

## Planning Committee

Thursday 24 September 2015

5.30 pm

Ground Floor Meeting Room G01A - 160 Tooley Street, London SE1 2QH

### Membership

Councillor Nick Dolezal (Chair)  
Councillor Sarah King (Vice-Chair)  
Councillor Helen Dennis  
Councillor Hamish McCallum  
Councillor Michael Mitchell  
Councillor Jamille Mohammed  
Councillor Adele Morris  
Councillor Kieron Williams

### Reserves

Councillor Maisie Anderson  
Councillor James Barber  
Councillor Catherine Dale  
Councillor Tom Flynn  
Councillor Kath Whittam  
Councillor Jane Lyons

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## INFORMATION FOR MEMBERS OF THE PUBLIC

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### Access to information

You have the right to request to inspect copies of minutes and reports on this agenda as well as the background documents used in the preparation of these reports.

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### Contact

Victoria Foreman on 020 7525 5485 or email: [victoria.foreman@southwark.gov.uk](mailto:victoria.foreman@southwark.gov.uk)  
Webpage: <http://www.southwark.gov.uk>

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Members of the committee are summoned to attend this meeting

**Eleanor Kelly**

Chief Executive

Date: 16 September 2015



# Planning Committee

Thursday 24 September 2015  
5.30 pm  
Ground Floor Meeting Room G01A - 160 Tooley Street, London SE1 2QH

## Order of Business

Item No.	Title	Page No.
	<b>PART A - OPEN BUSINESS</b>	
	<b>PROCEDURE NOTE</b>	
1.	<b>APOLOGIES</b>	
	To receive any apologies for absence.	
2.	<b>CONFIRMATION OF VOTING MEMBERS</b>	
	A representative of each political group will confirm the voting members of the committee.	
3.	<b>NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT</b>	
	In special circumstances, an item of business may be added to an agenda within five clear days of the meeting.	
4.	<b>DISCLOSURE OF INTERESTS AND DISPENSATIONS</b>	
	Members to declare any personal interests and dispensation in respect of any item of business to be considered at this meeting.	
5.	<b>MINUTES</b>	3 - 6
	To approve as a correct record the Minutes of the open section of the meeting held on 8 September 2015.	
6.	<b>DEVELOPMENT MANAGEMENT</b>	7 - 11
	<b>6.1. KEYWORTH PRIMARY SCHOOL, FAUNCE STREET, LONDON SE17 3TR</b>	12 - 75

Item No.	Title	Page No.
6.2.	MANOR PLACE DEPOT SITE, COMPRISING 30-34 PENROSE STREET, 33 MANOR PLACE, 17-21 MANOR PLACE, UNITS 1-21 MATARA MEWS, 38A PENROSE STREET, LONDON SE17 (FULL PLANNING PERMISSION) AND 33 MANOR PLACE, LONDON SE17 3BD (LISTED BUILDING CONSENT)	76 - 146
6.3.	100 LORDSHIP LANE, LONDON SE22 8HF	147 - 158
6.4.	ST OLAVES AND ST SAVIOURS SPORTS GROUND, GREEN DALE, LONDON SE22 8TX	159 - 167
7.	TO RELEASE £250,000 FROM S106 AGREEMENT 12/AP/2797 AND £168,649.52 FROM S106 AGREEMENT 15/AP/0747 FOR HIGHWAY IMPROVEMENTS TO BALFOUR STREET, LONDON SE17	168 - 171
<b>ANY OTHER OPEN BUSINESS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.</b>		

Date: 16 September 2015



## PLANNING COMMITTEE

### **Guidance on conduct of business for planning applications, enforcement cases and other planning proposals**

1. The reports are taken in the order of business on the agenda.
2. The officers present the report and recommendations and answer points raised by members of the committee.
3. Your role as a member of the planning committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons in accordance with the statutory planning framework.
4. The following may address the committee (if they are present and wish to speak) for **not more than 3 minutes each**.

- (a) One representative (spokesperson) for any objectors. If there is more than one objector wishing to speak, the time is then divided within the 3-minute time slot.
- (b) The applicant or applicant's agent.
- (c) One representative for any supporters (who live within 100 metres of the development site).
- (d) Ward councillor (spokesperson) from where the proposal is located.
- (e) The members of the committee will then debate the application and consider the recommendation.

Note: Members of the committee may question those who speak only on matters relevant to the roles and functions of the planning committee that are outlined in the constitution and in accordance with the statutory planning framework.

5. If there are a number of people who are objecting to, or are in support of, an application or an enforcement of action, you are requested to identify a representative to address the committee. If more than one person wishes to speak, the 3-minute time allowance must be divided amongst those who wish to speak. Where you are unable to decide who is to speak in advance of the meeting, you are advised to meet with other objectors in the foyer of the council offices prior to the start of the meeting to identify a representative. If this is not possible, the chair will ask which objector(s) would like to speak at the point the actual item is being considered.

Note: Each speaker should restrict their comments to the planning aspects of the proposal and should avoid repeating what is already in the report.

6. This is a council committee meeting, which is open to the public and there should be no interruptions from the audience.

7. No smoking is allowed at committee and no recording is permitted without the consent of the meeting on the night, or consent in advance from the chair.

**The arrangements at the meeting may be varied at the discretion of the chair.**

**Contacts:** General Enquiries  
Planning Section, Chief Executive's Department  
Tel: 020 7525 5403

Planning Committee Clerk, Constitutional Team  
Finance and Corporate Services  
Tel: 020 7525 5485



## Planning Committee

MINUTES of the OPEN section of the Planning Committee held on Tuesday 8 September 2015 at 5.30pm at Ground Floor Meeting Room G01A - 160 Tooley Street, London SE1 2QH

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**PRESENT:** Councillor Nick Dolezal (Chair)  
 Councillor Sarah King (Vice Chair)  
 Councillor Helen Dennis  
 Councillor Hamish McCallum  
 Councillor Michael Mitchell  
 Councillor Jamille Mohammed  
 Councillor Adele Morris

**OFFICER SUPPORT:** Rob Bristow, Group Manager Major Applications  
 Bridin O'Connor, Group Manager Strategic Team  
 Michael Tsoukaris, Group Manager Design and Conservation  
 Wing Lau, Senior Planning Officer  
 Tom Buttrick, Team Leader Planning Policy  
 Stephen Ashworth, Legal Representative  
 Victoria Foreman, Constitutional Officer

### 1. APOLOGIES

No apologies for absence were received.

### 2. CONFIRMATION OF VOTING MEMBERS

Those members listed as present were confirmed as the voting members for the meeting.

### 3. NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT

The chair gave notice of the following additional papers which had been circulated prior to the meeting:

- Addendum report relating to agenda items 6.1 and 7;
- Members pack relating to agenda item 6.1.

The chair also notified the committee of a variation to the order of business. Item 7 would be considered before item 6.1.

#### 4. DISCLOSURE OF INTERESTS AND DISPENSATIONS

There were no disclosures of interest or dispensations.

#### 5. MINUTES

##### RESOLVED:

That the minutes of the meeting held on 14 July 2015 be approved as a correct record and signed by the chair.

#### 6. DEVELOPMENT MANAGEMENT

##### RESOLVED:

1. That the determination of planning applications, for formal observations and comments, the instigation of enforcement action and the receipt of the report included in the agenda be considered.
2. That the decisions made on the planning applications be subject to the conditions and/or made for the reasons set out in the reports unless otherwise stated.
3. That where reasons for decisions or conditions are not included or not as included in the reports relating to an individual item, they be clearly specified.

#### 6. CAPITAL HOUSE, 40-46 WESTON STREET, LONDON SE1 3QD

Planning application reference 14/AP/4640.

Report: see pages 13 to 72 of the agenda and addendum pages 1 to 2.

##### PROPOSAL

Demolition of Capital House, and erection of a 21 and 31 storey building (1 basement level plus ground and 30 upper storeys) to a maximum height 108.788m to provide 119 residential units (C3), retail/café units (flexible Class A1, A3 Use) at ground floor level, 199 cycle parking spaces, 2 disabled car parking spaces, associated refuse and recycling, and an area of public open space.

The committee heard an officer's introduction to the report and asked questions of the officer.

The applicant's agents addressed the committee and answered questions arising from their submission.

The committee debated the application and asked questions of the officers.

The committee requested it be formally recorded that members were disappointed with the

offered level of affordable housing, and that this would be provided off-site.

A motion to grant planning permission was moved, seconded, put to the vote and declared granted as follows:

**RESOLVED:**

1. That full planning permission be granted subject to the conditions set out in the officer report and addendum report, subject to the applicant entering into a legal agreement (at no cost to the Council) by no later than 3 November 2015 and subject to referral to the GLA.
2. That in the event that the requirements of 1. are not met by 3 November 2015 the Director of Planning be authorised to refuse planning permission for the reasons set out under paragraph 212.

**7. WALWORTH ROAD CONSERVATION AREA**

**RESOLVED:**

1. That the proposal to carry out a public consultation with local residents and businesses on the proposed Walworth Road Conservation Area be approved.
2. The Planning Committee commented on the proposed Walworth Road Conservation Area.
3. The Planning Committee commented on the draft boundary map of the proposed Walworth Road Conservation Area.
4. That the Equality Impact Assessment be noted.

**8. ARTICLE 4 DIRECTION TO WITHDRAW THE PERMITTED DEVELOPMENT RIGHTS GRANTED BY SCHEDULE 2, PART 3, CLASS D OF THE TOWN AND COUNTRY PLANNING (GENERAL PERMITTED DEVELOPMENT) ORDER 2015**

**RESOLVED:**

1. That an immediate Article 4 Direction to withdraw the permitted development rights granted by Schedule 2, Part 3, Class D of the Town and Country Planning (General Permitted Development) Order 2015 for changes of use from A1 (shops) to A2 (financial and professional services) in town centre protected shopping frontages, be approved.
2. That the Article 4 Directions, confirmed on 7 April 2014, which withdrew the permitted development rights granted by Schedule 2, Part 3, Class C and Schedule 2, Part 4 Class D of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) be noted.
3. That the equalities analysis of the proposed Article 4 Direction be noted.



The meeting ended at 8.15pm.

**CHAIR:**

**DATED:**

<b>Item No.</b> 6.	<b>Classification:</b> Open	<b>Date:</b>	<b>Meeting Name:</b> Planning Committee
<b>Report title:</b>		Development Management	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Proper Constitutional Officer	

### RECOMMENDATIONS

1. That the determination of planning applications, or formal observations and comments, the instigation of enforcement action and the receipt of the reports included in the attached items be considered.
2. That the decisions made on the planning applications be subject to the conditions and/or made for the reasons set out in the attached reports unless otherwise stated.
3. That where reasons for decisions or conditions are not included or not as included in the reports relating to an individual item, they be clearly specified.

### BACKGROUND INFORMATION

4. The council's powers to consider planning business are detailed in Part 3F which describes the role and functions of the planning committee and planning sub-committees. These were agreed by the annual meeting of the council on 23 May 2012. The matters reserved to the planning committee and planning sub-committees exercising planning functions are described in part 3F of the Southwark Council constitution.

### KEY ISSUES FOR CONSIDERATION

5. In respect of the attached planning committee items members are asked, where appropriate:
  - a. To determine those applications in respect of site(s) within the borough, subject where applicable, to the consent of the Secretary of State for Communities and Local Government and any directions made by the Mayor of London.
  - b. To give observations on applications in respect of which the council is not the planning authority in planning matters but which relate to site(s) within the borough, or where the site(s) is outside the borough but may affect the amenity of residents within the borough.
  - c. To receive for information any reports on the previous determination of applications, current activities on site, or other information relating to specific planning applications requested by members.

6. Each of the following items are preceded by a map showing the location of the land/property to which the report relates. Following the report, there is a draft decision notice detailing the officer's recommendation indicating approval or refusal. Where a refusal is recommended the draft decision notice will detail the reasons for such refusal.
7. Applicants have the right to appeal to Planning Inspector against a refusal of planning permission and against any condition imposed as part of permission. Costs are incurred in presenting the council's case at appeal which maybe substantial if the matter is dealt with at a public inquiry.
8. The sanctioning of enforcement action can also involve costs such as process serving, court costs and of legal representation.
9. Where either party is felt to have acted unreasonably in an appeal the inspector can make an award of costs against the offending party.
10. All legal/counsel fees and costs as well as awards of costs against the council are borne by the budget of the relevant department.

