted arrival from both the Stafford Road routing and the Plough Lane routing of enough minibuses and cars to impinge back onto Headley Avenue.
140. The concern is where additional traffic would be held in that circumstance. For a flow, you need entry and exit as we saw at Carew Manor. The single point of access and egress is a fault. The Appellant neglected to offer an overlay, for example, an emergency vehicle during the stacking process for minibuses. And it is not just school emergencies that need factoring. There are residents in Headley Avenue who may need the emergency services or just an NHS Ambulance pick-up for a hospital appointment.
141. In Summary the R6 submits that:
- The site search for SEN sites was questioned and found out that there was not one;
 - Promises were made for the provision of resident spaces. However, having considered the travel plans and car park management these are not included in those management plans.
 - It was questioned if the flow of traffic from two busy main roads could be controlled in a car park remote from both routes.
 - Questions were posed about the routing of 88% of school traffic past a primary school and out onto a main road that is an acknowledged accident black spot – in an environment where all over London, school streets are being closed to traffic because of pollution.
 - The actual specification of HGV's, taxis and minibuses was challenged and they are all computer driven "typical" vehicles.
 - The detail of the consultation responses that came from the Public Consultation meeting which included the advice on Surface Water Flooding from a retired meteorologist – a reality articulated by other residents who

talked of the risk of flooded garages and gardens were presented to the Inquiry.

- And finally, the words of Lizette Howers on the first day of this hearing are significant. In the past months as Covid-19 ravaged the health and welfare of the community, Sheen Way Fields offered estate residents a release, a place to walk and disperse the confinement blues - a true civic amenity.

142. We have heard quotes about the Equality Act 2010 and a policy statement by then Minister Eric Pickles dated in 2011 both prior to the OFSTED report that condemned the running of the school by the LBS in 2012. The 2013 commitment by the LBS to assist in finding an alternative building or site for The Trust coincides with the report quoted that condemned Carew Manor as a suitable facility. The most recent, glowing OFSTED report reflects that it is the teachers and the community that make an outstanding school, not the building.

143. The structure of the Appellant's case is similar to the first briefing meeting when Cllr Green pointed out the impracticality of the site and its likely impact and the then Mayor of Sutton Cllr Cooke said, '*We'll just have to make it work!*'. This is a plan whose sole virtues are a modern facility and the identifiable need for Carew Manor to relocate. Balance that against the cost in the welfare of the pupils, in the safety of residents and children on the Highview estate, in the additional traffic and consequential pollution, in the lack of capacity to adapt to future need and in the loss of civic amenity to the entire community. That cost is too high and whether you refer to conditions or mitigations, the infrastructure of the Appellant's plan is inadequate in its contingency and practicality. I would therefore respectfully ask the Inspector to recommend the rejection of this Planning Application in its entirety.

OTHER PARTIES WHO APPEARED AT THE INQUIRY

The Council of the London Borough of Croydon (LBC)⁷⁴

144. LBC object to the scheme based on the proposed routing for large construction vehicles to the site, as set out in the CLP that has been submitted with the planning application. The Council originally provided comments to the LBS on 5 September 2019 on the scheme as submitted⁷⁵. Once further details had been submitted by the applicant to explain some of the site constraints, LBC provided updated comments on 14 October 2019⁷⁶.

145. LBS contacted LBC on 5 May 2020 to give them the opportunity to make further representations on the updated proposals, particularly in relation to the proposed construction routing. LBC made a further representation via email to the case officer on 11 May 2020 and continued to maintain an objection to the proposed construction routing for larger vehicles. The response on 11 May 2020 set out the construction routing that would be acceptable to the LBC for vehicles travelling from the south. '*This would be the A23 / Queensway / Princes Way / Kings Way. Unfortunately, this hasn't been acknowledged in the construction logistics plan that is still referencing the use of the Brighton Road as the alternative route to the*

⁷⁴ CD 3.1.16; CD 7.9; ID23

⁷⁵ Appendix A to LBC Inquiry statement & CD 3.1.16.1

⁷⁶ Appendix B to LBC Inquiry statement & CD 3.1.16.2

A23. In addition, now that proposals are in place to temporarily remove the pedestrian refuge at the junction of The Chase / Stafford Road, is there increased scope for large vehicles travelling from the south to use the primary road network within Sutton such as the A23? Sutton highways / transport officers should comment specifically on any safety implications associated with removing the pedestrian refuge at the junction of The Chase / Stafford Road. This is a popular crossing point, particularly for school children. Presumably TfL will also be commenting on the construction routing and new proposals for holding areas...'

146. From Croydon's perspective, the largest construction vehicles that need to access the site should use the strategic highway network where possible to do so. Croydon's preferred route would see the largest construction vehicles travelling from the south using the A23 for the majority of the route. Whilst there are physical constraints with the use of the Fiveways junction when coming from the south, there is an opportunity to use the preceding junction via Queensway, that regularly experiences the movement of large construction vehicles.
147. The proposed routing for large construction vehicles via Brighton Road (A235) is unacceptable to LBC. This is a key sustainable transport corridor between Croydon and Purley. It is already an important bus corridor and is a route that LBC is investing significantly in to increase walking, cycling and public transport use. It does not have the high movement function of the A23 and is a corridor that the Council would like to see overall reductions in vehicle movements.
148. In addition, when the large construction vehicles leave the Brighton Road (A235) the CLP includes routes via Warham Road / Denning Avenue, or Southbridge Road / Duppas Hill Road. Again, these routes are not well designed for large construction vehicles, particularly Warham Road / Denning Avenue that have a 'B' road designation and are residential in nature.
149. The proposed routing via Brighton Road (A235) is less direct than the route via the A23, so will increase the overall distance that construction vehicles need to travel.
150. In conclusion, whilst LBC does not object to the principle of the scheme, it has one specific concern with the proposed routing for large construction vehicles coming from the south. LBC has raised these concerns on 14 October 2019 and 11 May 2020 and the issues have not been addressed. LBC has put forward an alternative routing for large construction vehicles coming from the south that will overcome the Council's concerns and enable the objection to be removed.

Mrs L Howers (Local Resident)

151. There is agreement that the school at Carew Manor deserves a good site. The appeal site has been used as a playing field since around 1926. Residents consider that shoehorning the scheme onto the appeal site has no benefit. The 246 pupils are a small number and more spaces will be required for students in the Borough long term. The site offers no room to expand. In addition, the new school would be close to a railway line, which can be heard from the field, and there will be issues with ventilation of the building for the students using it. A site that is secure, peaceful and tranquil would be good for the well-being and mental health of students.

152. The corner of The Chase/Central Avenue has its worst traffic peaks at 8.45-9.15 and 15.00. There are parked cars on the roads as many properties in the locality do not have driveways. Indiscriminate parking is common, people blocking residents in, by blocking driveways, and narrowing of roads are all issues. There are also hazards for pedestrians. In addition, recent construction projects in the area for new homes have demonstrated that these are problems that would arise.
153. The new area proposed for the school is not big enough and the plans are not practical. The area should remain as a green space and remains a true civic amenity⁷⁷.

Cllr J Green (Councillor Beddington North Ward)⁷⁸

154. This Inquiry is about not just a building but the lives of residents and children. Sheen Way Playing Field is a small 2.4 hectare site bounded by a busy noisy railway line and an industrial estate and should never have been earmarked for a new SEN school. The need for SEN school places is increasing and this building has no room for future expansion.
155. The Appellant stresses that it was agreed in the SLP to recommend Sheen Way as a good place to build a school. There is little evidence of residents in Beddington North actually knowing about the consultation on the Local Plan let alone having a say.
156. The Councillors on the Planning Committee who took the time to visit the site remarked that it is "a nonsense". The Lead Councillor in July 2017 is on record as saying, "it is a very difficult site to access". The Chief Executive is also on record as saying, "it is not safe for residents or children to allow access through the High View Estate".
157. The Appellant, in their determination to fulfil the contract to get this school built has shown nothing but contempt for the residents of the High View Estate and surrounding areas. The so-called consultation was highly flawed as no-one felt qualified to answer any of the residents' questions. A route "trial run" using a vehicle of the size likely to be employed during construction was felt unnecessary. In their Proof of Evidence document reference the Appellant's highway witness⁷⁹ states that to re-consult with residents on what he considered minor amendments to the CLP would represent an unacceptable delay. Again, displaying utter contempt for the residents.
158. The Appellant is so sure that their computer analysis shows it is not dangerous, but we who live here beg to differ. We have been subjected recently to construction vehicles accessing the estate for various developments and we have photographic evidence of them getting stuck. The Appellant's data taken well over a year ago states that there will be loss of parking spaces but there are other spaces available in other streets on the estate. Times have changed, many people are working from home, attested to by this Inquiry today, and the parking spaces they refer to are no longer there.

⁷⁷ See para 139 where Mrs Howers comments on this point are summarised by Cllr Foster

⁷⁸ ID4, ID18

⁷⁹ CD 21.2 paragraph 1.7

159. No-one disputes that the design of the school is good or that a new SEND school is not needed. In the current climate it is vitally important everyone has access to fresh air as decreed by the Government and its advisors. Is it therefore acceptable that pupils will be taught in sealed air conditioned classrooms? Their only access to fresh air is outside but next to a busy and noisy railway line and industrial estate and some SEN pupils find noise very difficult to cope with. Their present home is in beautiful peaceful parkland surrounded by trees and with large green spaces to play in.
160. If this proposal is accepted the last green space between Sutton and Croydon will be lost. Over the last 40 years it has become a place of safety and recreation for the residents of the High View Estate as was originally intended by the developers in the 1920s.
161. The proposal to remove the pedestrian refuge at the junction of The Chase and the Stafford Road to facilitate the movement of construction traffic will endanger pedestrians including children and will be a serious breach of road safety. Removal of speed humps will encourage drivers to travel faster increasing the risk of accidents. The Appellant has given assurances that construction vehicles will be walked into the site by a steward and presumably out again. Slow moving traffic increases air pollution and it is well documented that Beddington North is the most highly polluted ward in the Borough. The impact on pupils at High View Junior School and people with lung problems will be increased.
162. Recent road closures in Sutton will mean journey times by car, minibus or in a few cases public transport (PTAL rating of 1b) will increase. Is it right that vulnerable children will have to get up even earlier to get to school on time? They will have to contend with travelling along Croydon Road and its junction with Beddington Lane (nearly always gridlocked) and via the known accident black spot of Plough Lane/The Chase/Sandy Lane North. This junction copes with about 3,800 vehicle movements a day and the additional school traffic will take this figure to over 4,000. The Appellant states in the document mentioned above paragraph 2.4 that a TP will encourage sustainable travel and the use of minibuses to group journeys will continue to be promoted. With Covid-19 pupils will have to travel in reduced numbers on said minibuses, meaning more will be needed and traffic numbers and air pollution will again increase.
163. Lastly, Sheen Way Playing Field, is a little oasis of green in between the houses and the railway line and, more importantly, is a recognised flood plain. The recent rainstorms meant that the field did its job and absorbed most of the rainwater saving homes from being flooded. If the school is built and rainwater goes into the drainage system in all probability they will overflow and flooding will occur. A meteorologist who worked at the Met Office and the Flood Agency has submitted an objection with details of this.
164. At the end of the day this is about residents and children and how this will affect their lives. Mr Gunne-Jones said that he presumed it would be the school calling emergency services for incidents at the school and they would be able to manage the car park for that reason. I beg to differ, we have a large proportion of elderly residents with various medical conditions living in Capel Avenue, Godalming Avenue and Headley Avenue. Frontline ambulances plus patient transfer ambulances are frequently called to these addresses and if school traffic

is backing up, as could be the case, how will these vehicles get to the residents affected.

165. Mr Webber mentioned a residents liaison group - considering a petition which never reached the relevant committee was signed by over 600 people living on the estate I'm not sure how they would feel about this. There is not at present a formal residents association. As residents are going to lose on street parking spaces if there is over capacity for a school event, say a sports day, where will those attending park?
166. The residents of the High View Estate have had unfettered access to Sheen Way Playing Field for over 40 years. The space that is being allocated to the residents for their use is so small that their current activities on that site will be very much curtailed. As has been stated previously the field as it stands with the large area to walk and jog has been of great benefit during the COVID-19 lockdown. For LBS to have made a promise to Orchard Hill to build on this small, difficult to access site is letting both pupils and residents down badly.

Cllr N Matthey (Councillor Beddington North Ward)

167. The scheme would be an erosion of open space. The area already contains a high proportion of energy from waste plants⁸⁰. This scheme would place even more traffic on the roads with a constant flow of traffic. There would be a harmful effect on children from poor air quality. The Sheen Way site is a poor location and as such less children will use public transport.
168. The current Carew Manor site is a good environment and the Council could add an annex to it and expand. The appeal scheme would see the school move next to a railway and industry. There are significant concerns about mitigation to be used at the new site whereas the current site is well vented and would be better for social distancing.
169. There would be a significant danger of mixing lorries and vulnerable people. Utilising access via Morrisons should be an alternative as it would reduce disruption to residents. The traffic for this scheme should not be going where it is proposed. There have been fatalities and the road humps were put in to address pedestrian safety issues. There is already a problem with construction traffic and the mitigation is not good enough. Construction traffic would make it worse and increase dangers on the local roads and other roads which are narrow.
170. There were 135 objections to the scheme and in June 2019 the Council considered that the access as proposed was a no go. It was only when Morrisons said no to use of their land that the Council changed its mind and now keeps changing its mind.
171. Children should be centre stage in this and the current site is much better and larger. This scheme would be shoe horning onto a smaller site. In addition, there will be increased journey times, queuing and stacking of vehicles and it will not work. The current site is chaotic and the children should not be treated in this way. Many staff live outside of the area and will now have to drive to the school site.

⁸⁰ In the Beddington ward Cllr Matthey referred to the presence of waste treatment facilities that uses non-hazardous residual (post-recycling) waste as fuel to generate energy

172. The residents that live close to the existing site provide feedback about the school site. The view is that since being under the control of The Trust there has not been an improvement in traffic management. Double yellow lines on the west side of Church Road to prevent indiscriminate parking have just displaced the problem.
173. A significant amount of money is spent each year on SEN transport. There have been no attempts to optimise or improve the transport to the school. The problem could have been solved but it has not been. The appeal site is on the eastern edge of the Borough close to Croydon. As such very few pupils live close to the school. Pupils will have to sit in vehicles and be subject to air pollution.
174. The minibus and minicab drivers will not all be organised and the teachers will not be able to enforce this. There are also resident complaints that drivers are always on the phone. Based on what residents see at the existing site there is not confidence that the appeal scheme would not operate as the Appellant claims.
175. On the matter of construction traffic concern is raised about the tolerance and the fact that residents will not move their cars. The proposals are not realistic. Refuse vehicles already get stuck and the roads are narrow. There are issues with emissions and the high amounts of particulates from vehicles which will also impact on residents.
176. On the matter of planning policy this scheme was a pet project of the previous Chief Executive. Overall, there would not be any benefits to local residents from the scheme going ahead.

WRITTEN REPRESENTATIONS

177. The Council officer's report lists the responses from statutory consultees, other relevant bodies and members of the public⁸¹. In terms of the public responses, the report notes that there were 183 individual objections from third parties from 138 separate addresses along with 1 letter of support. The objectors were mostly concerned about the highway safety issues, loss of open space, educational need, biodiversity, design, impact of the building design on students using the new building, flood risk, residential amenity and access for emergency services. The material grounds of objection listed in the report are generally related to matters that have been covered above or were addressed at the RTD, which I deal with within my conclusions.
178. Written representations were received in relation to the appeal. These have been summarised by the Appellants⁸² and the Council⁸³. Having considered the representations themselves and the summary documents it is my view that they include concerns regarding the following:
- Narrow roads unsuitable for large lorries turning and unloading;
 - Significant safety concerns;
 - High levels of pollution;

⁸¹CD 6.1

⁸² Section 10 CD 19.2, Main Proof of Evidence of Mr Gunne Jones

⁸³ Section 5 CD 16.2 Main Proof of Evidence of Alexandra Barnett

- The green space is important and contains an abundance of wildlife that would be destroyed;
- Impacts on the living conditions of existing occupiers, in particular loss of privacy, daylight and sunlight;
- This site would reduce the use of public transport by parents and pupils;
- There will be parking issues with loss of parking spaces and the volume of people now working from home;
- There is a flooding issue at the playing field;
- Landscaping proposals would be inadequate.

PLANNING CONDITIONS

179. A list of suggested planning conditions was agreed between the Appellant and Council following a RTD at the Inquiry⁸⁴, this includes pre commencement conditions. The Appellant has agreed to the imposition of these conditions. I have considered these planning conditions in light of Paragraph 55 of the Framework which sets out that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The guidance set out in the Planning Practice Guidance (PPG) is also of relevance and I have taken it into account in considering both the suggested conditions. I have agreed with the imposition of most of these subject to refinement to improve clarity and ensure consistency with national policy and guidance.⁸⁵ A list of planning conditions to be imposed is set out in Annex C.
180. Standard time and plans conditions are necessary to ensure certainty and clarity. I have amended the suggested plans condition to refer just to the appeal plans, as opposed to the appeal plans and supporting documents. This condition is about compliance with the plans only and not other documents that are part of the evidence associated with the application and subsequent appeal. I have considered these documents and if necessary the need for compliance with them. I have therefore altered other suggested conditions to refer to specific supporting documents as necessary.
181. In the interests of the character and appearance of the area a condition is necessary to secure the submission of samples of materials for the scheme. For the same reason conditions are necessary to secure the details of landscaping, tree protection and a lighting scheme during construction and for the lifetime of the scheme.
182. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors a condition relating to contamination is necessary. In particular the submitted contamination report⁸⁶ identified that whilst site wide contamination does not appear to be present that a conditions is necessary

⁸⁴ ID13

⁸⁵ Paragraph 55 of the Framework and PPG including paragraph 21a-003-20190723

⁸⁶ CD 2.5.9

- should any unexpected contamination be encountered once development has commenced on site.
183. In the interests of the living conditions of the occupiers of existing dwellings surrounding the sites it is necessary to impose a condition requiring the detail of any piling should it be proposed and in addition to this that the hours of operation of construction should also be controlled.
184. To manage the water environment of the development and mitigate any flood risk conditions surface water details, including design, implementation, maintenance and management as well as disposal of surface water and compliance with the drainage strategy are necessary as set out by the LFRA and EA.
185. London Plan policy 7.3 and SLP Policy 28⁸⁷ 'Character and Design' (G) require developments to have regard to design measures that deter crime and reduce the fear of crime. As such a condition is necessary that requires submission of a scheme to demonstrate how the Secured by Design principles for new schools would be incorporated into the development.
186. SLP policy 31⁸⁸ states that all planning applications for major non-residential developments should be supported by an Energy Statement incorporating 'as-designed' Building Regulations Part L outputs to demonstrate how the relevant targets for reducing CO2 emissions will be met. The Energy Statement should include calculations of energy demand and emissions at each stage of the Mayor's energy hierarchy for both regulated and non-regulated elements in line with GLA 'Guidance on Preparing Energy Assessments' as amended. As such two conditions are reasonable that require the submission of information confirming the developments compliance with the appropriate standards, subsequent implementation of the measures and then their retention.
187. LP Policy 5.9 and SLP Policy 33⁸⁹ seek to encourage designs and layouts which avoid overheating and excessive heat generation that would contribute to the urban heat island effect. The design, materials, construction and operation of all major development proposals should therefore seek to minimise overheating and meet the development's cooling needs through application of the Mayor's 'cooling hierarchy'. Therefore, conditions are necessary which address these requirements.
188. The Council consider that the submitted landscape strategy for the proposed school does not demonstrate how the proposed development will achieve a minimum green space factor (GSF) score of 0.5 in line with SLP policy 33(b). The Council's Sustainability Officer has recommended a condition for a GSF assessment to be submitted in order to demonstrate how this standard will be met. Given the site's location and provision of the open space within the school grounds, it is considered that the proposal will be able to achieve the GSF score. Nonetheless compliance with this is sought and if there is a deficit this allows for provision of additional measures and as such a condition is reasonable.

⁸⁷ CD 13.8.7

⁸⁸ CD 13.8.10

⁸⁹ CD 13.8.12

189. The Council's Environmental Protection Officer advised that if any gas boilers are proposed for the site, they would need to comply with the NOx emission limits specified in the Mayor of London's Sustainable Design and Construction SPG⁹⁰ and as such, a condition has been applied so that prior to the above ground works commencing that the Appellant shall provide details of all boilers installed demonstrating that the rated emissions of Oxides of Nitrogen (NOx) do not exceed 40mg/kWh.
190. In accordance with SLP policy 26 a condition has been recommended for landscaping and Biodiversity Net Gain, to determine and provide an exact figure for compensation, which will be secured by a payment secured by the planning obligation to achieve offsetting elsewhere in the Borough, under the recently adopted Biodiversity Strategy. A condition has been recommended requiring details of the creation of other features for biodiversity, including birds, bats and small mammals, a Construction Environmental Management Plan, sensitive lighting scheme and a Statement of Conformity, to ensure that all habitats and features are installed / created, as per the approved details.
191. The SLP encourages within the proposed objectives that any future development within the Borough should invest within Local Employment and Training (Objective 8). This is also supported within the Council's Planning Obligations Supplementary Planning Guidance⁹¹. Paragraph 5.7 from the SPG sets out that in order to maximise employment opportunities for local people who need work, the Council will seek to ensure that jobs are provided for local people, both in the construction phase of development and by the end-users, where appropriate. For this reason, in this case, a mechanism to secure this provision is both reasonable and necessary. The SPG sets out that this is done through planning obligations relating to employment and skills training. However, I consider that this could be secured through the imposition of a condition that reflects the numbers of places and provisions sought by the Council and would accord with the requirements of the SPG.
192. The Council's Sustainability Officer reviewed the submitted BREEAM New Construction 2018 Pre-Assessment Report. The Pre-Assessment Report indicates that the proposed school is on track to achieve an overall 'Excellent' rating with a targeted score of 74.44% and a potential score of 80.96% in line with Policy 31 of the Sutton Local Plan 2018. The proposed school will achieve an 'Excellent' rating under the BREEAM New Construction 2018 scheme, by virtue of achieving BREEAM excellent, the new school falls within the top 10% of new buildings in terms of environmental performance and therefore represents 'best practice' and the targeted BREEAM score of 74.44% for the new school comfortably exceeds that the threshold of 70% required to achieve a BREEAM Excellent rating.
193. Two conditions have been recommended to secure the delivery of these requirements. The conditions require that within 6 months of the commencement of development, a BREEAM New Construction 2018 Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE) or equivalent authorising body, must be submitted to the Local Planning Authority and approved in writing to show that a 'Excellent' rating will be achieved with a

⁹⁰ CD 13.6

⁹¹ CD 13.10

minimum score of 74% . The second condition requires that within 9 months of occupation a BREEAM New Construction 2018 Final (Post-Construction) Certificate, issued by the BRE or equivalent authorizing body, must be submitted to the Local Planning Authority and approved in writing to demonstrate that an 'Excellent' rating has been achieved.

194. LP Policy 7.21 states that existing trees of value should be retained and any loss from development should be replaced on the principle of 'right place, right tree'. Wherever appropriate, the planting of additional trees should be included in new developments, particularly large-canopied species. Policy 28 of the SLP states that new development, where appropriate, should make suitable provision for new planting, trees, and boundary treatments and incorporate well-designed soft and hard landscaping as an intrinsic feature of any proposal. It further sets out that where trees are present on site, a landscaping scheme should be submitted with the application which makes provision for the retention of existing trees, especially those which are significant within the local landscape.
195. The applicant has submitted an Arboricultural Impact Assessment, Arboricultural Method Statement, DAS and a Landscape Colour Masterplan in support of the application. The Councils Principal Tree Officer reviewed the submitted information and raised no significant concerns regarding direct Arboricultural impacts. I have no reason to disagree. The principal trees are concentrated to the boundaries or outside the development envelope and the high and moderate value specimens (BS 5837 grade A & B) would be unaffected. As such a suitable tree protection method statement can be secured by way of a suitable condition, to ensure the safe retention of the existing trees.
196. In the interests of highway safety conditions are necessary that would provide a scheme of highway works. This would include provision of the car park layout which includes the disabled car parking spaces; approval of the detail of the TROs⁹²; the requirement to undertake off site highway works both during construction and operational phases. A further condition is necessary to require the submission of details for the route for large construction vehicles and ultimately compliance with the CLP rev 4 and any updated information. Compliance with the CPAMP is also necessary to limit the effects of the scheme on the surrounding roads. In the interests of the living conditions of local residents and linked to the CLP a Residents Liaison Group is considered necessary.
197. In order to promote sustainable travel in accordance with LP policy 6.13 and SLP policy 36 a condition requiring the submission of an updated TP is reasonable and necessary. TfL require the provision of electric vehicle charging points in accordance with LP policy 6.13 which sets out that new developments providing parking provision should ensure that 1 in 5 spaces provide an electrical charging point. As such a condition to secure this is necessary and relevant to planning. This policy also sets out the need to meet the minimum cycle storage standards. The submitted plans indicate where this could be provided but it is reasonable to

⁹² It is my judgement that this can be addressed by condition. However, if the Secretary of State does not agree then this detail is also contained within the submitted planning obligation ID25. Furthermore, I have proposed conditions for submission of highway works to avoid there being an issue should the requirements vary. Again, if the Secretary of State does not agree with this approach the planning obligation provides a list of specific requirements.