#### **Community impact statement**

11. Community impact considerations are contained within each item.

#### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

##### **Director of Legal Services**

12. A resolution to grant planning permission shall mean that the development & building control manager is authorised to grant planning permission. The resolution does not itself constitute the permission and only the formal document authorised by the committee and issued under the signature of the head of development management shall constitute a planning permission. Any additional conditions required by the committee will be recorded in the minutes and the final planning permission issued will reflect the requirements of the planning committee.
13. A resolution to grant planning permission subject to legal agreement shall mean that the head of development management is authorised to issue a planning permission subject to the applicant and any other necessary party entering into a written agreement in a form of words prepared by the director of legal services, and which is satisfactory to the head of development management. Developers meet the council's legal costs of such agreements. Such an agreement shall be entered into under section 106 of the Town and Country Planning Act 1990 or under another appropriate enactment as shall be determined by the director of legal services. The planning permission will not be issued unless such an agreement is completed.
14. Section 70 of the Town and Country Planning Act 1990 as amended requires the council to have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations when dealing with applications for planning permission. Where there is any conflict with any policy contained in the development plan, the conflict must be resolved in favour of the policy which is

contained in the last document to be adopted, approved or published, as the case may be (s38(5) Planning and Compulsory Purchase Act 2004).

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise. The development plan is currently Southwark's Core Strategy adopted by the council in April 2011, saved policies contained in the Southwark Plan 2007, the where there is any conflict with any policy contained in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published, as the case may be (s38(5) Planning and Compulsory Purchase Act 2004).
16. On 15 January 2012 section 143 of the Localism Act 2011 came into force which provides that local finance considerations (such as government grants and other financial assistance such as New Homes Bonus) and monies received through CIL (including the Mayoral CIL) are a material consideration to be taken into account in the determination of planning applications in England. However, the weight to be attached to such matters remains a matter for the decision-maker.
17. "Regulation 122 of the Community Infrastructure Levy regulations (CIL) 2010, provides that "a planning obligation may only constitute a reason for granting planning permission if the obligation is:
  - a. necessary to make the development acceptable in planning terms;
  - b. directly related to the development; and
  - c. fairly and reasonably related to the scale and kind to the development.

A planning obligation may only constitute a reason for granting planning permission if it complies with the above statutory tests."

18. The obligation must also be such as a reasonable planning authority, duly appreciating its statutory duties can properly impose, i.e. it must not be so unreasonable that no reasonable authority could have imposed it. Before resolving to grant planning permission subject to a legal agreement members should therefore satisfy themselves that the subject matter of the proposed agreement will meet these tests.
19. The National Planning Policy Framework (NPPF) came into force on 27 March 2012. The NPPF replaces previous government guidance including all PPGs and PPSs. For the purpose of decision-taking policies in the Core Strategy (and the London Plan) should not be considered out of date simply because they were adopted prior to publication of the NPPF. For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted in accordance with the Planning and Compulsory Purchase Act (PCPA) 2004 even if there is a limited degree of conflict with the NPPF.
20. In other cases and following and following the 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. This is the approach to be taken when considering saved plan policies under the Southwark Plan 2007. The approach to be taken is that the closer the

policies in the Southwark Plan to the policies in the NPPF, the greater the weight that may be given.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Council assembly agenda 23 May 2012	Constitutional Team 160 Tooley Street London SE1 2QH	Lesley John 020 7525 7228
Each planning committee item has a separate planning case file	Development Management, 160 Tooley Street, London SE1 2QH	The named case officer as listed or Simon Bevan 020 7525 5655

## APPENDICES

No.	Title
None	

## AUDIT TRAIL

<b>Lead Officer</b>	Ian Millichap, Constitutional Manager		
<b>Report Author</b>	Everton Roberts, Principal Constitutional Officer Jonathan Gorst, Head of Regeneration and Development		
<b>Version</b>	Final		
<b>Dated</b>	22 May 2015		
<b>Key Decision</b>	No		
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>			
<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>	
Director of Legal Services	Yes	Yes	
Head of Development Management	No	No	
<b>Cabinet Member</b>	No	No	
<b>Date final report sent to Constitutional Team</b>			22 May 2015

**ITEMS ON AGENDA OF THE PLANNING COMMITTEE**  
**on Thursday 24 September 2015**

<b>Appl. Type</b>	Council's Own Development - Reg. 3	<b>Reg. No.</b>	15-AP-2963
<b>Site</b>	KEYWORTH PRIMARY SCHOOL, FAUNCE STREET, LONDON, SE17 3TR	<b>TP No.</b>	TP/1036-A
		<b>Ward</b>	Newington
		<b>Officer</b>	Adam Greenhalgh

**Recommendation GRANT PERMISSION**

## ***Item 6/1***

**Proposal**

Demolition of the existing dining hall and the erection of a new two storey detached school building to accommodate nine new classrooms, double height hall and kitchen, associated landscaping and re-planting are also proposed. Re-submission of application 14AP4715 with additional information on sustainability.

<b>Appl. Type</b>	Full Planning Permission	<b>Reg. No.</b>	15-AP-1062
<b>Site</b>	MANOR PLACE DEPOT SITE, COMPRISING 30-34 PENROSE STREET, 33 MANOR PLACE, 17-21 MANOR PLACE, UNITS 1-21 MATARA MEWS, 38A PENROSE STREET, LONDON, SE17	<b>TP No.</b>	TP/1171-B
		<b>Ward</b>	Newington
		<b>Officer</b>	Helen Goulden

**Recommendation GRANT SUBJECT TO LEGAL AGREEMENT AND GLA**

## ***Item 6/2***

**Proposal**

Demolition and redevelopment to provide 270 residential units (Class C3) within new buildings ranging from 2 to 7 storeys, a refurbished 33 Manor Place (Grade II listed) and 17-21 Manor Place and 3,730sqm (GEA) of commercial floorspace, comprising 1,476sqm (Classes A1/A2/A3/B1/D1/D2) within 9 refurbished railway viaduct arches and 2,254sqm (Class B1) within the refurbished Pool House and Wash House (Grade II Listed), with associated works including disabled car parking spaces, cycle parking, landscaping and access improvements.

<b>Appl. Type</b>	Listed Building Consent	<b>Reg. No.</b>	15-AP-1084
<b>Site</b>	33 MANOR PLACE, LONDON, SE17 3BD	<b>TP No.</b>	TP/1171-B
		<b>Ward</b>	Newington
		<b>Officer</b>	Helen Goulden

**Recommendation GRANT SUBJECT TO LEGAL AGREEMENT AND GLA**

## ***Item 6/2***

**Proposal**

Conversion of 33 Manor Place (Former Manor Place Baths) into 10 residential units (Class C3) and 2,254 sqm (GEA) of commercial floorspace (Class B1), along with internal and external refurbishment and alterations, including introduction of a mezzanine floor within the refurbished Pool House

(in association with planning application ref. 15/AP/1062 for the wider redevelopment of Manor Place Depot)

<b>Appl. Type</b>	Full Planning Permission	<b>Reg. No.</b>	15-AP-1847
<b>Site</b>	100 LORDSHIP LANE, LONDON, SE22 8HF	<b>TP No.</b>	TP/2315-100
		<b>Ward</b>	East Dulwich
		<b>Officer</b>	Lewis Goodley

**Recommendation GRANT PERMISSION**

## ***Item 6/3***

**Proposal**

Retention of : (i) reduction in size of A1 shop; (ii) insertion of an additional opening to the ground floor rear elevation; (iii) increase of 1 bedroom flat to a 2 bedroom flat; and (iv) relocation of main entrance from front to rear

<b>Appl. Type</b>	Full Planning Permission	<b>Reg. No.</b>	15-AP-2745
<b>Site</b>	ST OLAVES AND ST SAVIOURS SPORTS GROUND, GREEN DALE, LONDON, SE22 8TX	<b>TP No.</b>	TP/2137-A
		<b>Ward</b>	South Camberwell
		<b>Officer</b>	Robin Sedgwick

**Recommendation GRANT PERMISSION**

## ***Item 6/4***

**Proposal**

Removal of existing 1.8 metre high chain link fence; installation of a 2.4 metre high black powder coated steel palisade fence inclusive of 1 no. 4 metre wide double leaf gate to the side of the path that divides the sports field



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Bishop's House Day Nursery

<b>Item No.</b> 6.1	<b>Classification:</b> Open	<b>Date:</b> 24 September 2015	<b>Meeting Name:</b> Planning Committee
<b>Report title:</b>	<b>Development Management planning application:</b> Council's own development application 15/AP/2963 for: Council's Own Development - Reg. 3  <b>Address:</b> KEYWORTH PRIMARY SCHOOL, FAUNCE STREET, LONDON SE17 3TR  <b>Proposal:</b> Demolition of the existing dining hall and the erection of a new two storey detached school building to accommodate nine new classrooms, double height hall and kitchen, associated landscaping and re-planting are also proposed. Re-submission of application 14/AP/4715 with additional information on sustainability.		
<b>Ward(s) or groups affected:</b>	Newington		
<b>From:</b>	Adam Greenhalgh		
<b>Application Start Date</b> 24/07/2015		<b>Application Expiry Date</b> 23/10/2015	
<b>Earliest Decision Date</b> 29/08/2015			

## RECOMMENDATION

1. To grant planning permission subject to the recommended conditions.

## BACKGROUND INFORMATION

2. The application represents a 're-submission' of planning application 14/AP/4715 which was for the same proposal and which was presented to the Planning Sub-Committee (B) on 28 April 2015. Planning permission was granted by the Committee for the previous application.
- 3.. However an application for judicial review was subsequently made by a third party alleging that the site comprised a playing field, a Sustainability Assessment (as required under saved policy 3.3 of the Southwark Plan for major development) had not been undertaken and consideration had not been given to alternative sites for the school expansion. The claimant's challenge is attached at Appendix 3 and the Council's response to the challenge is attached at Appendix 4.
4. These matters are considered in 'Principle of the Development' and 'Sustainable Development Implications' below. Reference is made to all other relevant planning issues. However, apart from alterations to the architectural appearance and materiality of the new building the proposal remains the same as before and the planning issues therefore remain the same.

## Site location and description

5. The Site Location and Description are set out in the Committee report for application



14/AP/4715. For ease of reference the text is set out below:

*Keyworth Primary School is a one and half form entry (FE) primary school with nursery located within Kennington in the north west of the Borough. It is situated 500m south of Kennington tube station in a predominantly residential area.*

*The site is irregular in shape being sited between neighbouring residential and commercial properties. The main entrance is at the end of Faunce Street, towards the south of the site, and the site generally sits behind and alongside adjoining residential and commercial properties. There is a secondary but well used entrance/exit at the end of Gaza Street (north west) and a largely unused opening onto Doddington Grove (east) between a pair of houses. The site extends along two stretches of Sharsted Street (west) either side of a terrace of flat roofed period houses. The site comprises a range of school buildings and associated access and hard and soft play areas.*

*The main school building is a three storey Victorian 'board' school building situated within the south east of the site and accessed from Faunce Street. It sits 7.5m from adjoining residential properties in Doddington Grove and Faunce Street and it is surrounded by hard surfaced access and play areas. In the south west corner, and adjoining Sharsted Street, is a new multi-use games area. In the middle of the site is hard surfaced play and circulation space and in the north west corner, also adjoining Sharsted Street, is a rectangle of woodland and a substantial detached single storey building used as a hall and with the school kitchen. There is an access strip which extends through the site off Gaza Street which is used for school parking and there is a lawn with one or two trees alongside this access strip. The school has a temporary classroom building on this lawn.*

*The building is not listed, or is it within the setting of a listed building, it is not within a conservation area. The main school building has a historic significance in the local townscape as a nearly complete example of a board school in a townscape of mostly C19 housing in a similar yellow stock brick. There are no protected trees on the site.*

*The site is the subject to the following designations in the Southwark Plan:*

- *Air Quality Management Area*
- *Urban Density Zone.*

6. It should also be noted:

- The 'woodland' in the north west part of the site, adjoining Sharsted Street, does not include a marked up sports pitch and is not therefore considered to constitute a playing field (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2010. A 'playing field' means the whole of a site which encompasses at least one playing pitch
- The site adjoins two other LB Southwark owned sites. To the north east of the school and with boundaries onto Braganza Street and Doddington Grove are the Braganza Street workshops which are single storey industrial buildings. To the north of the school and with boundaries onto Braganza Street and Gaza Street is a hard surfaced area which provides a number of car parking spaces.

### **Details of proposal**

7. The proposals are largely the same as for the previous (14/AP/4715) application. The proposals can be summarised as 'the erection of a new two storey detached building comprising nine classrooms, a new nursery and a linked double height hall with school kitchen, internal alterations within the main school building, provision of a covered

central hub, provision of new landscaping and boundary treatment and re-located car parking spaces all to facilitate the formation of a 3FE primary school with nursery.'