- secure the detail by condition. This is relevant to planning and the development and would ensure compliance with LP policy and SLP policies 36 and 37.
198. To ensure that the construction phase of the development will not result in a deterioration of local air quality in line with SLP Policy 34 and the Mayor of London's Supplementary Planning Guidance (SPG)⁹³ on the control of dust and emissions during construction and demolition a condition is necessary which requires that all non-road mobile machinery (NRMM) used during the course of the development shall comply with the SPG.
199. The Framework is clear that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. The initial application included an Archaeological Desk Based Assessment⁹⁴. Historic England⁹⁵ did not object to the scheme but highlighted that field evaluation of the site would be necessary. As such it is both necessary and reasonable that a two stage condition imposed to secure a written scheme of investigation and where necessary a second stage programme of archaeological works should be secured and undertaken.
200. A condition is suggested regarding hours of use for the MUGA. This was discussed at the RTD on conditions at the Inquiry. I appreciate that the LP does offer support to use of school facilities for other community based uses. However, in this case the highway matters are finely balanced. No evidence was submitted on this matter to the Inquiry, such as number of days, hours, frequency of use and resultant impacts. As such I consider it reasonable to restrict the use of the MUGA to that of the SEN school. Therefore, I have imposed a condition and consider that it is necessary.
201. A condition was suggested that would limit the pupil numbers at the proposed school. However, the appeal proposal has been specifically designed to accommodate the school as exists at the Carew Manor site. This has been undertaken in accordance with the relevant space standards set out in Building Bulletin 104⁹⁶ such that the design and space standards would effectively cap pupil numbers without the need for a condition. I understand that local residents are concerned that, should the new school attract increased pupil numbers this could lead to the siting of temporary buildings, as has occurred on the existing site. However, the acceptability of any additional or temporary buildings is a matter that would be judged on its own merits should it occur. A condition was also suggested for the provision of signage. However, these matters would be controlled by other legislation and therefore a condition would not be reasonable. A condition was suggested to control the use of the additional 23 parking spaces. However, as outlined in my conclusions below I do not consider this would be reasonable to impose.

⁹³ ID14

⁹⁴ CD 2.5.3

⁹⁵ CD 3.1.11

⁹⁶ Page 14 of the Design and Access Statement refers

202. Were the Secretary of State minded to agree with the recommendation of this Report to grant planning permission, it is recommended that the suggested conditions listed in Annex C are imposed.

INSPECTOR'S CONCLUSIONS

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

203. This appeal is against the failure of the Council to determine the planning application. The application was reported to the Council's Planning Committee on 28 May 2020 with a recommendation of approval from officers. However, this was not agreed by the Committee and an alternative motion was tabled and it was agreed to refuse the application. Therefore, the statement of case makes it clear that the formal position of the Council is that, had it been in a position to determine the planning application, it would have refused planning permission for the development [2].

204. Therefore, taking account of the oral and written evidence, the Secretary of State's reasons for recovering the appeal and my observations on-site, the main considerations are the effect of the appeal proposal on:

- highway safety during the construction phase, having particular regard to the Transport Assessment, Construction Logistics Plan and Traffic Management Plan;
- whether the scheme would make adequate provision for parking, having particular regard to the parking arrangements for staff; pick up and drop off of students and the management of delivery vehicles.

205. The site is allocated within the SLP for use as a SEN school and open space. Policy S97 requires proposals for the development of the site to pay particular regard to a number of factors. These include Part (e) which states that a development scheme should have particular regard to '*...Ensuring traffic flow on the local roads network is not unduly affected...*'. It is the Appellant's case that this element of the policy does not explicitly refer to highway safety. However, the Council rely upon it. In particular they are of the view that the site is constrained and that, expressed in this manner, the policy sets out the requirement to demonstrate that the scheme would not have an adverse effect on the local road network. This was covered at the Inquiry under the themes of construction traffic and operational traffic arising from the scheme [16, 22, 23, 51, 57].

Highways – Construction Traffic

206. SLP policy 36 is concerned with the transport impact of new development. There is a clear requirement for applicants to set out how impacts would be mitigated and managed. In order to address this requirement, the Appellant submitted a TA and Travel Plan together with a CLP version 4⁹⁷[26].

207. The key area of dispute is whether any effects arising directly from the construction phase of the scheme can be adequately managed and mitigated to avoid adverse impacts on highway safety. The Council consider that version 4 of

⁹⁷ CD 2.4.6

- the CLP, which was considered at the Inquiry, is in fact inconsistent with the actual practices of the Appellant. More specifically that the proposed methods of operation set out in the CLP to mitigate the effects arising from construction traffic would not be what would actually take place should the scheme go ahead.
208. Within the CLP the key areas of dispute are the swept path analysis, especially the crane and low loader, and whether the measures in the CLP would provide effective mitigation. The key mitigation measures outlined relate to the use of Traffic Marshalls to escort vehicles to and from site, use of TROs to ensure the route is accessible and a delivery and booking system. Therefore, I first consider the swept path and then the mitigation [62, 63].
209. The swept path analyses clearance between the kerb and vehicle wheels and it is summarised at Table 4.1 within the proof of evidence of the Appellant's highways witness⁹⁸. Whilst the Council did not dispute the figures within Table 4.1 it noted that the Appellant did not apply a buffer to the swept path analysis. Table 4.1 indicates that vehicles would not overrun the footway or come into contact with the kerb. Even so, the Appellant acknowledges that there would be a low margin in some instances [66, 68].
210. Table 4.1 has been compiled using information from Autocad⁹⁹. There are four situations shown where the distance between the vehicle wheels and the kerb would be less than 50cm¹⁰⁰. The submitted swept path analysis has been an iterative and collaborative process with the Council's highway officers. This process, of which ID8 is part of the chronology, led to the position set out in the proof of evidence of the Appellant's highway witness. Nonetheless, the position of the Council is that the analysis done by the Appellant does not show the true situation. In particular that the appropriate margin for tolerance should be 0.5m and in addition to that a buffer should be applied [68, 69, 103].
211. The Council rely on DFD which provides guidance for evaluating access for commercial vehicles. This is evidenced in the extracts referred to at the Inquiry¹⁰¹. It recommends that the ultimate performance of the vehicle and driver should not be relied upon and that a 0.5m clearance to kerbing or vertical obstructions should be allowed on each side of the swept vehicle path. However, these set out recommendations and guidance, not absolute or minimum standards. Furthermore, the Appellant's position does not rely solely on the overhang being minimal but also proposes management of the route to and from the site. Overall, in this case where an overhang would occur the evidence shows that it would be minimal. In addition, the frequency of movements would be low. Whilst the DFD document makes a recommendation the reality is that the drivers are likely to be specialists used to moving in tight spaces [68, 69, 103, 104, 105].
212. A summary of issues raised by the Council's highway officers and the Appellants response to them is provided within *'Futures Academy Temporary Access Arrangements – responses to LBS comments'*¹⁰². In particular, it

⁹⁸ CD 21.2 table 4.1

⁹⁹ CD 21.2 paragraph 4.16

¹⁰⁰ The Council witness was concerned that the swept paths are too tight with no tolerance or margin for safety applied [105].

¹⁰¹ ID7

¹⁰² ID8

- addressed the fact that the articulated trucks and the mobile crane would overhang the footway at various locations. This would be the effect caused by accepting the reduced margins set out in table 4.1. In particular that the mobile crane would overhang the junction of Godalming Avenue and Headley Avenue. The overhang is identified as being about 64mm. The Appellant describes this as being 'minimal' and that it would not be harmful due to the frequency of such movements and the options for managing it. The CLP is relied on for this purpose [73, 107].
213. The Council has its own swept path for a low loader¹⁰³. The CLP v4 and indeed the Appellant's highway evidence assess the proposal on the basis of a rigid truck with a 12m trailer, since this is expected to be the largest (excluding the crane) vehicle to be used on the construction route. Based on Table 4.1 there would be one junction where the clearance between the kerb and vehicle track would be below 0.5m. This would be the junction of Godalming Avenue and Headley Avenue. Overall, the margin between the kerb and vehicle wheels may be below 0.5m in some instances resulting in a minor overhang of the footway. However, it would only be in a limited number of locations and the frequency of occurrence would also be low. Even if a buffer were applied this would remain the case [68, 71, 73].
214. Although the initial CLP¹⁰⁴ indicated that the crane would be kept on-site for periods of three weeks, at the Inquiry the Appellant confirmed that there would be up to one trip in and one out per week. It was explained that although the frequency of the trips may be less this could not be finalised before sub-contractors are appointed. I have therefore assessed the proposed development on this basis which represents the worst case scenario[72, 107, 108, 109, 110].
215. The other key issue relates to the frequency of the movements of various vehicle types, in particular the low loader and the crane, and the effects of the mechanisms proposed for management of those movements. Overall, there would be potential for a low margin of overhang for the mobile crane at one junction on the route to site. The frequency of this occurrence would be at worst one trip into the site and one out per week across the construction period. For low loaders there would also be one junction where the margin for error on the route to the site would be low. I appreciate that the frequency of these vehicles would be higher than for the crane, therefore the issue is whether the CLP would provide adequate and appropriate mitigation. I go on to consider the CLP below [71, 72, 109, 110].
216. The CLP v4, which was considered at the Inquiry, has been compiled by the Appellant based on the consultation responses during the pre-application process and the advice from TfL that a full CLP should be secured, albeit their consultation response¹⁰⁵ suggested that this could be secured by condition.
217. It sets out that construction would be spread over a programme of about 60 weeks. Access to the site would be co-ordinated and managed for the crane and

¹⁰³ CD 17.1, Appendix A proof of evidence of Ms Howard. Section 5.11 refers to the use of Auto Track and its user manual. In particular that the use of a vehicle in the desk top application does not necessarily mean it can be replicated in reality. It advocates the application of engineering judgement.

¹⁰⁴ See CD 7.7 CLP timeline and Construction Logistics Plan Rev 01 20190411 submitted as part of the original application documents

¹⁰⁵ CD 3.1.8

other vehicles, which would include low loaders. Delivery vehicle holding areas have been identified away from the site for vehicles approaching from both the north and south¹⁰⁶. It is clear that the overall strategy would be to plan deliveries in advance, co-ordinate them and ensure that contractors adhere to the requirements¹⁰⁷. This was supplemented by oral evidence confirming this approach at the Inquiry. Specifically, that to minimise trips that all materials would be brought to site, offloaded, and stored; deliveries will take place before 1700; an online booking system will be used to control and organise the delivery. The CLP sets out that the system could restrict both the size of vehicle and time of delivery. In addition, timing could be managed to avoid peak times and refuse collection and that a dedicated traffic management Marshall would be deployed. The CLP v4 is clear in its statement that the Appellant is committed to the management of construction traffic [69, 70, 128, 130].

218. The Appellant has explained how the site will be managed to ensure construction management impacts are minimised. Specifically, the Appellant made it clear at the Inquiry the commitment to ensure that the final details of crane and large vehicle movements would be qualified once final contracts have been agreed. Therefore, it is reasonable to require a final iteration of the CLP which includes this. This could be secured by condition [71, 74, 79].
219. The Council and other parties consider that the Appellant should have undertaken a live route test. They considered that it would have clearly demonstrated the reality of the vehicles proposed having to access the site along what they describe as narrow streets and a local road network constrained by parked cars. The Appellant disputes that a live test is necessary. The Appellant submits that without mitigation in place, such as suspension of parking, a live route test would not in fact be practicable or meaningful. There is no evidence that points to the policy or technical document which supports such an approach. As such I consider that a live route test would not be necessary. Furthermore, the Council's highway witness concedes¹⁰⁸ that the Appellant cannot be compelled to do a live test, albeit it might be useful [65, 106, 134].
220. Other elements of the CLP that were in dispute were centred on the TROs, half footway parking on Capel Avenue and the removal of the traffic island at The Chase/Stafford Road. These temporary measures would be put in place by the Appellant to manage and mitigate the effects of the construction traffic. I consider each in turn [75, 76, 77, 78].
221. Single yellow lines would be in place during construction hours and double yellow lines at junctions¹⁰⁹. Overall, the CLP sets out that during the construction phase the total number of suspended parking spaces would be 28. Of these 13 would be permanently suspended and the rest would be restricted on weekdays 0700-1700. Five parking spaces would be proposed at the site access point on Headley Avenue, although it is acknowledged that these cannot be provided straight away. If these are taken into account then the net loss would be 23 [75].

¹⁰⁶ CLP section 2.3 page 6 and figure on page 7

¹⁰⁷ CLP sections 2.2 and 2.3

¹⁰⁸ CD 17.2 sections 5.22 and 5.23

¹⁰⁹ CD 2.4.1, Figure 9.1

222. The final parking arrangements along the construction route are shown on drawing 4662-007-T-009 P4¹¹⁰. These would not impinge on the access to garages at the rear of Godalming Avenue. The most direct impact of the scheme would be along the northern limb of Headley Avenue and its junction with Godalming Avenue. Here all of the on street parking would be removed. The effect of the loss of the parking would be to displace on street parking from the impacted roads onto other nearby roads. The Council and local residents are concerned that indiscriminate parking would increase as it may be that residents would have to park further from their homes which could create conflict of movements where construction vehicle movements would be tightest [152, 158, 172].
223. The Appellant has undertaken parking beat surveys¹¹¹. The TA summarises the findings as estimating that there would be a very small increase (1-3%) in parking occupancy during the construction phase, when compared to existing and taking into account the impact of the TROs. The Council suggest that the impact of coronavirus and resultant increase in working from home means that the parking surveys would not in fact be representative of the available parking. Neither party provided an update to the parking surveys as part of the appeal evidence. The surveys were undertaken in November and December 2018 and included weeknights. As such they capture the peak demand at the time when most residents cars are likely to be parked near home. Therefore, given the low magnitude of the effect on this matter I consider that the evidence demonstrates that there would be ample residual parking in the area to compensate for the parking that would be suspended as part of the TROs. As such there is no evidence that there would be significant amounts of indiscriminate parking as the Council suggest [77].
224. Parking for existing dwellings in the area is mixed with some dwellings having parking on plot. The TA¹¹² considers the parking impact along the construction route and the effects of the proposed parking restrictions on the route and surrounding residential streets. The results showed that the current demand for parking can be accommodated in the area during the construction phase without significant adverse impacts, leaving residual parking capacity on surrounding roads that would meet the existing demand. Therefore, any additional parking that might be displaced would be visitor parking. It would not be unreasonable for this type of transient and variable requirement to be accommodated within the general locality. Therefore, there is no tangible evidence that the temporary parking restrictions would directly lead to highway safety issues.
225. The half footway parking on Capel Avenue was requested by the Council's highway officers. The acceptability of this on a temporary basis is acknowledged by the Council's highway witness¹¹³. This is subject to the details of this scheme being agreed which is covered by the suggested conditions [78].
226. The final issue relates to the removal of the traffic island at The Chase/Stafford Road. This element of the scheme was recommended by highway officers during the pre-application discussions of the scheme and as such the Appellant's

¹¹⁰ CD 2.4.11

¹¹¹ CD 2.4.1

¹¹² CD 2.4.1 Section 9

¹¹³ CD 17.2, para 4.62

position is that they sought to accommodate it. The Council's position on this point at the Inquiry was inconsistent. Initially the Council's witness on this matter recommended its removal posed a risk to pedestrians¹¹⁴. The Appellant supports this position and in addition considers that vehicles could manoeuvre through this junction without impinging on the island, particular if managed by Marshalls. However, at the Inquiry the Council changed its stance and at the RTD suggested that the island should in fact be removed. This was not supported by any additional reasoning. The Council does not object to the removal of the island, which would be a matter for its highway authority in any event, and as such there would not be an impediment to its removal should it be considered necessary. Nonetheless, my overall conclusion is that the overwhelming balance of evidence is that TRO

227. [78, 129, 161].

228. The LBC does not support the proposed routing of large construction vehicles identified in the CLP¹¹⁵. Nevertheless, the LBC expressed that they would support using an alternative route from the south via the A23. I consider that it would be reasonable to require this matter to be secured by condition through its inclusion in the required additional information for the CLP [111, 146, 147, 148, 149, 150].

229. The R6 and local residents are concerned about the implications of the access and therefore raised the possibility of an alternative access. The suggestion of access to the site for construction vehicles through the adjacent Morrison's supermarket was made¹¹⁶. However, this did not come to fruition. I appreciate that the interested parties might consider this route favourable. However, the issue in this appeal is the suitability of the proposed access with mitigation not whether an alternative access is available. Therefore, it does not necessarily follow that because this access could not be achieved that the appeal scheme as presented would be unacceptable [135].

230. The Council refer me to the Satnum judgement¹¹⁷ in the context of the need to ensure that the evidence is adequate and demonstrates the acceptability of the scheme. This is key when considering whether conditions would in fact be effective if imposed. This is relevant when considering the CLP and the level of information it presents regarding the effects of construction traffic in this case [115].

231. There is evidence on a number of the individual areas of the CLP where there is dispute between the parties. Nonetheless, a judgement on whether the CLP would be effective requires consideration of the whole. More specifically whether the measures would meet the requirement of SLP policy S97 and the requirements of SLP policy 36 to set out how impacts of the scheme would be mitigated and managed. On this point I consider that the combination of measures presented by the Appellant provides enough information on the principles that would be deployed to ensure that development of the site would not have an adverse effect on the traffic flow on local roads during the

¹¹⁴ CD 17.2 paragraphs 5.47 and 5.48

¹¹⁵ CLP Page 6

¹¹⁶ ID 20 page 4

¹¹⁷ Satnum v Secretary of State [2019] EWHC 2631 (Admin), [para 58]

construction period. In reaching this view I consider that it is necessary and reasonable to ensure that the matter of the routing of large vehicles¹¹⁸ should be controlled by the additional information for the CLP which would be secured by condition. This is on the basis that I have been presented with sound and reliable information to be able to understand the level of impacts and that use of conditions would be effective and proportionate in this case.

232. I therefore conclude that the scheme would not harm highway safety during the construction phase, having particular regard to the Transport Assessment, Construction Logistics Plan and Traffic Management Plan. In this regard it would accord with SLP policies 36, allocation S97, LP policies 6.3 and 6.12 and paragraphs 108 and 109 of the Framework.

Highways – Operational Issues

233. The SLP has a maximum car parking standard set out in policy 37. Appendix 11 of the SLP provides car and cycle parking standards and states that developments located in PTAL of 0-1¹¹⁹ the maximum parking will generally be expected to be met in full¹²⁰. SLP outlines that the maximum vehicle parking standard is four spaces per five employees for schools. For developments with 20 or more parking spaces, accessible parking should be provided at a minimum of 5% of the total number of spaces provided.

234. In applying the policy there is no dispute that the maximum requirement in this case would be 96 spaces. The overall provision would be 83 car parking spaces. Of this 78 would be for the school with 5 spaces located outside of the site entrance for use by residents¹²¹. The spaces for the school would be made up of 69 standard, 5 disabled and 4 minibus spaces for school owned minibuses. The scheme also includes the provision of 23 car parking spaces which are described as flexible and shown on the annotated plans¹²² as a grass filled plastic grid system. Adding these spaces in would take the total on site provision to 101 and would exceed the maximum standard although excluding the 5 spaces for residents would result in compliance with the standard [27, 34, 42].

235. However, policy 37 seeks to strike a balance between a development providing sufficient off-street parking to avoid causing overspill parking on-street while not encouraging unnecessary car use. The total number of spaces (including the 23) would only marginally exceed the maximum standard and would therefore be consistent with the purpose of the policy [27].

236. The Council is concerned that the additional 23 spaces would be routinely used for car parking¹²³. Within the Highway witness's proof and the oral evidence, the Appellant sets out that these spaces would be treated as overflow and would not be used day to day. More specifically that they are intended to be utilised for

¹¹⁸ As raised by the LBC

¹¹⁹ The site has a PTAL 1b, see para 11 and CD 2.4.1

¹²⁰ CD 2.4.1 Para 2.20 and 2.21

¹²¹ Annotated on plan 4662 007 T 001 P3, Appendix A CPAMP CD 2.4.3

¹²² 24480-WWA-00-ZZ-DR-L-0101 S2 PL07 Annotated Site Plan

¹²³ The TA refers to the 23 spaces and states 'To ensure that demand generated by staff is fully accommodated on-site, in addition to the 69 standard car parking spaces, five disabled spaces and a further 23 flexible car parking spaces are provided on-site. These parking spaces will have a flexible use and will be available for staff should there be occurrences of increased demand, by visitors, or by parents for drop-off or collection. The use of these spaces will be managed by the school'.

- events such as parents evenings, awards evenings, or concerts. The evidence provided by the school Principal¹²⁴ is that these events, based on the previous school year, would be low in number and carefully managed. However, the material point is that even if these spaces are included the breach of the maximum parking standard would be minimal. As such I do not consider that a condition to restrict the use of this area would in fact be reasonable or necessary [116].
237. The Appellant sought to address operational issues through the submission of a CPAMP. The Council contends that the CPAMP fails to properly address daily variations in the arrival and departure of students to site and that the swept path diagrams for the car park oversimplify the situation¹²⁵ [86, 88, 112, 113].
238. The Council's evidence to the Inquiry focussed on car park/drop off/pick up modelled in the CPAMP. A series of drawings are provided regarding the operation of the car park¹²⁶. These drawings, in particular 4662-007-034 P1, demonstrate the capacity of the car park. The Council questioned the use of medium sized cars to model the capacity of the car park. The Appellant adopted an industry standard¹²⁷ which suggests that the modelling allows for use of typical vehicles and also the most onerous but that use of the most onerous is not mandatory. The Council's position is that the most onerous/largest should have been used. This was done on the basis that it is a reasonable reflection of the mix of cars that would go to the school which would not necessarily be the largest. The minibuses modelled are reflective of those that provide transport to the current Carew Academy. Therefore, I do not consider that using an industry standard approach is unreasonable as it has, where possible, used the existing situation to inform the submission [86, 87, 88, 112].
239. The TA¹²⁸ sets out that if the existing travel patterns of the staff were to be maintained at the new site then there would be a need for about 61 car parking spaces and that through the use of a TP this could be reduced further. In any event the car parking provision of 78 would meet the need for staff car parking on site. The Inquiry was told that these spaces would be in the centre of the layout¹²⁹ to assist with the smooth management of the car park [83, 87].
240. Pupil travel is expected to be by Local Authority pre-arranged transport, taxis/mini-vans and parent cars. A small level of independent or accompanied travel by walking, cycling and public transport is expected¹³⁰. The TA modelled the travel behaviours of the existing school. This found that based on information provided by the existing school (the average occupancy of a minibus was 6.4 persons per vehicle. Therefore, a total of 22 minibuses and 53 trips are made by parents using private cars [114].
241. Drawing 4662-007-034 P1 shows the maximum capacity of the car park. The drawings demonstrate that the layout of the car park would essentially allow for a loop for cars and one for minibuses. Staff would arrive to site first filling up

¹²⁴ CD 20.6 paragraph 2.17

¹²⁵ CD 2.4.3

¹²⁶ Appendix C, CD 2.4.3

¹²⁷ CD 2.4.1 paragraph 6.29 sets out the use of Auto Track software

¹²⁸ CD 2.4.1

¹²⁹ CD 1.12

¹³⁰ CD 15.1 Transport Feasibility Assessment

centre spaces. Thereafter, the normal arrival times for students are around 0800-0845 with the end of day pick up being identified in the TA as between 1445 and 1545 [87, 113, 114].

242. The TP¹³¹ details the proposed drop off facility. It sets out that it could accommodate 55-65 vehicles at any time and that this would be about 77% of the predicted demand. A proportion of pupils would attend breakfast and after school clubs which would extend the times when demand would be placed on the drop off area. The TP would also promote the use of shared transport. This would assist in reducing the number of private car trips to the site, which in turn would reduce the demand for use of the drop off facility [87].
243. The drop off process would be staggered. In the morning drop off period cars and minibuses would enter the site and go to the drop off area. They would then circle round the car park and be held¹³² before being released back onto Headley Avenue to join the road network. At the end of the day the minibuses and cars can enter the car park ready for collection. The plans show about 25 minibuses stacked in the car park¹³³ and that minibuses and taxis could arrive and wait in a similar manner to the existing site without impeding circulation of cars. The TA sets out that the circulatory road within the car park that can accommodate vehicles (private cars or/and minibuses) for drop-off and collection activities¹³⁴. The release of minibuses could then be managed by the school. It will manage the car park to provide a smooth regulated flow of vehicles to avoid stacking on the road. It is acknowledged that the surrounding roads beyond Headley Avenue are narrowed due to on street parking. Therefore, a staged release, as at the existing site, would serve to limit conflict of vehicles on the surrounding network [87, 88, 89, 113, 114].
244. The Council suggested that the diagrams within the CPAMP demonstrate that the car park would quickly reach capacity and become congested and blocked. The Appellant submits that the drawings should be considered as being dynamic versus static. In addition, it is submitted that it is unlikely that the car park would ever be at capacity. TfL does not raise an outright objection to the scheme but it considers that the car park provision goes beyond operational needs. However, the TA is clear that about 64% of the pupils use Local Authority provided transport and it is not thought that this would change in the move to the new site. In addition to these matters the school has expressed a commitment to increasing non car modes of transport to get to the site [113].
245. The Council would like to see the TP for the new school accredited to at least achieve a Bronze accreditation under STARS. The Council's Sustainable Travel Officer in continuing to monitor and adapt the TP to achieve reasonable targets. The submission of an updated TP can be secured by an appropriately worded condition.
246. The CPAMP¹³⁵ sets out that the school and thereby the Trust would be responsible for the management of the car park. It is clear that the senior

¹³¹ CD 2.4.14

¹³² The CPAMP shows that minibuses and cars would be able to wait in the internal car park road until release back onto the road