8. The proposed layout, form and configuration of the proposals are set out in the Committee report for application 14/AP/4715. For ease of reference the text is set out below:

*The proposals are for the erection of a new two storey detached building comprising nine classrooms, a new nursery and a linked double height hall with school kitchen, internal alterations within the main school building, provision of a covered central hub, provision of new landscaping and boundary treatment and re-located car parking spaces all to facilitate the formation of a 3FE primary school with nursery.*

*The proposals would be undertaken as follows:*

- *New detached pitched roof/two storey brick building comprising nursery and 3 reception classrooms and ancillary rooms on ground floor and three Year 5 and three Year 6 classrooms and ancillary rooms/spaces on the first floor. Formation of single storey foyer/after school club room attached to new double height hall building with school kitchen and internal chair/P.E. stores. The new buildings would be sited on the site of the existing dining hall/kitchen which would be demolished and on the existing woodland area facing Sharsted Street. A landscaped strip with plants and trees would be provided in front of the building along Sharsted Street and a soft play area provided at the far (north west) end for the new nursery*
- *The existing building would be altered internally to enable the provision of three Year 1 to Year 4 classrooms, assembly hall/P.E. hall, ancillary staff and support rooms (including music room and library), stores, W.C.s and caretaker's flat*
- *The lawn within the middle of the school will be re-modelled into a part soft/part hard reception class play area. The existing temporary classroom building will be removed*
- *A covered hub will be erected between the existing main school building and the new classroom block/hall.*

*The main school building will be altered by way of:*

- *Demolition of rear single storey toilet block*
- *Conversion of toilet block on boundary with 41 Faunce Street to stores and provision of 15 staff car parking spaces*
- *Provision of a covered playspace adjacent to north elevation.*

*The facing materials indicated for the new classroom block and hall are brick slips for the walls and roof, aluminium windows and cladding panels, polyester powder coated aluminium doors and panels to conceal louvres. A 1m high anodised security screen would be provided to the roof of the hall and PV panels will be provided on the roof. The details of the boundary treatment are not indicated.*

9. It should be noted that the roof and walls of the new building under 14/AP/4715 were to be of brick slips. The materials have been amended in the current proposal. Under the current proposal the walls would be of brickwork and the roof of clay tiles. Additionally the position and shape of a number of windows on the west (Sharsted Street) elevation and north (Braganza Street elevation) would be amended. The previously approved windows breaking into the roof and the ventilation chimneys on the roof would be omitted.
10. A Sustainability Report has been submitted for the current proposal. This includes a Sustainability Checklist, consideration of the brownfield status of the site and

assessment of the availability of alternative sites.

### Planning history

- |     |   |
|-----|---|
| 11. | 05/CO/0189 Application type: Full Planning Permission (FUL)<br>Erection of a single-storey structure at the rear of the main school building (adjacent to Gaza Street entrance) for use as a classroom.<br>Decision date 20/01/2006 Decision: Grant (GRA)   |
|     | 14/AP/1371 Application type: Council's Own Development - Reg. 3 (REG3)<br>Erection of a new temporary modular classroom block with disabled W/C, pupil W/C and store with new disabled access ramp.<br>Decision date 26/06/2014 Decision: Granted for Limited Period (GFLP)   |
|     | 14/AP/4715 Application type: Council's Own Development - Reg. 3 (REG3)<br>Demolition of the existing dining hall and the erection of a new two storey detached school building to accommodate nine new class rooms, double height hall and kitchen; associated landscaping and re-planting are also proposed.<br>Decision date 07/05/2015 Decision: Granted (GRA) |

### Planning history of adjoining sites

12. There are none that are relevant.

### KEY ISSUES FOR CONSIDERATION

#### Summary of main issues

13. The main issues to be considered in respect of this application are:
- a) Principle of development
  - b) Effects on the character and appearance of the area
  - c) Effects on the amenity of neighbouring occupiers
  - d) Transport/highways implications
  - e) Design Issues
  - f) Impact on Trees
  - g) Ecology
  - f) Sustainability

### Planning policy

14. National Planning Policy Framework (the Framework)
- S.4 - Promoting Sustainable Transport  
 S.7 - Requiring Good Design  
 S.8 - Promoting Healthy Communities  
 S.10 - Meeting the challenge of climate change, flooding and coastal change  
 S.11 - Conserving and enhancing the natural environment
15. London Plan July 2015
- Policy 3.16 - Protection and enhancement of social infrastructure  
 Policy 3.18 - Education facilities  
 Policy 4.6 - Support for and enhancement of arts, culture, sport and entertainment  
 Policy 5.1 - Climate Change Mitigation  
 Policy 5.2 - Minimising carbon dioxide emissions  
 Policy 5.3 - Sustainable Design and Construction  
 Policy 5.7 - Renewable energy  
 Policy 5.12 - Flood Risk Management

Policy 5.13 - Sustainable Drainage  
 Policy 6.9 - Cycling  
 Policy 6.10 - Walking  
 Policy 6.13 - Parking  
 Policy 7.3 - Designing out crime  
 Policy 7.2 - An inclusive environment  
 Policy 7.6 - Architecture

16. Core Strategy 2011

SP1 - Sustainable Development  
 SP2 - Sustainable Transport  
 SP4 - Places for Learning, Enjoyment and Healthy Lifestyles  
 SP12 - Design and Conservation  
 SP13 - High Environmental Standards

17. Southwark Plan 2007 (July) - saved policies

The Council's cabinet on 19 March 2013, as required by paragraph 215 of the NPPF, considered the issue of compliance of Southwark Planning Policy with the National Planning Policy Framework. All policies and proposals were reviewed and the Council satisfied itself that the policies and proposals in use were in conformity with the NPPF. The resolution was that with the exception of Policy 1.8 (location of retail outside town centres) in the Southwark Plan all Southwark Plan policies are saved. Therefore due weight should be given to relevant policies in existing plans in accordance to their degree of consistency with the NPPF.

2.2 - Provision of New Community Facilities  
 3.3 - Sustainability Assessment  
 3.2 - Protection of Amenity  
 3.4 - Energy Efficiency  
 3.12 - Quality in Design  
 3.13 - Urban Design  
 5.2 - Transport Impacts  
 5.3 - Walking and Cycling

18. Southwark Supplementary Planning Documents

Sustainability Assessment SPD 2009  
 Sustainable Design & Construction SPD 2009

**Principle of development**

19. The application site falls within the curtilage of the existing school and as it has a long established use as a primary school there would be no material change of use and there are no land use objections.
20. As set out within the application for Judicial Review of the previous planning permission, the claimant's case rests on their argument that the alternative site of the Braganza Street workshops should have been considered for this school extension. Their case submits that saved policy 3.3 of the Southwark Plan 2007 requires a sustainability assessment which in turn requires the most sustainable option to be considered. The claimant submits that the more sustainable option is the Braganza Street workshop site and therefore that site should be used for the school expansion and not the application site on Sharsted Street which is adjacent to the claimant's property. They submit that the application site is not brownfield land. And they submit that the proposals will result in the loss of playing field land.

### **Assessment of alternative sites**

21. The Council's response on the requirement to consider alternative sites is set out in the Summary Grounds of Resistance attached at Appendix 4. Firstly it is considered that an assessment of alternative sites is not a mandatory requirement when assessing the merits of proposed development on any site. The availability of alternative sites only may be a material consideration. Case law has established that only in narrow and exceptional circumstances may the consideration of alternative sites become a material consideration. Such circumstances can include where there is harm arising from a proposal, the nature and urgency of the need (for the proposal) the scope for alternatives which could sensibly satisfy the need; and the extent to which the feasibility of such alternatives has been demonstrated. The Council maintains that those exceptional circumstances do not arise here and therefore there is no obligation to consider alternative sites.
22. Notwithstanding this position, the applicant has submitted with this application within the additional Sustainability Report an assessment of alternative LB Southwark sites (including the Braganza Street workshops site), and the existing school site, for school expansion and the provision of new housing.
23. The options put forward would not allow for the siting of facilities to meet the school's needs on the neighbouring LB Southwark owned site at Braganza Street because this site is not available in 2015 for the delivery of school facilities in September 2016. Additional issues which would potentially hinder the use of this site for the school extension would be a greater density of residential development on Sharsted Street (as the Council has to satisfy both rising demand for school places and housing across these two sites) resulting in increased cars/traffic in Sharsted Street, the potential overlooking of nursery play space and potential taller development in Sharsted Street.
24. Furthermore, in addition to these factors, there is no application or even indicative scheme demonstrating how the school extension could be accommodated at the Braganza Street site.
25. All of the above factors demonstrate that the Braganza Street site is not a viable and feasible alternative. Moreover the development of this site by the school is not supported by the school or the Council.
26. To conclude, there is no obligation to consider alternative sites in the circumstances of this case. As is set out elsewhere in this report, there is no undue harm arising from the proposed school extension at Sharsted Street as proposed. Nevertheless, even when the Braganza Street site is considered it is clearly not a viable feasible alternative for a number of reasons as set out above and in more detail in the Council's submissions to the court at Appendix 4. The Braganza Street site will not be available in time to provide for the urgent school places that are required for the Council to meet its statutory duties under the Education Act. Also the site is most likely to be required for new housing in due course given the intense housing demands in the borough. Such housing development would need to be built at Sharsted Street in the event that the uses were reversed potentially resulting in a number of planning impacts given the likelihood of higher density housing than has traditionally existed in Sharsted Street.

### **Sustainability assessment**

27. The claim for judicial review was also made on the basis that no Sustainability Assessment was submitted as required under saved policy 3.3 of the Southwark Plan.

28. Saved Policy 3.3 and the subsequent Strategic Policy 1 'Sustainable Development' in the Core Strategy 2011 require with major applications the assessment and consideration of the economic, environmental and social impacts of proposals requiring a proportionate approach to the level of information provided.
29. The Council maintain that such an approach was followed with the previous application, where the assessment of sustainability, in terms of economic, environmental and social impacts was provided through a range of documents submitted as part of the planning application. It is considered that such an approach is consistent with relevant development plan policy and the NPPF.
30. Nevertheless, for ease of reference, a Sustainability Addendum Report has additionally been provided with this current application which pulls together in one document the relevant sustainability information. However sustainability should continue to be assessed not just against the information provided within this addendum but with regard to the application submission as a whole. Further information is provided on the factors highlighted in the sustainability addendum in the 'Sustainable Development Implications' section below.
31. It is important to note that the Council does not accept the Claimant's premises that saved policy 3.3 necessarily requires assessment of alternative options beyond the application site. Rather what is required by this policy, as the accompanying guidance makes clear, is that there is a sustainability assessment so that it can be assessed whether a particular application maximises in so far as it can in accordance with policy the economic, environmental and social positive outcomes.

### **Brownfield land**

32. In respect of the issue of whether the site is 'brownfield land' the claimant cites the definition of previously developed land in the glossary of the NPPF. This states that 'brownfield land' "excludes land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time." They argue that as the remains of the houses that formerly existed on the site have disappeared that the area of self sown trees has blended back into the landscape. The Council do not accept this position, as set out in the submission to the court, for three reasons:
  - 1) The application should be considered with reference to the site as a whole as exists within the red line, as all of this is used by the primary school. When the site as a whole is considered it is clearly brownfield land.
  - 2) The claimant asserts that the area of self sown trees is akin to a "recreation ground" which is not accepted. It is considered to be an under used area of land managed by the school for educational purposes. It is not used for play space or recreation.
  - 3) As regards the site blending back into the landscape. It is considered here that the surrounding landscape is that of a school with significant areas of hard standing and building coverage in an inner city area. The site is a long established part of the school and in this context has not blended into a park-scape or rural landscape.
33. For all these reasons, having regard to the definition in the NPPF, this site is considered to be brownfield land. It should also be noted that the site is not subject to an open space designation such as Borough Open Land or Other Open Space and

further that the area of self sown trees amounts to approximately 10 per cent only of the total area of the school.

### **Playing field**

34. The woodland does not fall within the definition of a playing field under planning legislation. It comprises numerous self-seeded trees and it is not used for organised recreation. Under the Town and Country Planning (Development Management Procedure) (England) Order 2010 a playing field is an area which consists of a marked-up sports pitch.
35. The claim for judicial review included reference to development of playing field in the context of the School Standards and Framework Act 1998. This is separate from planning legislation and it is not a material consideration to this application. In any event LB Southwark obtained the requisite consent under the SSFA Act for the proposed development.
36. Furthermore, the proposals will not result in a net loss of playing fields, even adopting the different definition in the SSFA Act. Taking into account the proposals as a whole it is considered that there will actually be an improvement in the quality of the play space which is provided in the scheme.