¹³³ CPAMP Appendix C movement 9 of 16

¹³⁴ Section 6.0 CD 2.4.1

¹³⁵ CD 2.4.3

- leadership team would set out a priority for car parking on site, promote car sharing amongst staff and manage visitor parking. Responsibility for the monitoring and enforcement would sit with the Site Manager and the school would appoint a 'Travel Lead' to ensure that parents, drivers, carers, and guardians are aware of the schools management strategy [83, 83].
247. The flow of cars would include the taxis which collect students from the school. I was shown at the existing site how they are managed in groups depending on where the end destination is. Clearly on the appeal site there will be a need to identify the appropriate means of managing these vehicles for collection alongside any parents collecting by car. This will be dependent on management by the school. This leads to the next issue in dispute, whether the site can be managed adequately and would the scheme be over reliant upon management as the Council assert [88, 89].
248. I appreciate that the Council is concerned that the management would be reliant on one person. However, this is not a fair representation of the evidence presented by Mr Watkins. It is clear that the school staff operate as a team in managing drop off and pick up arrangements at the school. Due to the specific needs of the SEN school strict operational controls are not unusual. Further the Trust is ultimately responsible for the operation of the site, not an individual, and compliance with any reasonable conditions that would be necessary to support this [83, 84,85, 139].
249. In terms of deliveries, emergency and refuse vehicles the swept paths for these vehicles within the car park are provided in the CPMAP¹³⁶. In addition, the Appellant sets out the management strategy for delivery and servicing in an additional Delivery and Servicing Plan (DSP)¹³⁷. In particular the commitment is made to manage and monitor deliveries to the school. This would include continuous review and management of the process by the school. The existing road network already accommodates delivery, refuse and fire vehicles. The Council highlight overhang and the ability to turn within the car park. The DSP suggests the school would require three deliveries per day. The intention is to avoid pick up and drop off times, when the car park would be most used, thereby reducing the potential for the conflict the Council refer to.
250. The vehicular access to the school would be taken from Headley Avenue. Headley Avenue is a residential street with existing dwellings located along it close to the site access point. Several of these have garages and off street parking. The scheme would lead to the loss of on street parking close to the access point¹³⁸. The TA is clear that there are no significant junction capacity issues that would arise from the operational school traffic. Indeed, this traffic is already on the local highway network, albeit it would have a different end destination.
251. Returning to the Council's putative reason the concerns expressed regarding highway safety relate to vehicle stacking on the surrounding streets which in turn would result in conflicts of vehicle movements and therefore highway safety issues. I consider that sufficient information has been provided to demonstrate

¹³⁶ Appendix B

¹³⁷ CD 2.4.4

¹³⁸ CPMAP Appendix A, Proposed Site Access Plan

that the site could accommodate parking for staff, provide an appropriate drop off and pick up solution for students and make provision for deliveries. I appreciate that this would require management and control through measures discussed above, the imposition of conditions and compliance with the schools CPAMP. Nonetheless, the evidence does not indicate that the operation of the school would lead to significant numbers of vehicles circumnavigating the area, parking indiscriminately or conflicts of movements. As such there would not be highway safety issues arising directly from the operation of the site as a SEN school.

252. The LP supports a balance on parking and the emerging policy sets out a need to show how it would be designed and managed. SLP policy 37 seeks to deter unnecessary car use but acknowledges that there is also a need to avoid overspill parking problems and SLP policy 29 seeks to protect residents from adverse impacts of traffic movements arising from a scheme. In this case I am satisfied that the scheme as presented does strike the right balance in terms of parking provision. In addition, that subject to a detailed management plan the school would be able to operate without having an adverse impact on traffic flow on the surrounding network. I therefore conclude that the scheme would not harm highway safety directly from the operational phase, having particular regard to the parking arrangements for staff; pick up and drop off of students and the management of delivery vehicles. In this regard it would accord with SLP policies 29,36 and 37, LP policies 6.3, 6.12 and 6.13 and paragraphs 108 and 109 of the Framework.

Other planning matters [177, 178]

Provision of a replacement school

253. The R6 party raised the matter of the search for a site undertaken by the LBS. I understand that there is a detailed and complex history to the site and this was provided at the Inquiry. Both local residents and the R6 have raised issues with the site allocation and the process underpinning it. However, it is a matter of fact that the site is allocated and the Inquiry focussed on the detailed provisions of SLP Policy S97. It is also clear from the evidence that the LBS followed the correct procedures for plan making which resulted in the site's inclusion in the EiP of the SLP. There is a statutory duty under S38 of the Planning and Compulsory Purchase Act 2004 to determine applications in accordance with the development plan unless material considerations indicate otherwise. In this case the appeal proposal relates to an allocated site. [51, 60, 120, 121, 122, 123].

254. The evidence presented at the Inquiry was that the Free School Bid was made by the Trust to replace the existing school. In this case the school would represent the replacement of an existing school but on a different site. The appeal scheme would maintain the existing situation, arguably with improved facilities. In this context the consideration of need does not attract any significant weight as the school and pupil places already exist [93, 124].

Site constraints

255. The R6 party and local residents also raise concerns regarding the proximity of the new school to the railway line, surface water flooding, future proofing, and air quality. These matters were considered at the RTD and I have carefully considered all the information submitted on these points.

256. Local residents are concerned that the site currently has a role to dissipate surface water flooding in its greenfield state. As such they consider that development of the site with a school would exacerbate surface water flooding issues. The scheme is supported by a Flood Risk Assessment and Drainage Strategy and a Drainage Statement and associated plans in response to the Lead Local Flood Risk Officers comments [46, 141, 163].
257. The committee report¹³⁹ sets out that overall '*...the details are acceptable subject to conditions requiring a final detailed drainage design including drawings and supporting calculations and updated Drainage Assessment Form to be submitted and approved in writing together with evidence (photographs and installation contracts) to demonstrate that the sustainable drainage scheme for the site has been completed in accordance with the submitted details...*'
258. In addition, the EA raised no objection subject to the inclusion of appropriate conditions. The conditions would seek to secure the provision of a sustainable drainage scheme. Overall, the information provided for the application and appeal considers the impact of development of a school on the site, in particular the impact of the building and hardstanding areas and the underlying geology of the site on drainage. The Appellant has demonstrated that the scheme would not increase the level of flood risk on site or off site. Therefore, flood risk would not be a reason to resist the scheme and conditions to ensure that the scheme comes forward in accordance with the principles of the submitted information are reasonable and necessary [47].
259. The scheme is supported by an Environmental Noise Impact Assessment (NIA) and Noise Acoustic Design Report¹⁴⁰. The noise arising from the nearby railway and its impact on student well-being was raised by residents and they are concerned that the scheme would not be a pleasant environment for students. In addition, they are also concerned that, in order to mitigate against noise, the building will lack proper ventilation [159, 168].
260. It was explained at the RTD that the noise assessment identified the A23 as being a dominant noise source whereas the railway was intermittent. One elevation of the building would face the railway line. The Appellant explained that the windows within the elevation would be subject to mechanical ventilation and in accordance with the appropriate design standards for schools¹⁴¹. The layout of the school has been designed to ensure that the learning environment for the students will not be affected by its proximity to the railway line¹⁴² and the Council agreed that the school would provide a satisfactory learning environment. Overall, this would not affect the entire school and the design approach explained to me seems to be fair and proportionate. As such I am satisfied that this would not lead to a poor environment for future students.
261. The scheme is supported by an AQIA¹⁴³ as required by London Plan policy 7.14 and SLP Policy 34, to consider baseline and predicted air quality conditions. The site lies within an Air Quality Management Area. The AQIA considered emissions from the development (traffic flow and energy consumptions). It sets out that

¹³⁹ CD 6.1 Pages 59-61

¹⁴⁰ CD 2.5.20, CD 2.5.21

¹⁴¹ Building Bulletin 93: Acoustic Design of Schools

¹⁴² CD 6.1 Planning Committee Report, response from Environmental Protection Officer

¹⁴³ CD 2.5.2

traffic associated with the proposed development during the operational phase is not anticipated to significantly affect local air quality. Based on the results of these assessments I am satisfied that air quality would not be a reason to resist the scheme¹⁴⁴ [50, 138, 175].

262. The Council's Environmental Protection Officer advised that if any gas boilers were proposed for the site, they would need to comply with the NOx emission limits specified in the Mayor of London's Sustainable Design and Construction SPG¹⁴⁵. This matter is addressed by condition.

263. The issue of future proofing was raised by the R6 party and local residents. In particular providing future places at the school to meet future need and having space to expand. The scheme was applied for on the basis that the school would be a replacement school for the existing Carew Academy. It was not made to provide new school places. There is no policy requirement to provide additional places and I have considered the scheme before me on its merits. Therefore, there is no requirement for the Appellant to provide measures for future pupil numbers within this scheme [51, 119, 143, 151].

Living conditions

264. The NIA confirms that the amount of activity associated with the school will not give rise to excessive additional noise to the surrounding residents, noting that the MUGA has been located within the east of the site away from residential properties. The site layout supports this conclusion and therefore there will not be unacceptable noise disturbance when the school is in use. There is unlikely to be any significant impact due to noise from the school at evenings and weekends when the majority of local residents will be at home and expect to enjoy their homes peacefully. As such, it is considered that there would be no significant adverse impact on the amenities of the adjoining occupiers and the scheme complies with Policy 29 of the Sutton Local Plan 2019.

Value of the site 'as is' & volume of objection

265. The site is currently used informally by local residents. The site allocation included a requirement to retain some open space on the site as well as providing an area to be used by the local primary school for sport. The DAS¹⁴⁶ clearly sets out how the site would be zoned to include these requirements. It would make provision for an open space area for community use and a playing field area to be used for PE by the local school. As such resisting the scheme on this basis would not be sound [23, 141, 151, 153, 160, 163, 167].

266. I understand that there have been a significant number of objections to the scheme at both the application and appeal stage. I have carefully considered the points made and these points were fully aired and tested at the Inquiry. Therefore, whilst I return to the weight to these objections in the planning balance the sheer volume is not in itself a reason to resist the scheme. For the reasons set out at paragraph 252 there also needs to be evidence of planning harm [101, 170, 177, 245].

¹⁴⁴ This is also the view of Council officers, CD 6.1 paragraph 5.101

¹⁴⁵ CD 3.1.6

¹⁴⁶ CD 2.2 page 15

Planning obligation

267. An executed planning between the Appellant LBS and the Secretary of State for Education has been provided. For its provisions to be given weight in the determination of this appeal, is conditions upon the Secretary of State concluding they are necessary to make the proposed development acceptable in planning terms, directly related to the proposed development and fairly and reasonably related in scale and kind.¹⁴⁷

268. The agreement includes obligations in relation to:

- Travel Plan – a written plan to encourage sustainable travel to and from the site and a travel plan monitoring fee;
- An Employment and Training Strategy which demonstrates how jobs would be provided for local people during the construction phase of the development and an Employment and Skills Plan that would provide a monitoring update on the strategy;
- A biodiversity contribution to be used towards off site biodiversity mitigation and a Biodiversity Enhancement and Management Plan, which is a plan for biodiversity protection at the site;
- Highway Works – Schedule 4 Annex A of the agreement specifically sets out the temporary and permanent works.

Temporary Works

- Removal of the existing traffic island at the Stafford Road/The Chase junction.
- Single yellow line parking restrictions (07:00 - 17:00 Monday - Friday) to be provided on the west side of The Chase to be matched by similar yellow line restrictions on the east side of the highway near the junction with Stafford Road.
- Single yellow line parking restrictions to be extended around the triangular island at The Chase/Capel Avenue.
- Single yellow line parking restrictions (07:00 - 17:00 Monday - Friday) to be implemented along the southern end of Capel Avenue extending onto The Chase on both sides of the carriageway.
- Double yellow line parking restrictions to be extended and single yellow line parking restrictions (07:00 - 17:00 Monday - Friday) to be implemented at the northern end of Capel Avenue on both sides of the carriageway.
- Single yellow line parking restrictions (07:00 - 17:00 Monday - Friday) to be implemented along Godalming Avenue on the northern side of the carriageway.
- Double yellow line restrictions to be extended at the eastern end of Godalming Avenue along the southern side of the carriageway.

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

- Implementation of 'half on' footway parking to be temporarily implemented along the western side of Capel Avenue, including works to provide a temporary asphalt slope to be constructed alongside the kerb (without impeding drainage) to facilitate vehicles mounting the footway and strengthening of the footway/relocation of utilities if necessary following prior testing;
- Provision of a Resident's Liaison Group.

Permanent Works

- Reinstatement of the relevant parts of the highway following construction of the Development and removal of the abovementioned works unless otherwise agreed in writing by the Council.
- Double yellow line parking restrictions to be implemented along the western and northern side of Headley Avenue.
- Single yellow line parking restrictions (08:00 - 09:30 and 14:30—16:00 Monday - Friday) to be implemented along the eastern side of Headley Avenue.
- Minor extension of double yellow lines along Godalming Avenue and Capel Avenue (at the junction of Godalming and Capel Avenue).
- The New Parking Spaces to the front of the school gate for public use in perpetuity.

269. However, several of these are duplicated in conditions suggested by the Council. The Framework¹⁴⁸ is clear that '*planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition*'.

270. LBS Policy 26 Biodiversity sets out that the Council will protect and enhance Sites of Importance for Nature Conservation, Green Corridors, and biodiversity. Major new development should result in no net loss in biodiversity value, as assessed against the DEFRA biodiversity offsetting metric, the Environment Bank Biodiversity Impact Calculator, or any metric which the Council subsequently adopts formally. New development should incorporate opportunities to enhance biodiversity, wherever possible. In particular the Ecological Impact Assessment identified¹⁴⁹ that there is some value from the site for reptiles in the area and for foraging and commuting bats. In addition, it identifies limited value to foraging and commuting bats and that boundary trees and vegetation have some value for breeding birds. However, the magnitude of the effects resulting from the development would be minor or not significant and overall, the site is considered to be of low ecological value¹⁵⁰.

271. Some biodiversity information was received during the course of the application¹⁵¹. However, whilst the report contains information regarding the mitigation of specific species and their habitats, it does not demonstrate that

¹⁴⁸ Para 54

¹⁴⁹ CD 2.5.11

¹⁵⁰ Para 7.1 CD 2.5.11

¹⁵¹ The initial application submission includes an Ecological Impact Assessment CD 2.5.11

there would not be a 'No Net Loss' in terms of Biodiversity Mitigation. There was no dispute on this position subject to a condition being imposed. I have no reason to disagree. This condition is included within Appendix C. A payment is only due in the event that the Biodiversity Enhancement and Management Plan shows that the development will result in a net loss to biodiversity at the appeal site. This shall be paid prior to occupation. This has been agreed by both parties and is within Schedule 3 of the agreed obligation. Therefore, the proposed contribution would help to mitigate, protect, and enhance the Green Corridor, Urban Green Space and biodiversity within the local area complying with the requirements of SLP policy 26. These provisions are considered to be necessary, relevant to planning and reasonable in order to make the development acceptable.

272. The updated TP would be provided by virtue of a condition. However, the associated monitoring fee is a matter for the planning obligation. The updated TP would be necessary to encourage sustainable travel to and from the school. It is necessary to monitor progress in achieving targets and identify refinements to be made to a plan that is not on course for achieving these. In addition to assess the effectiveness of the plan and the specific measures implemented as part of a TP for encouraging sustainable travel.
273. Monitoring surveys for TPs secured through a planning obligation would be undertaken using TfL's standardised methodology. In order to cover the managing and monitoring cost of the TP the Council charge a fixed one off fee of £2,000, which would be secured through the planning obligation. In this regard this provision would be necessary to support highway safety, sustainable modes of transport together with ongoing monitoring, meeting the requirements of the SLP, LP and tests set out in Section 122 of the CIL regulations.
274. It is my view that the submission of an updated TP, Employment and Training, Highway Works and Residents Liaison can be addressed by condition. As such the matters of the TP monitoring fee and Biodiversity Contribution would be the remaining provisions dealt with by a planning obligation. Therefore, it is my view that that the planning obligation, in so far as it relates to the TP monitoring fee and Biodiversity Contribution would meet the tests within the CIL Regulations and those in paragraph 56 of the Framework and I have taken them into account in making my recommendation. For the reasons given above the obligations in relation to TP, Employment and Training, Highway Works and Residents Liaison do not meet the statutory tests¹⁵².

Conclusion and Planning Balance

275. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out, that if regard is to be had to the Development Plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the Plan, unless material considerations indicate otherwise. It is my view, following careful consideration of the written, oral, and visual evidence submitted by all parties to the Inquiry, that the proposal in this case would accord with LP policies 6.3, 6.12 and 6.13 and SLP policies 29, 36, 37 and S97. The scheme would not be in conflict with the Framework, in particular

¹⁵² See FN 92 re conditions

paragraphs 108 and 109. This is a material consideration that weighs in favour of the scheme.

276. There were a substantial number of objections from local residents [265]. However, whilst I acknowledge that these carry moderate weight against the scheme, in this instance they are outweighed by the substantial support for the scheme from national planning policy and the Development Plan. Accordingly, I conclude that the proposed development would accord with the adopted Development Plan for the area when considered as a whole and that there are no material considerations which indicate taking a decision otherwise than in accordance with it.

RECOMMENDATION

277. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The appeal is made for a SEN school and age and disability are protected characteristics for the purposes of the Act. It does not follow from the PSED that the appeal should be allowed. However, the appeal scheme would provide a purpose built, accessible SEN school. The equality implications add weight to my overall conclusion that the appeal should be allowed and planning permission granted.

278. I therefore recommend that the appeal be allowed and planning permission granted, subject to the conditions set out in Annex C to this report.

D J Board

INSPECTOR

ANNEX A: APPEARANCES**FOR THE COUNCIL:**

Saira Kabir Sheikh QC instructed by South London Legal Partnership She Presented:	
Stephanie Howard BSc (Hons) MSc CTPP MCIHT CMILT	WSP
Jane Barnett BA (Hons) Dip TP MRTPI	Savills
In respect of the round table discussions on other planning matters, planning obligation and conditions only:	
Sarah Buxton	London Borough of Sutton
Gavin Chinniah	London Borough of Sutton
Andy Webber	London Borough of Sutton

FOR THE APPELLANT:

Lisa Busch QC instructed by Trowers & Hamblins She presented:	
David Hurren BA (Hons), CMS, DMS, MBA	Robert West Consulting Engineers
Rob Watkins PGCE, NPQH	Principal Carew Academy
Alan Gunne-Jones B.A (Hons), MRTPI, MIOD	Planning & Development Associates Ltd
In respect of the discussion on planning obligation and conditions only:	
Jacqueline Backhaus	Trowers & Hamblins
Rob Walker	Trowers & Hamblins

FOR THE RULE 6 PARTY:

Cllr Tim Foster	Councillor Beddington North
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OTHER PEOPLE WHO SPOKE OR SUBMITTED WRITTEN STATEMENTS AT THE INQUIRY

Richard Lancaster	London Borough of Croydon
Cllr N Mattey	Ward Councillor and Local Resident
Cllr J Green	Ward Councillor and Local Resident
Mrs L Howers	Local resident

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

ID1	Appellant's opening statement
ID2	Council's opening statement
ID3	Rule 6 opening statement
ID4	Representation by Cllr Green
ID5	Summary Proof Cllr Foster (R6)
ID6	Note on conditions
ID7	Designing for Deliveries 2016
ID8	Futures Academy Temporary Access Arrangements – response to LB Sutton Comments
ID9	London Borough of Sutton Local Plan Issues and Preferred Options Consultation (Regulation 18) February 2016
ID10	SPD Transport Assessments and Travel Plans
ID11	Building a Sustainable Sutton: Technical Guidance Note for Developers
ID12	Draft of Planning Obligation
ID13	Updated conditions document
ID14	The Control of Dust and Emissions During Construction and Demolition SPG, Mayor of London
ID15	Council's Cost Response
ID16	Local plan policy 35
ID17	Email exchange regarding car park space maintenance contribution
ID18	Summary comments Cllr Green
ID19	Council's closing submissions
ID20	Rule 6 closing submissions
ID21	Appellant's closing submissions
ID22	Signed statement of common ground

ID23	Email LB Croydon Exchange dated 6/10 & 3/10, including email to LB Sutton officers dated 22/06
ID24	Proposed wording condition 44

Documents submitted during after Inquiry

ID25	Sealed and Dated s106 Planning Obligation
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Core Documents (as agreed between the parties) & Including Proofs of Evidence

CD reference	Document title
1	Application Plans
1.1	Proposed Site Section (24480_WWA_00_ZZ_DR_L_0401 Rev S2 PL03)
1.2	Site Location Plan (24480-NOV-Z0-XX-DR-A-PL02 Rev PO.1)
1.3	Proposed Site Plan (24480-NOV-Z0-XX-DR-A-PL03 Rev PO.2)
1.4	Proposed Ground Floor Plan (24480-NOV-Z1-00-DR-A-PL04 Rev P0.2)
1.5	Proposed First Floor Plan (24480-NOV-Z1-01-DR-A-PL05 Rev P0.2)
1.6	Proposed Roof Plan (24480-NOV-Z1-RF-DR-A-PL06 Rev P.02)
1.7	3D Views Ext (24480-NOV-Z1-XX-DR-A-PL11 Rev P0.2)
1.8	3D Views Ext (24480-NOV-Z1-XX-DR-A-PL12 Rev P0.1)
1.9	3D Views Int (24480-NOV-Z1-XX-DR-A-PL13 Rev P0.1)
1.10	3D Views Int (24480-NOV-Z1-XX-DR-A-PL14 Rev P0.1)
1.11	Proposed Elevations (24480-NOV-Z1-ZZ-DR-A-PL09 Rev P0.2)
1.12	Annotated Site Plan (24480-WWA-00-ZZ-DR-L-0101 Rev S2 PL07)
1.13	Landscape layout East (24480-WWA-00-ZZ-DR-L-0102 Rev S2 PL09)
1.14	Landscape layout West (24480-WWA-00-ZZ-DR-L-0103 Rev S2 PL02)
1.15	Landscape levels East (24480-WWA-00-ZZ-DR-L-0104 Rev S2 PL06)
1.16	Landscape levels West (24480-WWA-00-ZZ-DR-L-0105 Rev S2 PL02)
1.17	External fencing/ access (24480-WWA-00-ZZ-DR-L-0106 Rev S2 OU02)

CD reference	Document title
1.18	DAS Site Plan (22480-WWA)
1.19	Landscape Planting East (24490-WWA-00-ZZ-DR-L-0301 Rev S2-CP08)
1.20	Landscape Planting West (24490-WWA-00-ZZ-DR-L-0302 Rev S2-CP07)
1.21	Proposed elevations (24480-NOV-Z1-ZZ-DR-A-PL07_Rev P03)
1.22	Proposed elevations (24480-NOV-Z1-ZZ-DR-A-PL08_Rev P03)
1.23	Drainage details (TFA-MLM-ZZ-XX-DR-C-0001 Rev P04)
1.24	Drainage details (TFA-MLM-ZZ-XX-DR-C-0006 Rev P02)
1.25	Drainage details (TFA-MLM-ZZ-XX-DR-C-0007 Rev P03)
1.26	Drainage details (TFA-MLM-ZZ-XX-DR-C-0020 Rev P04)
1.27	Drainage details (TFA-MLM-ZZ-XX-DR-C-0021 Rev P04)
1.28	Drainage details (TFA-MLM-ZZ-XX-DR-C-0005 Rev P05)
1.29	Drainage details (TFA-MLM-ZZ-XX-DR-C-0006 Rev P03)
1.30	Tree Constraints Plan (LLD1600-CAT-DWG-001 Rev 00 26/11/18)
2	Application Documents
2.1	Planning Statement – tp bennett
2.2	Design and Access Statement
2.3	Statement of Community Involvement
2.3.1	Appendix to Statement of Community Involvement
2.4	Transport/Highways Application Documents
2.4.1	Transport Assessment
2.4.2	Transport Assessment Appendices
2.4.3	Transport - Car Park and Access Management Plan
2.4.4	Transport – Delivery and Servicing Plan
2.4.5	Transport – Healthy Street Assessment
2.4.6	Construction Logistics Plan

CD reference	Document title
2.4.7	Technical Note Response
2.4.8	4662-007-046 P1 80T Mobile Crane
2.4.9	4662-007-047 P1 Articulated Vehicle with 12m Trailer
2.4.10	4662-007-048 P1 Traffic Management Measures
2.4.11	4662-007-009 P4 Parking Restriction
2.4.12	CLP Letter from tp bennet
2.4.13	Car Park Strategy (24480-WWA-00-ZZ-DR-SK-014 Rev S2-PL00)
2.4.14	School Travel Plan
2.5	Other application documents
2.5.1	Air Quality Assessment Baseline and Feasibility Study (February 2018)
2.5.2	Air Quality Impact Assessment (7 May 2019)
2.5.3	Archaeological Assessment (February 2019)
2.5.4	Biodiversity Calculations
2.5.5	BREEAM – meeting notes 24 April 2019
2.5.6	BREEAM Form
2.5.7	BREEAM Form (2)
2.5.8	CIL Questions (2 May 2019)
2.5.9	Contamination - Quantitative Ground Contamination Risk Assessment Report
2.5.10	Drainage Statement
2.5.11	Ecological impact Assessment
2.5.12	Energy Proposals Report (Rev A 26 March 2019)
2.5.13	Energy Renewable Feasibility Report – Contractors Proposals Report
2.5.14	Energy Thermal Comfort Report
2.5.15	Flood Risk Assessment and Drainage Strategy

CD reference	Document title
2.5.15.1	Network Calculations
2.5.15.2	Existing Site & Services Layout 14855 sheet 1 of 2
2.5.15.3	Existing Site & Services Layout 14855 sheet 2 of 2
2.5.15.4	Exceedance Plan (TFA-MLM-ZZ-XX-DR-C-0023 Rev P01)
2.5.15.5	Impermeable Areas Plan (TFA-MLM-ZZ-XX-DR-C-0022 Rev P01)
2.5.16	Landscape and Ecological Management Plan
2.5.16.1	Plant Partner H&S notes
2.5.17	Lighting Specification
2.5.18	Network Rail Annotated Plan - 24480-WWA-00-ZZ-DR-L-0108 Rev S2-PL01
2.5.19	Network Rail Basic Asset Protection Agreement
2.5.20	Noise Acoustic Design Report
2.5.21	Noise Environmental Assessment
2.5.22	Non-residential regulated combined mining search 669989-TerraFirmaAssess -
2.5.23	School Management Plan
2.5.24	Surface Water Drainage Maintenance & Management Report
2.5.25	Tree Schedule
3	Comments on the Application
3.1	Sustainability
3.1.1	Biodiversity
3.1.2	Highways
3.1.3	Waste Management
3.1.4	Tree Officer
3.1.5	Lead Local Flood Risk Authority
3.1.6	Environmental Health
3.1.7	Network Rail