### **Environmental impact assessment**

37. An Environmental Statement would not be required with this application as the development does not fall within Schedule 1 or 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999. The sites fall below the 0.5ha threshold (being 0.24ha) but could be classified as a Schedule 2 'Urban Development Project'. Officers consider that the development is unlikely to have a significant effect upon the environment by virtue of its nature, size, and location based upon a review of the selection criteria set out in Schedule 3 of the Regulations which are used to screen Schedule 2 Development. Furthermore, the site is outside a designated 'sensitive area' as per Regulation 2(1).

### **Impact of proposed development on amenity of adjoining occupiers and surrounding area**

38. Other than by way of alterations to the position and design of windows on the new building the proposal remains largely the same in appearance and layout as the previous (14/AP/4715) application. The alterations to the fenestration are required to serve the first floor classrooms but they would not involve a significant increase in the amount of fenestration or new windows any nearer to the gardens or habitable rooms of any neighbouring dwellings. It is therefore considered that there would not be any significant increase in overlooking or loss of outlook as a result of the design changes and the residential amenity of surrounding occupiers should not be affected. The Sustainability Report which has been submitted with this application has no implications for the amenity of surrounding occupiers. The Sustainability Report addresses the issue of the lack of availability/suitability of the adjoining LB Southwark owned sites and it advises on the brownfield status of the land and the sustainability credentials of the new development. The additional information on the sustainability of the development would not give rise to any additional impacts on the amenity of surrounding occupiers when compared with the previously approved (14/AP/4715) scheme.
39. For ease of reference the assessment of the 'Impact of proposed development on amenity of adjoining occupiers and surrounding area' for the previous (14/AP/4715) application proposal is set out below:

*Whilst the school has a long established use the proposal would increase pupil and teacher numbers and the intensification of the use together with the provision of additional buildings on the site will have a degree of impact on residential amenity.*

*The proposal would impact on the relationship between the school and the residential buildings due to the expansion and removal of existing buffers such as the wildlife garden.*

*A new nursery capable of accommodating 50 children and associated play area would be formed between Gaza Street and Sharsted Street. This would be enclosed by a brick wall and its daytime use during the week, at term times, would not cause significant harm to the amenity of surrounding occupiers. This is because it would be screened from the neighbouring properties and its use would be purely by nursery school children.*

*The proposed access arrangements are dealt with within 'Highway Implications' below. The formation of a secondary access on Sharsted Street, for access to the after-school club and for use by community groups outside school hours, and not as a main entrance, should not result in excessive noise or disturbance of the occupiers of properties within Sharsted Street. A planning condition is recommended to prevent the use of the main gates at the end of Faunce Street during peak drop-off and pick-up times in the interests of deterring parents from driving down Faunce Street and causing noise and disturbance for existing residents. This condition would come into effect once the new buildings are occupied. The school would have two main access points; one from Doddington Grove and the other from Gaza Street. The main access via Faunce Street would be closed off during school drop-off and collection times as this is seen as the area of concern currently with the road becoming congested during these periods. This access would be available for staff vehicles accessing the school parking spaces but only before 08:15am and for visitors to the school outside of normal drop-off and collection times.*

*A number of objections have been raised around the proposed development of the plot in question. The land itself has no formal designation within the Saved Southwark Plan or the Core Strategy and historical maps demonstrate that it was previously developed. The application site offers limited alternatives. A suggestion that the adjoining enterprise building could be incorporated as part of the development would not be possible as this building is currently in use, it does not belong to the school and the demand for school places is immediate.*

*A gate would be formed to enable access from Sharsted Street onto the playground in the middle of the school and there would be entrance doors to the after-school club area within the new building, also on Sharsted Street. The consultation responses from neighbours object to the use of Sharsted Street for access on grounds of noise and disturbance from comings and goings, including any outside school hours community use. However the planning statement confirms that main access to the school will remain from Gaza Street. It is also proposed to re-open the school gate on Doddington Grove which would ease the pressure on the Gaza Street entrance. The new gate on Sharsted Street would not be used as the main access point for children, staff or visitors. It would serve as a means of escape and access for after school club/community use and a condition is recommended to restrict access to this end.*

*The new building, which would be low level with a pitched roof, would be over 12m from the nearest houses, on the opposite side of Sharsted Street. Being two storeys in height and effectively aligning with the existing three storey terraced buildings on the even side of Sharsted Street, the new building would not result in any harmful loss of outlook or overshadowing to the dwellings on the opposite, odd side of the road.*



*The size of the building and its siting, would be similar to the form of surrounding development within Sharsted Street and the new two storey building, 12m across from the houses on the other side of Sharsted Street would comply with the recommended distance (i.e. 12m) for new development in the Council's Residential Design Standards 2011. The proposed windows to the upper floor classrooms would not result in any significant loss of privacy at any neighbouring residential properties, and to further safeguard this, an element of obscure glazing is proposed.*

*The most affected property would be no. 49 which currently shares a boundary with the wildlife garden. The new building would extend 17m to the rear of this property (2m away from the boundary). Alongside no. 49 it would be single storey in height, the two storey element being 'set back' 5.5m. The buildings would lie to the north of the garden and would not cause overshadowing or loss of sunlight. Whilst there would be an impact on outlook it is considered there is sufficient distance between the buildings to maintain an open aspect from the windows and garden at the rear of this property. The configuration of the kitchen and bin stores for the new hall have been amended so that it would sit between the kitchen and after school club foyer (neat the Sharsted Street frontage) to reduce the potential for noise and disturbance at the immediately neighbouring property, 49 Sharsted Street.*

*Many of the objections received referred to the impact that the proposed development would have on the sunlight and daylight for nearby residential properties. A Sunlight and Daylight Analysis has been undertaken. Analysis of the impacts on the nearest residential properties, namely 49 Sharsted Street, 52 Sharsted Street, 54 - 72 Sharsted Street and 26 Braganza Street has been undertaken.*

*The report notes that the rear windows at 49 Sharsted Street would comply with BRE guidelines in terms of sunlight and daylight. All windows at the nearest facing property (52 Sharsted Street) would also comply with BRE guidelines. The facing windows at 54 - 72 Sharsted Street, which are understood to serve bedrooms, would similarly meet BRE guidelines, retaining at least 25% of the available annual sunlight. The ground floor windows would experience a 0.62 and 0.78 reduction of the 'vertical sky component' but these windows are overshadowed by an overhang which currently reduces the vertical sky component to 18.28%. It is this large overhang and not the proposal which would account for the relatively low 'vertical sky component' to these rooms.*

*All the windows at the rear of 26 Braganza Street, the nearest property to the north, would comply with BRE guidelines. All of the rear garden at 26 Braganza Street has also been found to receive at least 2 hours of direct sunlight on March 21st, thereby exceeding the BRE recommendation that at least 50% of a garden receive at least 2 hours of sunlight on March 21st.*

*In terms of playground noise it should be noted that the main play area for the new building would be located within the centre of the site and as such, it would be screened from neighbouring buildings by the proposed two storey building. The nursery playground at the northern end of the new building would be used on a part-time basis and only be nursery children from whom lower noise levels may be reasonably expected.*

#### **Impact of adjoining and nearby uses on occupiers and users of proposed development**

40. No changes are proposed to the layout and configuration of the new building and associated amenity and access (including parking) areas. There should therefore be no further implications for the users of the proposed development which, under the previous application, were considered to address the needs of a 3FE primary school.

41. For ease of reference the assessment of the 'Impact of adjoining and nearby uses on occupiers and users of proposed development' of the previous (14/AP/4715) application proposal is set out below:

*The Design & Access Statement specifies the accommodation and ancillary play and circulation spaces which are needed to enable the school to become 3FE. The school expansion has been designed to meet the guidance within BB99 (Briefing Framework for Primary School Places) in relation to the requirements for classrooms, halls, learning resource centre, staff & admin areas, external space, toilets, circulation space, storage and nursery provision. With the BB99 criteria at the forefront of the design the proposals would achieve the primary purpose of providing a 3FE school at the site at the same time as fulfilling the following objectives :*

#### *Secure & Visible Entrances*

- *The existing School entrance does not have a strong connection with the street and does not have the capacity to accommodate the proposed increase in pupil numbers. The project aims to remodel the existing entrance, to encourage the use of the entrance to the site from Gaza Street and bring back into use the entrance on Doddington Grove.*

#### *Enhance the Play space*

- *The existing woodland area and landscaped garden do not provide functional play space and create a disjointed arrangement that is difficult to supervise. The proposal looks to link the outdoor spaces across the site, both visually and physically, to create a varied yet coherent environment for children to learn and play.*

#### *Unified School*

- *The project aims to create a coherent and unified School by introducing a new building that responds to the Victorian context, but creates its own contemporary architectural identity*

#### **Transport issues**

42. No changes are proposed to the access and parking arrangements which were proposed in the previous (14/AP/4715) scheme. The Transport Statement and Travel Plan have been re-submitted and are equally applicable to this application. Additionally the conditions which were attached to the layout and configuration of the new building and associated amenity and access (including parking) areas are recommended to be applied here. There should therefore be no further implications for the safety of the highway network or the amenity of surrounding occupiers in relation to vehicular and pedestrian activity. The previously recommended conditions relating to the approval of details of community use, the closure of the school gates in Faunce Street, the restricted use of the new gate and entrance doors in Sharsted Street, the use of the access on Doddington Grove and the submission and approval of a Travel Survey are all recommended to be included if planning permission is granted. At the time of writing further measures to ameliorate any parking impacts are being discussed between the applicants and the neighbours in Sharsted Street and any updates will be provided in the addendum report.
43. For ease of reference the assessment of Transport Issues for the previous (14/AP/4715) application proposal is set out below:

*The school is well located for sustainable and public transport usage. It benefits from a good PTAL (5). Bus, rail and underground modes are within the calculation area.*

*A pupil travel survey has been undertaken which has shown the current model split is:*

*Car 19%  
Cycling 35%  
Public transport 14%  
Walking 64%*

*The provision of further cycle parking and a robust and ambitious School Travel Plan should reduce vehicular trip generation. Cycle parking has been proposed in line with London Plan cycle storage levels (1 space for every 10 students and staff). The school already has a suitable level of cycle and scooter parking so the London Plan standards would only be applied to the proposed development. A total of 59 cycle parking spaces would be available in association with the completed development. This is a suitable level to promote sustainable travel modes to the development. As the site is located within a close proximity to the cycle super highway network, teacher cycle parking demand should be provided in line with demand outlined in the School Travel Plan*

*The development is located within the West Walworth (Mon/Friday 08:00/18:30) CPZ. Presently drivers use Faunce Street for drop off and collection. This is a narrow street and drivers have to reverse to exit causing congestion and potential conflicts. Pedestrian and cycle access to the site from Doddington Grove would be reinstated if planning permission were granted and the use of the Faunce Street entrance would be restricted and not allowed between 8.15 a.m. and 9.00 a.m. and 3.00 p.m. and 3.45 p.m. once the new building comes into use. The Sharsted Street entrance would also be restricted.*

*Officer Comment: Some concern has been raised by the applicant in regard to this restriction of the Faunce Street entrance, as the school may find it desirable to have more flexibility in opening the entrance if it can demonstrate that vehicular traffic would be prohibited from using Faunce Street. It is open to the school in future to seek to amend or remove such a condition of consent at such time by providing factual supporting evidence, should the local authority agree to grant planning permission*

*A Service Management Plan condition is recommended to further mitigate the impact of service and refuse vehicles and protect pedestrian and cyclist from these vehicles. The School Travel Plan has been submitted. Its implementation and monitoring can be secured by way of a planning condition.*

### **Design issues**

44. In terms of urban design the changes which need to be considered in this application relate to the architectural appearance and materiality of the new building. Red brick walls and clay roof tiles are now proposed for the new classroom/hall building which would have a more conservative pattern of windows in its north and west elevations facing neighbouring housing in Sharsted Street and on Gaza Street. The proposed elevations, including red brick walls, a clay tiled roof and anodised aluminium framed windows and panels would lend a distinctive, strong identity to the new building while picking up on the red brick of the main school building and echoing the size, scale and appearance of a secondary classroom building within a typical Inner London Board school.
45. For ease of reference the assessment of Design Issues for the previous (14/AP/4715) application proposal is set out below:

*The proposed development would require the demolition of the existing prefabricated hall which is of no architectural interest and makes no positive contribution to the urban environment.*

*The proposed building is a contemporary brick faced building with large windows and an active presence on Sharsted Street. The architect has introduced features on the Sharsted Street elevation in the interests of the appearance of the street scene. These include horizontal bands of soldier course brickwork and an anodised screen level with the parapet walls of the neighbouring terraced houses. A condition requiring details of the brickwork and masonry including junctions of roof and walls, reveals, cills and lintels is recommended*

*The elevations and sections show no boundary wall or fence. Details of appropriate boundary fences/walls are therefore required as a planning condition in the interests of the appearance and security of the development*

*The design is considered to be acceptable in its height, scale and massing and the internal layout is successful, avoiding excessive circulation spaces. The other works, including the laying out of play space, the new canopy/circulation space, demolition of a toilet block and 'marking up' of staff car parking spaces are contained within the site and would not affect the appearance of the site within any street scene.*

### **Impact on trees**

46. No changes are proposed to the siting and layout which was approved under the previous (14/AP/4715) scheme. There should therefore be no additional impact upon trees.
47. For ease of reference the assessment of the Impact on Trees for the previous (14/AP/4715) application proposal is set out below:

*The proposed development would result in the loss of the majority of trees on site, including a wooded nature area which consists of large and prominently located native species.*

*The arboricultural impacts assessment confirms that of the 29 individual trees and two groups, 20 individual trees and both groups would be removed. These consist of six category B trees. The remaining 14 individual and 2 groups to be removed are of category C. No trees in the highest category (a) would be removed.*

*The removal of the trees on Sharsted Street would inevitably have an impact on amenity and the street scene given their large size and prominent location. Mitigation is proposed in the form of a forest garden.*

*Mitigation of tree loss is aided by the proposed hard and soft landscaping which is of design merit and would retain the best quality trees, such as the Cedar (identified as Pine) used as a focal point within the central play space. This would have a desert island theme and feature boulders, mounds and equipment within rubber crumb surfaces, bordered by bio diverse boundary planting with raised planters. Macadam would be used elsewhere together with natural surfaces including sand, bark and grassed areas. Reuse of timber is proposed where appropriate as play and seating within the site.*

*Semi-mature trees are specified with a mix of native and ornamental species, green walls and other natural habitat features enhanced by flowering shrubs and perennial planting beds.*

*It is noted that the new building would result in a large amount of tree removal. However given the benefit of the new building and increased capacity for the school along with the use of a planning condition to secure additional tree planting (suitable space exists, for example, within the playground facing Sharsted Street and Faunce Street between 33 & 27 Sharsted Street) it is not considered, on balance, that the loss of the trees proposed is acceptable.*

*Changes are required to the proposed planting schedule with confirmation of other specifications to be provided via condition.*

### **Ecology**

48. No changes are proposed to the siting and layout which was approved under the previous (14/AP/4715) scheme. There should therefore be no additional impact upon ecology.
49. For ease of reference the assessment of the Impact on Ecology for the previous (14/AP/4715) application proposal is set out below:

*The Council's Ecology Officer has indicated that the bat assessment indicates that the site is unlikely to support roosting bats. An objection has been received that the survey did not follow the relevant guidelines for great crested newts. The council's Ecology Officer has reviewed this objection and advised that there is little chance of great crested newts using the pond as there have not been any recorded sightings of this species in the borough.*

*The Ecological Appraisal makes a series of recommendations. These relate to the presence of Japanese Knotweed (an invasive weed) on the site, the habitat value of the wooded area, scrub, trees and pond and the desirability of the providing replacement trees/habitats within the site or elsewhere in the surrounding area. The Council's Ecology Officer agrees with the findings of the Ecological Appraisal and a condition to secure measures to eradicate the Japanese Knotweed is recommended. A condition relating to the provision of replacement trees/landscaping is also attached. Consultation will be undertaken with the Ecology Officer on the ecological merits of the tree planting/landscaping details.*

### **Sustainable development implications**

50. The previous application (14/AP/4715) was assessed in accordance with the Council's, London Plan and NPPF policies in relation to sustainable development. Specialist reports were submitted in respect of energy use/carbon emissions and BREEAM. These have been submitted with the current application and they demonstrate that there will be an overall 35 per cent reduction in carbon emissions relative to the Building Regulations (2013 edition) and that a Very Good BREEAM rating will be achieved in accordance with policy SP13 of the LB Southwark Core Strategy.
51. As mentioned above, the current application additionally includes a Sustainability Addendum Report which highlights the individual areas in which the development will promote sustainability. Items included within the proposal to accord with Southwark's policies for sustainable development include:
  - Secure by Design principles
  - Consultation with the local community
  - Disabled persons parking
  - Site within an accessible location

- Reduced (minimum) car parking provision
  - Provision of cycle parking facilities
  - Provision of health, social and community facilities for local people
  - BRE standards for sunlight and daylight met
  - 55 per cent of health and welfare credits achieved in BREEAM Assessment
  - Minimum standards in Sustainable Design & Construction met
  - Considerate Contractors Scheme proposed
  - Design & Access Statement submitted
  - No harm to historic environment
  - Increase in number of jobs at the site
  - No loss of business floor space
  - Good public transport accessibility
  - No harm to amenity of neighbouring occupiers
  - Proposal on brownfield land
  - No loss of public open space
  - Biodiversity standards would be achieved
  - Remediation of contaminated land
  - External lighting controlled to standards
  - Energy efficiency standards met
  - Energy supply standards met
  - Renewable energy standards met
  - CO2 reduction targets met
  - Minimum water use standards met
  - Minimum water quality standards met
  - Minimum construction waste standards met
  - Operational waste standards met
  - Minimum Air Quality standards met
  - Minimum flood risk design standards met
  - Minimum drainage and run-off standards met
  - Minimum materials standards met
52. This information is considered to demonstrate that the proposal does constitute sustainable development having regard to relevant development plan policies and the NPPF in respect of its economic, environmental and social impacts.

### **Other Matters**

53. There are no changes to the 'Other Matters' which arise from the previous (14/AP/4715) proposal. For ease of reference the assessment of the 'Other Matters' for the previous (14/AP/4715) application proposal is set out below:

#### Air Quality:

*The application is accompanied by an Air Quality Assessment. This finds that the annual mean pollution concentration limit of 40µg/m<sup>3</sup> for NO<sup>2</sup> would not be exceeded for any of the rooms with windows within the proposed development.*

#### Noise:

*The Noise Assessment which accompanies the application includes a survey of ambient noise levels. This has identified that a number of the rooms would need to be mechanically ventilated in order to meet internal acoustic criteria in the Building Regulations.*

#### Soil Contamination:

*A planning condition is also included along with the recommendations of the Council's Environmental Protection Team, in relation to the submission and approval of*

*remediation measures if contamination should be unearthed during the course of the development.*

**Flood Risk:**

*The site is in Flood Zone 3, but within an area benefiting from flood defences. Since the site benefits from protection from flood defences and is not within an area predicted to be at risk from a breach of those defences, the risk of tidal/fluviial flooding is low. The risk of flooding from pluvial, groundwater, sewer and reservoir sources is also low.*

*The Environment Agency (EA) has raised no objections. It is advised that flood resistant and resilient measures are incorporated in to the design and construction of the proposed development.*

*The EA recommend that a flood response plan (or flood warning and evacuation plan) is prepared and submitted to the Local Planning Authority for approval. An informative to this effect has been included in the draft decision notice.*

*Advice is given regarding the need to reduce surface water run-off rates to greenfield rates and manage surface water run-off as close to its source as possible, in line with a given drainage hierarchy, and to utilise Sustainable Drainage Systems (SuDS) wherever practical. A requirement for the use of Sustainable Urban Drainage is made within the proposed development at the detailed design stage. This requirement is echoed by the Council's Flood Drainage Team who note that 'with regard to drainage, we believe that further information on the surface water strategy is required.*

*Overall, there are no major issues with the FRA. It is recommended that a condition be attached to ensure that the surface water runoff from the site should be limited to 5 l/s through the use of Sustainable Drainage Systems (SuDS).*

**Conclusion on Planning Issues**

54. The application is submitted pursuant to application 14/AP/4715 which was for a similar proposal for the erection of a new two storey classroom/hall building, re-configuration of the main school building, and associated landscaping and access works and laying out of staff parking spaces in association with the expansion of the school from 1.5FE to 3FE. Application 14/AP/4715 was approved by the Planning Sub-Committee B on 28 April 2015 but the decision is the subject of an application for judicial review on grounds of a lack of relevant information/assessment, particularly relating to the alleged availability of alternative adjoining sites, the lack of a Sustainability Report and conflict with the presumption in favour of development of existing brownfield land.
55. The Council has issued substantive grounds for resisting the judicial review. The consideration of alternative sites is not obligatory in the circumstances of this application. Nevertheless, given this claim, and without prejudice to the Council's position in defending any potential JR proceedings, consideration has been given to the Braganza Street site which the claimant has cited as an alternative site. This has concluded that the Braganza Street site is not a feasible or viable alternative for the Keyworth School expansion. It would not be available to meet the school's current needs, it is earmarked for residential development to meet the Council's housing demand and its use for Keyworth Primary School would potentially present planning issues elsewhere as a result of residential development being required on the existing school site at Sharsted Street. The proposal is considered to utilise brownfield land and does not constitute the loss of a playing field having regard to the planning definition. The sustainability addendum report has been carefully considered and demonstrates that the development will be sustainable in terms of its economic,

environmental and social impacts, as required by development plan policies and the NPPF.

56. Notwithstanding that the previous application (14/AP/4715) was considered to have addressed all relevant planning policies and other material considerations (and the Judicial review application against planning permission 14/AP/4715 will continue to be contested by the Council) the current proposal, which includes minor changes to the architectural appearance and materiality of the new building, would not raise any new planning issues for the amenity of surrounding occupiers, the safety or free-flow of adjacent roads or any conflict with London Plan or LB Southwark policies and objectives for sustainable development. The proposal is once again recommended therefore as a sustainable means to provide urgently needed new school facilities given pressing current and future demand.

### **Community impact statement**

57. In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

The impact on local people is set out above.

### **Consultations**

58. Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

### **Consultation replies**

59. Details of consultation responses received are set out in Appendix 2.

### **Summary of consultation responses**

60. 26 letters of objection received from occupiers of neighbouring properties. Objections raised relate to:
- Highway issues arising from (increased) use of Faunce Street and Sharsted Street; obstruction and congestion
  - Loss of nature garden (and associated loss of environmental and ecological resources)
  - Loss of residential amenity including noise and intrusion due to pedestrian and vehicular activity
  - Noise and disturbance from plant/kitchen; undesirable odours
  - Excessive noise and disturbance due to increased school numbers
  - Overshadowing
  - Loss of privacy
  - Loss of security
  - Loss of sunlight
  - Inappropriate appearance of development
  - Change to building line and harm to street scene
  - Overdevelopment/cramming
  - Over-expansion of school and impact on well-being of students
  - Availability of places at other schools
  - Inadequacy of assessment of availability of alternative sites
  - Inaccurate information within application documents



- Lack of need for new community hall
- Inadequate Great Crested Newt survey
- Potential loss of bat habitat
- Noise, disturbance and nuisance during construction
- Proposed planning conditions not included

### Secure by design officer

61. A condition is required to achieve Secured by Design accreditation as primary school especially must be safe and secure places for the students and it is not just the physical security but also the perimeter, access control and CCTV with primary schools that can be so important. A condition is included in the recommendation.