CD reference	Document title
3.1.8	Transport for London
3.1.9	Environment Agency
3.1.10	Thames Water
3.1.11	Historic England
3.1.12	London Fire Brigade
3.1.13	Crime Prevention
3.1.14	Surrey and East Sutton Water
3.1.15	Woodland Trust
3.1.16	London Borough of Croydon
4	Public Comments on the Application
4.1	Design Review Panel Report
5	Conditions and Planning Obligations
5.1	Draft conditions
5.2	[Draft section 106 Agreement]
5.3	CIL Compliance Statement
6	Committee Report and Additional Documents
6.1	May 2020 Committee Report
6.1.1	May 2020 Committee Report - addendum
6.1.2	May 2020 Committee Minutes
6.1.3	August 2020 Committee Report
6.1.4	August 2020 Draft Committee Minutes
7	Appellant's Statement of Case
7.1	Appellant's Statement of Case
7.2	Appendix 1 – List of application plans, drawings and documents
7.3	Appendix 2 – proposed conditions

CD reference	Document title
7.4	Appendix 3 – pre-application documents
7.5	Appendix 4 – design review panel document
7.6	Appendix 5 - Correspondence
7.7	Appendix 6 – Transport CLP timeline
7.8	Appendix 7 – Draft Statement of Common Ground 14/04/20
7.9	Appendix 8 – London Borough of Croydon consultation response
8	Statement of Common Ground
8.1	[Agreed Statement of Common Ground between the Appellant and the LPA]
8.2	[Schedule of matters in dispute between the Appellant and the LPA]
8.3	Schedule of matters in dispute between the Appellant and the Rule 6 Party
9	LPA's Statement of Case
9.1	LPA's Statement of Case
9.2	Appendix A – Planning Committee Report and Planning Committee Addendum
9.3	Appendix B - Chronology of discussions between the Local Highway Authority and the DfE's transport advisers
9.4	Appendix C – Transport Assessment Appendices
9.5	Appendix D – Planning Policies
9.6	Appendix E – Planning Conditions
10	Rule 6 – Cllr Foster - Statement of Case
10.1	Rule 6 Statement of Case and appendices
10.2	Email seeking Rule 6 status
10.3	Letter from the Planning Inspectorate
11	Third party representations
11.1	Third Party representations
12	Post Appeal correspondence
12.1	Letter of complaint sent on behalf of the Appellant to the Council's Monitoring Officer

CD reference	Document title
12.1.1	Appendix 1 – Letter to SLP
12.1.2	Appendix 2 – Letter from SLP
12.1.3	Appendix 3 – Transcript of part of the Planning Committee
12.2	Letter sent on behalf of the Council’s Monitoring Officer to the Appellant
13	Policy and Guidance
13.1	The National Planning Policy Framework (February 2019) (NPPF)
13.1.1	Paras 2-6
13.1.2	Para 8-9
13.1.3	Para 11-12
13.1.4	Para 20(c)
13.1.5	Para 38-39
13.1.6	Para 48
13.1.7	Para 54-56
13.1.8	Para 94
13.1.9	Para 97
13.1.10	Para 102 (a-e) -111
13.1.11	Para 122
13.1.12	Para 124
13.1.13	Para 127
13.1.14	Para 128-130
13.1.15	Para 153-155
13.1.16	Para 170
13.1.17	Para 181
13.2	The Policy Statement – Planning for Schools’ Development issued jointly by the Secretaries of State for Education and Communities and Local Government in August 2011 is material in the assessment of the Development.

CD reference	Document title
13.3	PPG section on 'Travel Plans, Transport Assessments and Statements' the content of which is relevant.
13.4	The Mayor's London Plan (2016) provides the strategic policy context and spatial development strategy for London.
13.4.1	Policy 1.1 Delivering the strategic vision and objectives for London
13.4.2	Policy 2.6 Outer London: Vision and Strategy
13.4.3	Policy 2.8 Outer London: Transport
13.4.4	Policy 2.18 Green infrastructure: the multi-functional network of green and open spaces
13.4.5	Policy 3.1 Ensuring equal life chances for all
13.4.6	Policy 3.2 Improving health and addressing health inequalities
13.4.7	Policy 3.6 Children and young people's play and informal recreation facilities
13.4.8	Policy 3.16 Protection and enhancement of social infrastructure
13.4.9	Policy 3.18 – 3.19 Education facilities and Sports facilities
13.4.10	Policy 4.12 Improving opportunities for all
13.4.11	Policy 5.1 – 5.3 Climate change mitigation, Minimising carbon dioxide emissions and Sustainable design and construction
13.4.12	Policy 5.7 – 5.15 Renewable energy, Innovative energy technology, Overheating and cooling, Urban greening, Green roofs and development site environs, Flood risk management, Sustainable drainage, Water quality and wastewater infrastructure and
13.4.13	Policy 5.17 Water use and supplies
13.4.14	Policy 5.21 Contaminated land
13.4.15	Policy 6.1 – 6.4 Strategic Approach, Providing public transport capacity and safeguarding land for transport, Assessing effects of development on transport capacity and Enhancing London's transport connectivity
13.4.16	Policy 6.9 – 6.13 Cycling, Walking, Smoothing traffic flow and tackling congestion, Road network capacity and Parking (and Addendum)
13.4.17	Policy 7.1 – 7.8 Lifetime neighbourhoods, An inclusive environment, Designing out crime, Local character, Public realm, Architecture and Heritage assets and archaeology
13.4.18	Policy 7.14 – 7.15 Improving air quality and Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes
13.4.19	Policy 7.18 – 7.19 Protecting open space and addressing deficiency and Biodiversity and access to nature

CD reference	Document title
13.4.20	Policy 7.21 Trees and woodlands
13.4.21	Policy 8.2 – 8.3 Planning obligations and Community infrastructure levy
13.5	Mayoral SPG - Social Infrastructure (May 2015)
13.6	Mayoral SPG - Sustainable Design and Construction (April 2014)
13.7	Mayoral SPG - Accessible London – Achieving an Inclusive Environment (October 2014)
13.8	Sutton's Local Plan (2018)
13.8.1	4 Tramlink and Major Development Proposals
13.8.2	5 Wandle Valley Renewal
13.8.3	20 Education and Skills
13.8.3	22 Social and Community Infrastructure, including Public Houses
13.8.4	25 Open Spaces
13.8.5	26 Biodiversity
13.8.7	28 Character and Design
13.8.8	29 Protecting Amenity
13.8.9	30 Heritage
13.8.10	31 Carbon and Energy
13.8.11	32 Flood Risk and Sustainable Drainage
13.8.12	33 Climate Change Adaptation
13.8.13	34 Environmental Protection
13.8.14	36 Transport Impact
13.8.15	37 Parking
13.8..16	38 Infrastructure Delivery
13.8.17	40 Site Allocation
13.8.18	Site Allocation 97 'Former Playing Fields'
13.9	Transport Assessment and Travel Plans SPD (2008)

CD reference	Document title
13.10	Planning Obligations SPD (2014)
13.11	Manual for Streets, DfT, 2007
13.12	Manual for Streets 2 – the Wider Context, CIHT, 2010
13.13	Draft London Plan
13.13.1	T3
13.13.2	T4
13.13.3	T6
13.13.4	T5
14	Correspondence from PINS
14.1	Start letter
14.2	Inspector's Summary Note of the first CMC
14.3	Inspector's Summary Note of the second CMC
15	LPA Additional Core Documents
15.1	Transport Feasibility Assessment (Robert West Consultants)
15.2	Permanent and Temporary Access Arrangements
15.3	Futures Academy Note on Access Arrangements
15.4	The Futures Academy – Pre Application Design Development
15.5	The Futures Academy - Pre-application Design Brochure and Pre-Application Information
15.6	The Futures Academy Pre-Application Consultation Document
15.7	Council's Primary and Secondary Schools' Site Search Assessment
15.8	Council's School Site Search – Post Consultation Update
15.9	Strategy & Resources Committee 17th July 2017, Agenda Report
15.10	Orchard Hill Trust & ESFA Outline Site Options Appraisal – Design Proposals
15.11	The Futures Academy Feasibility Design Report
16	Proof of Evidence of Alexandra Barnett

CD reference	Document title
16.1	Summary proof of evidence
16.2	Main proof of evidence
16.3	Rebuttal proof of evidence
17	Proof of Evidence of Stephanie Howard
17.1	Summary proof of evidence
17.2	Main proof of evidence
17.3	Appendices
18	Proof of evidence of Cllr Tim Foster
18.1	Main proof of evidence
19	Proof of Evidence of Alan Gunne-Jones
19.1	Summary proof of evidence
19.2	Main proof of evidence
19.3	Appendix AG-J1 – Glossary of Defined Terms
19.4	Appendix AG-J2 – Maidstone appeal decision
19.5	Appendix AG-J3 – Carew Manor Temporary Permissions 2018
19.6	Appendix AG-J4 – Carew Manor Temporary Permissions 2020
19.7	Rebuttal proof of evidence
20	Proof of Evidence of Robert Watkins
20.1	Summary proof of evidence
20.2	Main proof of evidence
20.3	Appendix RW1 – Summary of Trust's Strategic Plan 2019-22
20.4	Appendix RW2 – Ofsted Report
20.5	Appendix RW3 – Carew Manor School Visit
20.6	Rebuttal proof of evidence
21	Proof of Evidence of David Hurren

CD reference	Document title
21.1	Summary proof of evidence
21.2	Main proof of evidence
21.3	Appendix DH1 – Re consultation email
21.4	Appendix DH2 – List of transport documents
21.5	Appendix DH3– CLOCS Guidance
21.6	Appendix DH4 – Comparison between Autocad and PDF
21.7	Appendix DH5 – Swept Path Analysis
21.8	Appendix DH6 – TN04
21.9	Appendix DH7 - Email from LBS Highway Officer
21.10	Appendix DH8 – Email from Robert de Castro
21.11	Appendix DH9 Transcript and Youtube video link
21.12	Appendix DH10 – Mini-buses serving Carew Academy
21.13	Rebuttal proof of evidence
22	Appellant's costs application
22.1	Costs Application
22.2	Appendix A - Prior notification letter dated 30 March 2020
22.3	Appendix B - Letter from SLLP dated 14 April 2020 sent by email at 08.29
22.4	Appendix C - Letter from SLLP dated 14 April 2020 sent by email at 17.47
22.5	Appendix D - Letter to SLLP dated 17 April 2020
22.6	Appendix E - Email correspondence 29 April 2020 to 05 May 2020
22.7	Appendix F - Letter to PINS from T&H dated 04 May 2020
22.8	Appendix G - Letter from T&H to the Council dated 05 May 2020
22.9	Appendix H - Email from PINS 07 May 2020
22.10	Appendix I - Email correspondence 07 May 2020
22.11	Appendix J - Email from PINS 11 May 2020

CD reference	Document title
22.12	Appendix K - Email correspondence 03 June 2020 to 03 July 2020
22.13	Appendix L - Email correspondence 09 and 10 July 2020

Annex C: Conditions

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

Site Location Plan – 24480-NOV-Z0-XX-DR-A-PL02 Rev PO.1
Proposed Site Plan – 24480-NOV-Z1-XX-DR-A-PL03 Rev PO.2
Ground Floor Plan – 24480-NOV-Z1-00-DR-A-PL04 Rev PO.2
First Floor Plan – 24480-NOV-Z1-01-DR-A-PL05 Rev PO2
Proposed Roof Plan – 24480-NOV-Z1-RF-DR-A-PL06 Rev PO.2
Proposed Building Sections – 24480-NOV-Z1-ZZ-DR-A-PL09 Rev PO.2
Proposed Site Sections – 24480-WWA-00-ZZ-DR-L-0401 Rev S2 PL03
Landscape Levels West – 24480-WWA-00-ZZ-DR-L-0105 Rev S2 PL02
Landscape Levels East – 24480-WWA-00-ZZ-DR-L-0104 Rev S2 PL06
Annotated Site Plan 24480-WWA-00-ZZ-DR-L-0101 Rev S2 PL07
Elevations – Sheet 1 of 2 – 24480-NOV-Z1-ZZ-DR-A-PL07 Rev P0.3
Proposed Elevations – Sheet 2 of 2 – 24480-NOV-Z1-ZZ-DR-A-PL08 Rev P0.3
Proposed Drainage General Arrangement Sheet 1 of 2 - TFA-MLM-ZZ-XX-DR-C-0020 Rev P04
Proposed Drainage General Arrangement Sheet 2 of 2 – TFA-MLM-ZZ-XX-DR-C-0021 Rev P04
Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0007 Rev P02
Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0007 Rev P03
Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0006 Rev P02
Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0006 Rev P03
Car Park and External Works Construction Details Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0005 Rev P05
Drainage Strategy (Infiltration) - Private Drainage Construction Details - TFA-MLM-ZZ-XX-DR-C-0001 Rev P04
External Fencing and Access Strategy – 24480-WWA-00-ZZ- DR-L-0106 Rev S2 OU02
Network Rail Annotated Plan – 24480_WWA-00-ZZ-DR-L-0108 Rev S2-PL01
Existing Site Services Layout – 14855/SP/1
Existing Site Services Layout – 14855/SP/2
Impermeable Areas Plan – TFA-MLM-ZZ-XX-DR-C-0022 Rev P01
Exceedance Plan – TFA-MLM-ZZXX-DR-C-0023 Rev P01
24480-WWA00-ZZ-DR-SK-014 Rev S2-PL00 WWA_1849_
Tree Constraints Plan – LLD1600- CAT-DWG-001 Rev 00
Landscape Planting West – 24480_WWA_00_ZZ_DR_L_0302 Rev S2-PL03
Landscape Planting East – 24490- WWA-00-ZZ-DR-L-0301 Rev S2- CP08
Landscape Layout West – 24490- WWA-00-ZZ-DR-L-0302 Rev S2 CP07
Drainage details; TFA-MLM-ZZ-XX-DR-C-0001 P04; TFA-MLM-ZZ-XX-DR-C-0006 P02; TFA-MLM-ZZ-XX-DR-C-0007 P03; TFA-MLM-ZZ-XX-DR-C-0020 P04; TFA-MLM-ZZ-XX-DR-C-0021 P04; TFA-MLM-ZZ-XX-DR-C-0005 P05; TFA-MLM-ZZ-XX-DR-C-0006 P03; LLD1600-CAT-DWG-001;