### Human rights implications

62. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
63. This application has the legitimate aim of providing a 3FE primary school. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/1036-A Application file: 15/AP/2963 Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 5428 Council website: <a href="http://www.southwark.gov.uk">www.southwark.gov.uk</a>

## APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Judicial review challenge
Appendix 4	LB Southwark response to JR challenge
Appendix 5	Recommendation

## AUDIT TRAIL

<b>Lead Officer</b>	Simon Bevan, Director of Planning
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<b>Report Author</b>	Adam Greenhalgh, Planning Officer	
<b>Version</b>	Final	
<b>Dated</b>	14 September 2015	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>
Strategic director, finance & corporate services	No	No
Strategic director, environment and leisure	No	No
Strategic director, housing and community services	No	No
Director of regeneration	No	No
<b>Date final report sent to Constitutional Team</b>		14 September 2015

**APPENDIX 1****Consultation undertaken****Site notice date:** 05/08/2015**Press notice date:** 06/08/2015**Case officer site visit date:** 05/08/2015**Neighbour consultation letters sent:** 31/07/2015**Internal services consulted:**

Ecology Officer  
 Environmental Protection Team Formal Consultation [Noise / Air Quality / Land Contamination / Ventilation]  
 Flood and Drainage Team  
 Highway Development Management

**Statutory and non-statutory organisations consulted:**

Environment Agency  
 Metropolitan Police Service (Designing out Crime)

**Neighbour and local groups consulted:**

10 Sharsted Street SE17 3TN	26b Sharsted Street London SE17 3TN
3 Sharsted Street SE17 3TP	26c Sharsted Street London SE17 3TN
By Eform X	13 Faunce Street London SE17 3TR
22 Sharted Street SE17 3TN	Building 3 Room 3 42 Braganza Street SE17 3RJ
50 Sharsted Street London SE17 3TN	Building 3 Rooms 15 And 16 42 Braganza Street SE17 3RJ
7 Sharsted Street London SE17 3TP	Building 3 Unit 1 42 Braganza Street SE17 3RJ
35 Sharsted Street London SE17 3TP	Building 3 Unit 4 42 Braganza Street SE17 3RJ
54 Sharsted Street London SE17 3TN	Building 3 Room 13 42 Braganza Street SE17 3RJ
Email	Building 1 Rooms 1 To 2 And 4 To 12 42 Braganza Street SE17 3RJ
Email	16 Braganza Street London SE17 3RJ
Eform	18 Braganza Street London SE17 3RJ
Eform	Building 3 Unit 2 42 Braganza Street SE17 3RJ
Eform	Ground Floor Flat 2 2 Faunce Street SE17 3TR
1 Harmsworth Street London SE17 3TJ	Second Floor Flat 5 2 Faunce Street SE17 3TR
Flat 4 5 Lavender Garden SW11 1DH	Second Floor Flat 6 2 Faunce Street SE17 3TR
35 Faunce Street London SE17 3TR	First Floor Flat 3 2 Faunce Street SE17 3TR
37 Faunce Street London SE17 3TR	First Floor Flat 4 2 Faunce Street SE17 3TR
39 Faunce Street London SE17 3TR	Ground Floor Flat 1 2 Faunce Street SE17 3TR
3 Faunce Street London SE17 3TR	Building 3 Units 9 To 12 42 Braganza Street SE17 3RJ
31 Faunce Street London SE17 3TR	Building 3 Unit 14 42 Braganza Street SE17 3RJ
	Building 3 Units 3 And 5 42 Braganza Street SE17 3RJ

33 Faunce Street London SE17 3TR  
 41 Faunce Street London SE17 3TR  
 9 Faunce Street London SE17 3TR  
 10 Doddington Grove London SE17 3TT  
 12 Doddington Grove London SE17 3TT  
 5 Faunce Street London SE17 3TR  
 6 Faunce Street London SE17 3TR  
 8 Faunce Street London SE17 3TR  
 29 Faunce Street London SE17 3TR  
 17 Faunce Street London SE17 3TR  
 18 Faunce Street London SE17 3TR  
 19 Faunce Street London SE17 3TR  
 14 Faunce Street London SE17 3TR  
 By Email  
 15 Faunce Street London SE17 3TR  
 16 Faunce Street London SE17 3TR  
 20 Faunce Street London SE17 3TR  
 24 Faunce Street London SE17 3TR  
 25 Faunce Street London SE17 3TR  
 27 Faunce Street London SE17 3TR  
 21 Faunce Street London SE17 3TR  
 22 Faunce Street London SE17 3TR  
 23 Faunce Street London SE17 3TR  
 14 Doddington Grove London SE17 3TT  
 60 Sharsted Street London SE17 3TN  
 62 Sharsted Street London SE17 3TN  
 64 Sharsted Street London SE17 3TN  
 54 Sharsted Street London SE17 3TN  
 56 Sharsted Street London SE17 3TN  
 58 Sharsted Street London SE17 3TN  
 66 Sharsted Street London SE17 3TN  
 7 Faunce Street London SE17 3TR  
 Keyworth Primary School Faunce Street SE17 3TR  
 1 Gaza Street London SE17 3RJ  
 68 Sharsted Street London SE17 3TN  
 70 Sharsted Street London SE17 3TN  
 72 Sharsted Street London SE17 3TN  
 School House Faunce Street SE17 3TR  
 24c Sharsted Street London SE17 3TN  
 24d Sharsted Street London SE17 3TN  
 24e Sharsted Street London SE17 3TN  
 16 Doddington Grove London SE17 3TT  
  
 24a Sharsted Street London SE17 3TN  
 24b Sharsted Street London SE17 3TN  
 24f Sharsted Street London SE17 3TN  
 26d Sharsted Street London SE17 3TN  
 26e Sharsted Street London SE17 3TN  
 26f Sharsted Street London SE17 3TN  
 26a Sharsted Street London SE17 3TN  
  
 4 Faunce Street London SE17 3TR  
 Building 3 Units 6 42 Braganza Street SE17 3RJ  
 Building 3 Unit 8 42 Braganza Street SE17 3RJ  
 20 Braganza Street London SE17 3RJ  
 39 Sharsted Street London SE17 3TP  
 41 Sharsted Street London SE17 3TP  
 43 Sharsted Street London SE17 3TP  
 33 Sharsted Street London SE17 3TP  
 35 Sharsted Street London SE17 3TP  
 37 Sharsted Street London SE17 3TP  
 45 Sharsted Street London SE17 3TP  
 10 Faunce Street London SE17 3TR  
 11 Faunce Street London SE17 3TR  
 12 Faunce Street London SE17 3TR  
 47 Sharsted Street London SE17 3TP  
 49 Sharsted Street London SE17 3TP  
 1 Faunce Street London SE17 3TR  
 27 Sharsted Street London SE17 3TP  
 38 Sharsted Street London SE17 3TN  
 40 Sharsted Street London SE17 3TN  
 42 Sharsted Street London SE17 3TN  
 22 Braganza Street London SE17 3RJ  
 24 Braganza Street London SE17 3RJ  
 26 Braganza Street London SE17 3RJ  
 44 Sharsted Street London SE17 3TN  
 52 Sharsted Street London SE17 3TN  
 23 Sharsted Street London SE17 3TP  
 25 Sharsted Street London SE17 3TP  
 46 Sharsted Street London SE17 3TN  
 48 Sharsted Street London SE17 3TN  
 50 Sharsted Street London SE17 3TN  
 47 Sharsted Street SE17 3TP  
 Email 49 Sharsted Street SE17  
  
 32 Glycena Road Battersea SW11 5DR  
 Email  
 Email Faunce Street SE17 3TR  
 By Eform X  
 20 Sharsted Street SE1 3TN  
 35 Sharsted Street SE17 3TP  
 3 Sharsted Street SE17 3TP  
 Kingsley Smith Solicitors ME4 4EE  
 Parks & Open Spaces Environment & Leisure SE1 5LX  
 By Email  
 By Email 35 Sharsted St, SE17 3TP  
 33 Faunce Street, SE17 3TR  
 20 Sharsted Street London SE1  
 83b Caversham Road London NW5 2DP  
 49 Sharsted Street London SE17 3TP  
 By Email  
 3 Sharsted Street London SE17 3TP

**Re-consultation:** n/a

**APPENDIX 2****Consultation responses received****Internal services**

Flood and Drainage Team

**Statutory and non-statutory organisations**

Environment Agency

**Neighbours and local groups**

By Eform X

By Email 35 Sharsted St, SE17 3TP

Email representation

Email representation

Email 49 Sharsted Street SE17

10 Sharsted Street SE17 3TN

16 Faunce Street London SE17 3TR

20 Faunce Street London SE17 3TR

20 Faunce Street London SE17 3TR

20 Sharsted Street London SE1

24 Faunce Street London SE17 3TR

3 Sharsted Street SE17 3TP

3 Sharsted Street London SE17 3TP

31 Faunce Street London SE17 3TR

33 Faunce Street, SE17 3TR

33 Faunce Street, SE17 3TR

39 Sharsted Street London SE17 3TP

43 Sharsted Street London SE17 3TP

45 Sharsted Street London SE17 3TP

46 Sharsted Street London SE17 3TN

47 Sharsted Street SE17 3TP

47 Sharsted Street London SE17 3TP

49 Sharsted Street London SE17 3TP

49 Sharsted Street London SE17 3TP

49 Sharsted Street London SE17 3TP

54 Sharsted Street London SE17 3TN

56 Sharsted Street London SE17 3TN

62 Sharsted Street London SE17 3TN

70 Sharsted Street London SE17 3TN

83b Caversham Road London NW5 2DP

IN THE HIGH COURT OF JUSTICE

Claim No.

QUEEN'S BENCH DIVISION

PLANNING COURT

B E T W E E N

THE QUEEN (on the application of DAVID DOYLE)

Claimant

-and-

SOUTHWARK COUNCIL

Defendant

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STATEMENT OF FACTS AND GROUNDS FOR REVIEW

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1. By this claim for judicial review, the Claimant seeks to challenge the decision of Southwark Council ("the Council") to grant planning permission for the erection of a new two storey school building in the grounds of Keyworth Primary School, Faunce Street, London SE17 3TR ("the School"). The Claimant lives on Sharsted Street immediately adjacent to the site for the proposed new building and will be directly and significantly affected by the proposed development.
2. In summary, the Claimant submits that the Council erred in law in granting planning permission without first having considered whether an alternative location for the development, namely adjoining land in the Council's ownership, would be preferable in planning terms. Further and in the alternative, the Council's decision to grant planning permission and to pursue the development of the new building on an existing school playing field is unlawful pursuant to s 77 School Standards and Framework Act 1998.

Factual background

3. The Claimant recognises a need for new primary school places in Southwark and supports the principle of the expansion of the School. The Council's recognition of the need to expand the school is recorded as follows:
  - a. On 18 March 2014, the Council's Cabinet agreed that the School should be expanded from 1.5 Forms of Entry ("FE", equivalent to 30 children) to 2 FE;
  - b. On 22 July 2014, in light of new pupil place planning data, the Council's Cabinet agreed that the School should be expanded from 1.5 FE to 3 FE.
4. It appears that the proposals for which planning permission has been granted arose to address the expansion to 3 FE.
5. The Council owns a site immediately adjacent to the School, namely the Braganza Street Workshops which form part of the Kennington Enterprise Centre ("the Workshops Site"). The Workshops Site has been identified by the Council for redevelopment. The Workshops Site was previously identified (as far back as 2008) as a potential site for the expansion of the School. In the Council's consultation document on the proposed redevelop of the Workshops Site it stated:
 

"Proposals have been ongoing for this development site since 2008. They initially started with a comprehensive redevelopment approach incorporating the existing Primary School, which remains at the heart of the community, and the existing Royal British legion Club. The school opted out at an early stage..."
6. It is thus apparent that the need for school expansion could have been accommodated on the Workshops Site but that a decision was made not to pursue this option. A number of different plans have since been developed in respect of the Workshops Site. These include proposals for 28 dwellings in September 2010, and revised proposals in September 2011. On 5 July 2014, the Council held a consultation event with local residents in respect of the redevelopment of the Workshops Site. In January 2015, the Council identified the Workshops Site for a "mixed use" development. The

Council's assertion in its pre-action response (paragraph 16) that the "first scheme to deliver [development] is being worked up" is thus incorrect.

7. The Claimant understands that aside from the fact that the potential for the expansion of the School on the Workshops Site was identified in 2008, the Council has taken steps over several years to ensure the readiness of the Workshops Site for development. The Council has declined to provide specific details of the leases and/or licences under which units in the Workshops Site are occupied, but it has confirmed any leases are all for relatively short periods of time on terms which exclude the provisions of the Landlord and Tenant Act 1954. Accordingly it is understood that there is no impediment to the Council obtaining early possession to facilitate the redevelopment of the Site.
8. On 17 December 2014, the Council's Deputy Mayor wrote to the Claimant stating:

"I have been seeking a redevelopment of the [Workshops Site] (which is also underway) that would enable the school to expand north and east and allow the main entrance to be on the wider, safer Doddington Grove...

...I can't emphasise enough how saddened I am that the plans have developed in a way that ignores the broader potential of the neighbouring [Workshops Site] which is being taken forward separately and out of sync with school needs and local concerns."
9. In response to a request under the Freedom of Information Act 2000, the Council confirmed on 24 April 2015 (amongst other things) that "there would be no planning objections to the change of use in principle to the [Workshops Site]... as an extension to the existing school".
10. On 15 December 2014 the Council applied to itself for planning permission for the works. The application was accompanied by (amongst other things) a Design & Access Statement and a Planning Statement. No "Sustainability Assessment" was submitted. The Design & Access Statement identified the Workshops Site in section 2.4 as a potential constraint on development, stating:



“Potential future housing development could create issues of overlooking to the ‘Posh Garden’, and the potential [*sic*] for disruption if the construction programmes coincide [*sic*].”

11. Thus the application documents expressly recognised that development of the Workshops Site could occur at the same time as the proposed development of the School. Neither the Design & Access Statement nor the Planning Statement referred to any alternatives considered.
12. The plans submitted with the application indicate that the proposals would involve the construction of a new building on existing play areas within the School. In the “4Futures” report of June 2012 (supplied by the Council in its pre-action response of 9 June 2015), outdoor areas of 5,878m<sup>2</sup> were identified, including 773m<sup>2</sup> of “float”. Thus the play area available was identified as 5,105m<sup>2</sup>. In the Hawkins\Brown (the scheme architect) Client Meeting 05 Report (14 July 2014, also provided to the Claimant in the pre-action response), a bar chart confirmed that in the existing school there was 5,105m<sup>2</sup> of play space (excluding habitat) and that under the proposed development this would reduce to 4,093m<sup>2</sup> (including habitat). It is thus apparent from these documents that the proposals would result in the loss of play space.
13. On 25 February 2015, the Council notified the Education Funding Agency (acting on behalf of the Secretary of State for Education) that it proposed to rely on the general consent granted under s 77(5) School Standards and Framework Act 1998 for the change of use of school playing fields. In its submission, it contended that the existing area of playing fields at the site was 4,618m<sup>2</sup> and that under the proposals this would increase to 4,619m<sup>2</sup>. Despite raising the 1998 Act in the Claimant’s solicitors’ letter of 17 April 2015, this information was only provided to the Claimant on 16 June 2015.
14. The Claimant has consistently sought to persuade the Council that it should consider the expansion of the School on the Workshops Site in preference to the proposed development. In the context of the planning application, the Claimant’s solicitors wrote to the Council on 27 January 2015 and 17 April 2015 objecting to the planning application and referring to the Workshops Site as an alternative. Through that correspondence, the Council agreed that the application should be treated as one for

“Major Development” and thus subject to different consultation requirements which were ultimately complied with.

15. The matter was reported to the Council’s Planning Sub-Committee B on 28 April 2015. The Committee Report referred to various matters and stated (at paragraph 21):

“The land itself has no formal designation within the Saved Southwark Plan or the Core Strategy and historical maps demonstrate that it was previously developed. The application site offers limited alternatives. A suggestion that the adjoining enterprise building could be incorporated as part of the development would not be possible as this building is currently in use, it does not belong to the school and the demand for school places is immediate.”

16. An Addendum Report stated:

“It was questioned whether, because the site includes a playing field (in the view of the solicitors), the consideration of alternative sites had been undertaken in accordance with S.77 of the School Standards and Framework Act 1998. This is a requirement under for the council as the Local Educational Authority under a different regulatory regime- it is not a material planning consideration. Nonetheless, the site does not include a playing field. As noted in the ‘Site Location & Description’, the site comprises a range of school buildings and associated access and hard and soft play areas. The play areas consist of:

- Grassed area in centre of site (adjacent to Gaza Street)
- Nature woodland for supervised educational purposes, adjacent to 49 Sharsted Street

None of the above consists of a playing field which is defined in the Town and Country Planning (Development Management Procedure) (England) Order 2010 as a site which encompasses a playing pitch. It remains the case that there would be no loss of a playing field, thus it is not considered that consultation, or the investigation of alternative sites was necessary under planning legislation.”

17. At the Committee Meeting, members were referred to the Claimant’s solicitors’ letter and were advised by the planning officer as follows<sup>1</sup>:

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<sup>1</sup> The Claimant has transcribed the Council’s recording of the meeting. The Council was invited in pre-action correspondence on 20 May 2015 to agree that the transcript is accurate but in its letter of 9 June 2015 the Council stated that it had not had time to do so. The Claimant’s transcript is assumed to be accurate in the absence of any points of dispute having been raised.

“The [solicitors’] letter also queried whether alternative site has, the consideration of an alternative site, has been undertaken as part of this process. This is not a material planning consideration because it is a requirement under Schools and Standards Framework Act 1998, which is separate regulatory regime, as referred to again in the Addendum Report. There’s also been query about whether the, any part of the development contains a playing pitch. It does not. It does not comply, with the, any part of the site does not comply with the description of a playing pitch under the Town and Country Planning Development Management Procedure Order 2010.”

18. The planning officer was then questioned by Councillor Pollak as to why the Workshops Site was ruled out as an alternative site to expand the school on and was advised:

“That’s I’m afraid not a material planning consideration it is my understanding that that particular requirement to consider alternative site is part of separate regulatory regime and is not something that members can place any weight on for this determination.”

19. The Chair of the Committee then stated:

“Can I just kindly remind members that they can only pass judgement and deliberate on the application presented to them this evening okay thank you.”

20. Councillor Dolezal later said:

“...is my understanding right or wrong that the [Workshops Site] that people have been looking into has not been made available because it is designated for other uses by the council and it is anticipated as part of another scheme?”

21. The planning officer replied:

“I am afraid I’m not aware of the Council’s aspirations for [the Workshops Site] but it is not part of the application site and it is therefore for members to deliberate on the application that’s before them.”

22. The Claimant then addressed the Committee and submitted:

- a. That pursuant to Saved Policy 3.3 of the Southwark Plan, because the proposal is for “Major Development” it was necessary to provide a Sustainability

Assessment which demonstrated that environmental, social and economic factors had been balanced to find the most sustainable option for the development;

- b. That the development would be on a “playing field” for the purposes of the School Standards and Framework Act;
- c. That the alternative site was brownfield land which the National Planning Policy Framework (“NPPF”), London Plan and the Saved Policies of the Southwark Plan prioritised for development;
- d. That the Workshops Site and the School site were both owned by the Council and hence that it was misleading to state that the Workshops Site did not belong to the School as no land belongs to the School and it is all Council owned land;
- e. That the Workshops Site provided an option which would significantly reduce the blight on neighbouring residents;
- f. That the Workshops Site had been identified as being developed in 2016;
- g. That the Council as applicant to itself for planning permission had a high duty of transparency and probity and that the development envelope had been artificially limited to ensure the best financial outcome on the Workshops Site.

23. The Council’s Manager of Major Applications replied to these points (emphasis added):

“The point about alternative sites being considered is that this is a requirement under the education legislation that’s been referred to it is not a planning requirement. Part of the education legislation requirements is also to consider whether playing fields are being affected and that’s not the case here nevertheless when the applicants comes the table they may have a view be able to give more information on the alternative site assessment that I understand has been undertaken but the important point here members is that it is not a planning requirement under the planning legislation to consider alternative sites with this application playing fields as set out by the planning legislation, as defined by planning legislation are not affected here at this site, this is

not the development site in question this evening does not constitute a playing field looking at the definition set down by planning legislation therefore there are no additional consultation requirements required and there is not a requirement under the planning legislation to consider alternative sites. As is the case with all planning applications they have to be considered on the merits based on what is within the redline and that is what officers have done so the application has been properly considered on its merits and having proper regard to the impact on the neighbouring area and I would also come to the point about considering whether development is sustainable and that requires careful consideration of economic environmental and social impacts and that has been carefully considered as part of the assessment as it is required under the NPPF as well so all those 3 strands economic environment and social have all been carefully considered as part of the assessment and as part of the report that is in front of you this evening. The other ones I've just been reminded was about major development and as again was confirmed by the presenting officer this application because it proposes more than 1000 sqm of floor space, new floor space, is a major elements in planning terms it has been considered by officers and it has been publicized as such so just to be absolutely clear for the record it is a major development and it has been considered as such.

\*\*\*  
Brownfield land is land which has been previously developed the the site in question has been previously developed it is understood the site that whilst for 60 to 70 years since the war may have been largely underdeveloped because of bomb damage prior to that it is understood that the site was developed my understanding is that it was a continuation of Sharsted Street of the residential terraces further to the south so the site has been previously developed..."

24. The Claimant addressed the Committee further and emphasised that he did not object to the expansion of the School but that:

"...the expansion of the school... is only required from September 2016 that is when the actual expansion of the school comes in from one 1.5 forms of entry to 3 forms of entry that will result in another 30 pupils coming on next year you know the need for a large building of this scale which is not on brownfield land has not been proven at all. Expansion is going to be carrying on from this school to 2021 in terms of the intake of pupils there is plenty of time to consider other options that do not negatively impact on residents to the same scale as what they do currently. That is our only objection, we do not object to school numbers increase."

25. Following further consideration, the Committee resolved to grant planning permission. On 7 May 2015 planning permission was granted and the Council published the permission on its website on 13 May 2015.

26. On 20 May 2015, the Claimant's solicitors sent a pre-action letter to the Council and on 9 June 2015 the Council provided a lengthy reply. The Council denies that the grant of planning permission was unlawful.

27. In its pre-action response, the Council argues, amongst other things:

a. That the need for Primary School places is a matter of "very, very substantial weight"; and

b. That there is an "overwhelming need for housing in the Borough" and that the Workshops Site form an important part of the Council's housing strategy.

28. However, neither of these matters were advanced to the Committee as being reasons for not having regard to the alternative solution. Indeed, no reference was made at all to the need for the Workshops Site to be used for housing.

29. In respect of Policy 3.3, the Council argues in its pre-action response that the policy dates from 2007. However, in the Committee Report, the Council stated that "All policies and proposals [in the Southwark Plan] were reviewed and the Council satisfied itself that the policies [*sic*] and proposals in use were in conformity with the NPPF". Thus so far as it is now argued that Policy 3.3 does not conform with the NPPF, the Committee was advised entirely differently.

30. The Council also seeks to argue that the pressing need for school places means that the development is required to be carried out as a matter of urgency. However, it has not been able to confirm to the Claimant the timescales for development. Further, the "4Futures" report provided with its pre-action response confirms the availability of an alternative short term solution, namely the provision of temporary classrooms within the School grounds.

#### Legal framework

31. Where there are clear planning objections to a proposed development alternative proposals (whether for an alternative site, or a different siting within the same site)

may be relevant: see *Trusthouse Forte Hotels Ltd v Secretary of State for the Environment* (1986) 53 P. & C.R. 239, where Simon Brown J. said at 299:

“Where, however there are clear planning objections to development upon a particular site then it may well be relevant and indeed necessary to consider whether there is a more appropriate alternative site elsewhere.”

32. In *R (Langley Park School for Girls) v Bromley LBC* [2010] 1 P&CR 10, the Court of Appeal quashed a grant of planning permission for the redevelopment of a school on the basis that the local planning authority had failed to consider whether an alternative arrangement of the buildings would have a lesser impact on Metropolitan Open Land. It was found that there was a policy imperative to consider whether an alternative arrangement would have a lesser impact on the Metropolitan Open Land. Sullivan LJ found that the principle in *Trusthouse Forte* “must apply with equal, if not greater, force if the suggested means of overcoming the clear planning objection is not that the development should take place on a different site altogether, but that it should be sited differently within the application site itself”. His lordship continued (emphasis added):

“[52] ... The starting point must be the extent of the harm in planning terms (conflict with policy etc) that would be caused by the application. If little or no harm would be caused by granting permission there would be no need to consider whether the harm (or the lack of it) might be avoided. The less the harm the more likely it would be (all other things being equal) that the local planning authority would need to be thoroughly persuaded of the merits of avoiding or reducing it by adopting an alternative scheme. At the other end of the spectrum, if a local planning authority considered that a proposed development would do really serious harm it would be entitled to refuse planning permission if it had not been persuaded by the applicant that there was no possibility, whether by adopting an alternative scheme, or otherwise, of avoiding or reducing that harm.

[53] Where any particular application falls within this spectrum; whether there is a need to consider the possibility of avoiding or reducing the planning harm that would be caused by a particular proposal; and if so, how far evidence in support of that possibility, or the lack of it, should have been worked up in detail by the objectors or the applicant for permission; are all matters of planning judgment for the local planning authority. In the present case the members were not asked to make that judgment. They were effectively told at the onset that they could ignore [the point], and did so simply because the application for planning permission did not include the alternative siting for which the objectors were contending, and the members were considering the merits of that application.”

33. On this basis, the grant of planning permission was quashed.

34. Section 77 School Standards and Framework Act 1998 imposes controls on the disposal or changes in use of school playing fields. So far as is relevant it provides:

**“77.— Control of disposals or changes in use of school playing fields**

(1) Subject to subsections (2A) and (2B), except with the consent of the Secretary of State, a body or trustees to whom this subsection applies shall not dispose of any playing fields—

(a) which are, immediately before the date of the disposal, used by a maintained school for the purposes of the school, or

(b) which are not then so used but have been so used at any time within the period of 10 years ending with that date.