2. The development must be begun no later than the expiration of three years beginning with the date hereof.

3. Prior to the construction of the development hereby approved above ground floor slab level, full details of the type and treatment of the materials, including samples, to be used on the exterior of the building(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved materials shall be used in the construction of the development hereby approved and retained thereafter.
4. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved, verified and reported to the satisfaction of the Local Planning Authority.
5. Before any piling or foundation construction using penetrative methods takes place a Piling and Foundation Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. Any piling or foundation construction must be undertaken in accordance with the terms of the approved Method Statement.
6. No development shall take place until details of the implementation, adoption, maintenance and management of the sustainable drainage system shall have been submitted to and approved in writing by the local planning authority. Those details shall include:
 - i) a timetable for its implementation; and,
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The school hereby permitted shall not be occupied until the sustainable drainage system for the site has been completed in accordance with the submitted details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

7. Prior to the commencement of above ground works a scheme shall be submitted to and approved in writing by the Local Planning Authority setting out the measures and works identified to accord with the principles of Secure by Design (New Schools). The development shall be carried out in accordance with the approved details.
8. No development shall take place until a Stage 1 Written Scheme of Investigation (WSI) has been submitted to and approved by the Local Planning Authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI,

and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the Local Planning Authority in writing. For land that is included within the stage 2 WSI, no development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.

B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

9. Prior to the occupation of the development, full details of hard and soft landscaping including boundary treatments and a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping and tree planting shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards (in particular, BS 3882: Specifications for Topsoil, Recommendations (2015) and BS 8545: Trees from Nursery to Independence in the Landscape, Recommendations (2014) or other recognised codes of good practice). The works shall be carried out prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any tree(s) or plants that (within a period of five years after planting) are removed, die, or (in the opinion of the Local Planning Authority) are damaged or defective shall be replaced as soon as is reasonably practicable with others of a similar size/species/number as originally approved.
10. Prior to the commencement of development measures for the protection of trees shown to be retained shall be submitted to and agreed in writing by the Local Planning Authority. The measures shall be in accordance with the British Standard BS5837, Trees in relation to design, demolition and construction. Any works shall be carried out in accordance with the approved details and the protective measures shall only be removed on completion of the development.
11. Within 6 months of the commencement of development, a BREEAM New Construction 2018 Interim (Design Stage) Certificate, issued by the Building Research Establishment (BRE) or equivalent authorizing body, must be submitted to the Local Planning Authority and approved in writing.
12. Within 9 months of occupation of the development, a BREEAM New Construction 2018 Final (Post-Construction) Certificate, issued by the BRE or equivalent authorizing body, must be submitted to the Local Planning Authority and approved in writing to demonstrate that an 'Excellent' rating has been

achieved. All the measures integrated shall be retained for as long as the development is in existence.

13. Prior to the commencement of above ground works an Energy Statement including 'as-designed' BRUKL outputs prepared under the Simplified Building Energy Model (SBEM), shall be submitted to the Local Planning Authority and approved in writing. The statement shall demonstrate how the school buildings will secure at least a 35% reduction in CO2 emissions below the target emission rate (TER) based on Part L2A of the 2013 Building Regulations and achieve at least a 20% reduction in total emissions (regulated and unregulated) through on-site renewable energy generation. This should include consideration of all feasible renewable technologies, including the potential use of a low temperature ground source heat pump (GSHP). If a roof-mounted solar PV array is proposed, the Energy Statement should provide details of the number of units, layout, orientation, generating capacity and arrangements for maintenance. If the development is unable to meet the required reduction in CO2 emissions through the approved energy strategy, then a scheme to address any shortfall shall be provided to the Local Planning Authority and approved in writing. The development shall be carried out in accordance with the approved details.
14. Within six months of the first beneficial use of the development, BRUKL outputs prepared under the Simplified Building Energy Model (SBEM) should be submitted to the Local Planning Authority and approved in writing to demonstrate that the development has been carried out in accordance with the approved details. If the development is unable to meet the required reduction in CO2 emissions through the approved energy strategy, then any shortfall should be made up through the application of further sustainability measures unless otherwise approved by the Local Planning Authority in writing.
15. The development hereby approved shall be constructed in accordance with the overheating strategy described in the approved Thermal Comfort Report (Hopkins, March 2019) and thereafter retained.
16. Prior to commencement of above ground works a scheme for the specification of boilers to be installed in the scheme shall be submitted and agreed in writing. The scheme shall set out measures to demonstrate that the rated emissions of Oxides of Nitrogen (NOx) would not exceed 40 mg/kWh. The details shall be implemented as agreed and retained thereafter.
17. All Non-Road Mobile Machinery (NRMM) used during the course of the development that is within the scope of the Greater London Authority 'Control of Dust and Emissions during Construction and Demolition' Supplementary Planning Guidance (SPG) dated July 2014, or any subsequent amendment or guidance, shall comply with the emission requirements within. An inventory of all relevant NRMM must be registered on the NRMM register <https://nrmm.london/user-nrmm/register>. All NRMM should be regularly

serviced and service logs kept on site for inspection. Records should be kept on site which detail proof of emission limits for all relevant plant/equipment.

18. The site and building works required to implement the development shall be only carried out between the hours of 08.00 and 18.00 Mondays to Fridays and between 08.00 and 13.00 on Saturdays and not at all on Bank Holidays and Sundays.
19. Prior to the commencement of above ground works a final detailed drainage design including drawings and supporting calculations and updated Drainage Assessment Form shall be submitted to the Local Planning Authority for review and approval, aligned with the September 2019 Flood Risk Assessment & Drainage Strategy and associated drawings. A detailed management plan confirming routine maintenance tasks for all drainage components must also be submitted to demonstrate how the drainage system is to be maintained for the lifetime of the development. The development shall be carried out in accordance with the approved details and managed and maintained thereafter in accordance with the agreed management and maintenance plan.
20. Prior to the commencement of development, a scheme for habitat protection, creation and enhancements shall be submitted to and approved in writing by the Local Planning Authority. This will take the form of a Biodiversity Enhancement and Management Plan (BEMP), with a fully updated No Net Loss and Net Gain evaluation and in accordance with BS42020:2013. The BEMP will provide:
 - a. Full details and plans of habitat area, creation methodologies, 5 years of aftercare, 25 years of management and 30 years of monitoring of habitats from creation.
 - b. Soft landscaping will detail biodiversity enhancement through planting schemes that provide nectar, pollen and fruit resources throughout the seasons, a variety of structural diversity and larval food plants, through no less than 60% native and local species by number and diversity. Substrate, provenance and numbers of all bulbs, seeds and plugs / whips / trees will be detailed, as will aftercare and ongoing management.
 - c. Ornamental plants will not include any genera or species on Schedule 9 of the Wildlife and Countryside Act (1981) or the LISI list and should be on the "RHS Perfect for Pollinators" lists (or of documented wildlife value), to provide increased resource availability.
 - d. Current substrate physio-chemical values / soil sampling analysis for the proposed meadow area and any necessary works required to deliver a semi-improved neutral or calcareous grassland
 - e. A timetable of delivery for all habitats
 - f. A monitoring report to the LPA (Biodiversity Team) on 1 November of each year of monitoring (Years 1-3 after creation, year 5, year 7, year 10 and every 5 years thereafter until year 30 post-completion), which will assess the condition of all habitats created and the requirement for

any and all necessary management or replacement / remediation measures required to deliver the agreed upon values.

- g. details of the contingency methods for management and funding, should the monitoring identify changes are required to ensure the habitat(s) are in the appropriate condition to deliver the required biodiversity values
- h. Work shall be undertaken in accordance with the approved scheme and thereafter retained in perpetuity.

21. Prior to the commencement of development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, in line with the recommendations contained within the submitted ecological information (Ecological Impact Assessment (5.0, 2018) and supplementary documents). The CEMP shall be in accordance with BS42020:2013 and include full details on the following:

- a. The role and responsibilities of the on-site ecological clerk of works (ECoW) or similarly competent person;
- b. seasonal timing of works;
- c. measures to prevent entrapment of mammals;
- d. measures to eradicate invasive non-native species (snowberry)
- e. construction lighting to ensure it is in accordance with Guidance Note 08/18 Bats and artificial lighting in the UK Bats and the Built Environment series by the Institute of Lighting Professionals and the Bat Conservation Trust

All works carried out during the construction period shall be undertaken in accordance with the approved CEMP

22. Prior to the occupation of the development, details of the cycle storage spaces, of which four of all spaces provided are capable of accommodating a larger cycle, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the development and shall be retained thereafter for the life of the development.

23. Prior to the commencement of above ground works an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The updated Travel Plan shall be implemented upon first occupation of the development hereby approved and in line with provisions and timescales set out within it.

24. The Multi Use Games Area shall be used in connection with the SEN school and for no other purpose.

25. The development shall not be occupied until the parking shown on the annotated site plan 24480-WWA-00-ZZ-DR-L-0101 S2 PL07 has been laid out and provided within the site. The parking shall be permanently retained exclusively for its designated purpose.

26. A minimum of sixteen car parking spaces, representing one in five of the total car parking spaces, and all minibus parking spaces shall be provided with electric vehicle charging points. The electric charging points shall be retained in good working order for the lifetime of the school.
27. Prior to above ground works commencing documentary evidence shall be submitted to the Local Planning Authority and agreed in writing to demonstrate that the development will achieve a minimum Green Space Factor (GSF) score of at least 0.5. The Council's GSF scoring system set out in the Council's 'Technical Guidance Note - Building a Sustainable Sutton' (June 2018) shall be used for this purpose. The development shall be carried out in accordance with the submitted details and thereafter retained.
28. Prior to commencement of the development hereby permitted the applicant shall establish a Residents Liaison Group, comprising representatives from the local community, Members of the Council, Planning and Highway Officers, the School's nominated Transport Coordinator, Site Manager, a representative from Kier, Education Authority (acting also as representative in advance of the school's nomination of a Transport Coordinator), and other interested parties as may be agreed. The developer will hold the first meeting no later than one month prior to commencement of site preparation works and the Group will meet at three monthly intervals thereafter until the school is occupied.
29. No construction works shall commence until an updated Construction Logistics Plan; including an alternative route from the south for large construction vehicles and associated traffic management plans, details of a timetable for the implementation of the Traffic Regulation Orders, footway parking and other temporary highways infrastructure works, have been submitted to and agreed in writing by the Local Planning Authority. This shall include evidence that the Construction Logistic Plan and associated traffic management plans have, if appropriate, been through the Road Safety Audit process and comments and amendments have been addressed and submitted to and agreed in writing with the Local Highway Authority. The development shall be carried out in accordance with revised and updated CLP.
30. Prior to commencement of development or site clearance a Construction Employment and Training Strategy shall be submitted for approval in writing by the Council. The Employment and Training Strategy shall demonstrate how the construction phase of the project will ensure that the following are provided during the construction phase:
- i) 2 Apprenticeship.
 - ii) 2 Traineeships.
 - iii) 2 Work Experience (16+).
 - iv) Attendance at 2 Council Events and Employer Encounters.
 - v) Delivery of an employment and skills plan on a quarterly basis which provides a monitoring update on the implementation of the Employment and Training Strategy.

- 31.No development shall commence until a scheme for the provision of highway works during the construction phase of the scheme has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include a timetable for the provision of those works and the development shall be carried out in accordance with the approved details.
- 32.No development shall commence until a scheme for the provision of off site highway works has been submitted to and agreed in writing by the Local Planning Authority. The agreed works shall be carried out prior to the first beneficial use of the school and retained thereafter.
- 33.The development shall be carried out in accordance with the Car Park and Access Management Plan dated April 2019.

END



Ministry of Housing, Communities & Local Government

www.gov.uk/mhclg

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

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

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

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

SECTION 3: AWARDS OF COSTS

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

SECTION 4: INSPECTION OF DOCUMENTS

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