(2) Subsection (1) applies to—

(a) a local authority;

...

(3) Subject to subsection (4A), except with the consent of the Secretary of State, a body or trustees to whom subsection (1) applies shall not take any action... which is intended or likely to result in a change of use of any playing fields—

(a) which are, immediately before the date when the action is taken, used by a maintained school for the purposes of the school, or

(b) which are not then so used but have been so used at any time within the period of 10 years ending with that date,

whereby the playing fields will be used for purposes which do not consist of or include their use as playing fields by such a school for the purposes of the school...

...

(5) For the purposes of this section the Secretary of State's consent may be given in relation to a particular disposal or change of use or generally in relation to disposals or changes of use of a particular description, and in either case may be given subject to conditions.

...

(7) In this section—

...



“playing fields” means land in the open air which is provided for the purposes of physical education or recreation, other than any prescribed description of such land.

...

35. Pursuant to s 77(5), the Secretary of State has given The School Playing Fields General Disposal and Change of Use Consent (No 5) 2014. This gives consent for, amongst other things (emphasis added):

“9. The change of use of playing field land to allow the reconfiguration of school sites, where the following conditions are satisfied:

- a) after the project is completed the school will have at least the same size and quality of playing field land as it had before - there must be no net loss
- b) **there** is no disposal of school playing field land
- c) the local authority and/or school ensures that the requirements of the School Premises Regulations 2012 continue to be met.”

## Grounds

### Ground 1: Failure to consider alternatives

36. The Committee was misdirected by being repeatedly told that it was not open to them to consider alternative solutions, namely the Workshops Site. As the Court of Appeal found in *Langley Park*, this was a clear misdirection. The Committee should have been directed to make a judgment as to what weight to accord to the availability of the alternative solution.

37. The need to consider alternatives in the present case was acute because of, and members were significantly misdirected in respect of, the following matters:

- a. Saved Policy 3.3 of the Southwark Plan states that “Planning permission will not be granted for major development unless the applicant demonstrates that the economic, environmental and social impacts of the proposal have been addressed through a sustainability assessment... Sustainability assessment are required in order to assess the most sustainable option to... Ensure that their environmental, social and economic impacts are assessed and balanced to find the most sustainable option for the development”. In the present case no sustainability assessment was provided at all despite the belated recognition by

the Council that this was an application for major development. Members were not advised as to the failure of the applicant to provide a sustainability assessment, nor of the need for such an assessment to demonstrate that the most sustainable option had been identified. Indeed, members were not referred to Saved Policy 3.3. at all. Thus there was an express policy requirement to consider alternatives, and members were misdirected through not being informed of this and instead being told that they could not consider alternatives. As noted above, the contention in the pre-action reply that Saved Policy 3.3 fell to be watered down in light of the NPPF is entirely at odds with the advice to members that the saved policies of the Southwark Plan conformed with the NPPF;

- b. The National Planning Policy Framework (NPPF) sets as a core planning principle the need to make use of previously developed land. Members were misdirected through being told that the site of the proposed building was previously developed land. The Glossary to the NPPF excludes from that definition “land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time”. The land in question is both land in a built-up area such as a recreation ground, and land what was developed but where the remains of structures have blended into the landscape, in the sense that the area is at least in part laid out as a garden area. At the very least members should have been directed that this was not previously developed land and that accordingly there was a policy presumption against its development and in favour of sites (such as the Workshops Site) which are previously developed land. They then could have assessed what weight to give to the alternative of developing the Workshops Site. Instead they were misdirected that the site was previously developed and told that they were not entitled even to consider the possibility of the Workshops Site being used for school expansion;
- c. The Council was subject to a statutory duty not to take any action intended or likely to result in the change of use a playing field (see further below).

Members were misdirected by being informed that “Part of the education legislation requirements is also to consider whether playing fields are being affected and that’s not the case here”. On the contrary, as the Council now accept, the proposal is for the change of use playing fields as defined in s 77(7) School Standards and Framework Act 1998 (see further below). Thus members were misdirected as to the statutory duties imposed on the Council as applicant and decision-maker through the 1998 Act. Given the statutory duty in this regard, clearly the question of whether there was an alternative solution which would not involve the change of use of a playing field was a matter for the Committee. It was misdirected by being repeatedly told that it could not consider any alternatives;

- d. Members were advised by officers that the Council had undertaken an alternative sites analysis for the purposes of compliance with education legislation. This was wrong and misleading. No such assessment had been carried out.

38. For those reasons, there were distinct and pressing reasons to consider alternative solutions in this case. Through a series of misdirections, members were told that they could not consider the Workshops Site alternative. They should have been advised that they could consider that alternative, and indeed that they could refuse to grant consent if they were satisfied that the availability of the Workshops Site justified such a refusal. Accordingly members were significantly misdirected and the permission should be quashed.

#### Ground 2: Breach of s 77 School Standards and Framework Act 1998

39. By virtue of s 77(3) School Standards and Framework Act 1998, the Council is prohibited from taking “any action” which is intended or likely to result in the change of use of a school playing field without the consent of the Secretary of State for Education. The statute does not provide any indication as to a limitation on which actions are subject to s 77(3).

40. The definition of “playing fields” in s 77(7) is broad and includes the land upon which the new building is proposed to be sited. The Council accepts in its pre-action reply that the proposals do consist of a change of use of playing fields.
41. The Council has taken and continues to take actions which are intended to result in the change of use of a school playing field. Specifically it has:
- a. Sought planning permission for the change of use of a school playing field;
  - b. Granted planning permission for the change of use of a school playing field;
  - c. Confirmed in its pre-action response that it intends to pursue the development authorised by the planning permission which would result in the change of use of a school playing field.
42. The Council purports to rely on the general consent given by the Secretary of State in paragraph 9 of The School Playing Fields General Disposal and Change of Use Consent (No 5) 2014. However, it is a condition of that consent that “after the project is completed the school will have at least the same size and quality of playing field land as it had before - there must be no net loss”. That condition is plainly not met in the present case. The documents disclosed in the Council’s pre-action response demonstrate that there will a loss of playing fields in excess of 1,000m<sup>2</sup>, reflecting the fact that the new building will be constructed on a playing field.
43. Accordingly the Council has acted unlawfully in seeking and granting planning permission, and proposes to continue to act unlawfully in carrying out the development.

### Relief

44. The Claimant seeks an order quashing the grant of planning permission and a declaration that the continued promotion of this development is contrary to s 77 School Standards and Framework Act 1998.
45. The Council argues in its pre-action reply that the decision to grant planning permission would inevitably have been the same given the pressing need for primary

school places. However, (i) the Workshops Site is available to the Council in short timescales and there is no planning impediment to its development and (ii) the immediate need is for a single form of entry in 2016 which can be accommodated through interim measures even if the construction is delayed.

#### Costs

46. In its pre-action response, the Council agreed that this claim is an Aarhus Convention Claim for the purposes of CPR 45 and accordingly the Claimant's liability to the Council is limited to £5,000 and the Council's liability to the Claimant is limited to £35,000.

Richard Turney  
Landmark Chambers

17 June 2015

CLAIM NO: CO/2959/2015

IN THE HIGH COURT OF JUSTICE  
ADMINISTRATIVE COURT

BETWEEN

DAVID PAUL DOYLE

Claimant

- and -

LONDON BOROUGH OF SOUTHWARK

Defendant

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SUMMARY GROUNDS OF RESISTANCE

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**INTRODUCTION AND SUMMARY**

1. This claim is without any merit and further (applying the amendments to s.31 the Supreme Court Act 1981<sup>1</sup>) it is plainly "*highly likely that there is no likelihood of a substantially different outcome for the Claimant*". This application for permission therefore falls to be refused.
2. This is a challenge by a resident to the expansion of Keyworth primary school (the "School"). The Claimant's home backs onto an under-used area of managed "habitat" land within the School's boundary (see plan attached as Appendix 1 indicating the relevant areas). The School proposes to double in size to meet an overwhelming, urgent local need, and to do so by (in part): developing this under-used habitat land and other areas to become classrooms; re-designing its existing playing areas; and creating new playing areas. These primary school places are urgently required for next September (2016), i.e. 12 months' time, for children in the borough who need a primary school place next year. There will be a shortfall without this school expansion, and the Defendant Council (the "Council") will be in breach of statutory duty if this expansion does not take place. For these acute reasons the Council also seeks expedition, see paragraph 50 below.

**Workshops**

3. The Claimant's primary and first ground of challenge is that the Council failed to consider the "alternative" option of expanding into an adjacent, tenanted area (the "Workshops") and leaving the "habitat" land untouched. There are three core points as to why this ground is misconceived:
  - 1) It is trite planning law that alternatives are not usually a material planning consideration. This is for self-evident reasons; either a proposed development is acceptable on a particular piece of land on its own terms, or it is not. The existence of another piece of land for a similar use or operational development is not usually relevant. Planning law is quite clear that alternatives "*may*" only be a material consideration in narrow or exceptional circumstances and whether they are or not in any particular case "*will depend upon the precise circumstance of the case, as*

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<sup>1</sup> by s.84 of the Criminal Justice and Courts Act 2015

assessed by the local planning authority”, see *R (Langley Park School) v Bromley LBC* [2009] EWCA Civ 734 .

- 2) The “alternative site” that the Claimant asserts has not been considered:
- (1) Importantly, is not available and there is no prospect it will be available until some point after April 2018, and if possession was contested possibly some time beyond 2020-2022;
  - (2) Has been expressly considered and was rejected in 2008 (by the school), and in March 2015, after consideration of the alternative urged by the Claimant, by the full Cabinet of the Council; that decision was not challenged;
  - (3) Is not a proposal supported by the school; and
  - (4) In any event, the Council has alternative long-established plans to bring the “alternative” Workshop site forward for a residential or mixed-used scheme to help meet the acute shortage of housing in Southwark, which is a major priority for the Council.

It is in the Council's case that in these circumstances caselaw (and common sense) firmly establishes that it is not an alternative which the Council is required to take into account.

- 3) The Claimant's argument against this accepted legal background is that precise circumstances exist to require assessment of the Claimant's inchoate alternative because:
- (i) Policy 3.3 in the Local Plan, which is a sustainability policy essentially requiring social, economic and environmental impacts to be assessed, also requires a sustainability assessment to expressly assess this particular alternative of the Claimant's. The Council's response is that quite plainly Policy 3.3 does not require this;
  - (ii) Proper consideration of whether or not the habitat site alone was a “brownfield” site would have led the Council to have preferred the development of the Workshops over the loss of the habitat space. The Council's response is that the habitat site is quite plainly a brownfield site, further it is plainly part of a brownfield planning unit, and further that in any event, given all the factors in this case, this would quite plainly make no difference at all;
  - (iii) The proper application of an entirely separate statutory regime under the Education Acts, whose conditions have been fully complied with, requires this alternative to be assessed in the planning system. The Council's case is that it does not.

4. None of these points are sufficient to outweigh the usual position that it is for an applicant to apply for planning permission and for that application to be assessed on its own terms. Neither are they sufficient to require the Council to consider the Workshops site as an alternative. There is also no realistic prospect that this Workshop site could sensibly be considered an alternative for expansion of this primary school in 2016.

**"Playing fields"**

5. The Claimant's second ground of challenge is an alleged breach of s.77 of the Schools Standards and Framework Act 1998. This is misconceived. It relies on selective quotation from the documents. There has been no net loss of "playing field" land, but rather a net gain, and a substantial qualitative improvement. All of the statutory procedures have been complied with. Further any suggestion that the Secretary of State has erred in law in approving this consent is also out of time and the Council is entitled to rely on the consent as confirmed by the Secretary of State.
6. For all these reasons permission should be refused.

**B. CHRONOLOGY AND RELEVANT FACTUAL BACKGROUND**

7. The following chronology is likely to be helpful to the Court:

2008	First proposals for development of the Workshops <sup>2</sup> discussed as part of a wider redevelopment. The Primary School opted out of the scheme (p.286).
2009	Council begins delivery of extra primary school reception places. 1,080 places are created between 2009 and 2013 to meet growing need.
2011	Keyworth Primary School begins to accept "bulge" classes to meet the need in its area.
2012	The Independent Housing Commission chaired by Jan Luba QC reports. This leads to a major community conversation on the future of council housing, the largest engagement exercise ever undertaken by a Council in relation to housing, and included over 80 different key events.
2012	Keyworth Primary School expands permanently by 0.5 of a class to meet the growing need for primary school places. This expansion is managed by use of a portacabin which is granted temporary planning consent and the staff vacate their staffroom for a much smaller room so that the staffroom can be used as classroom. Pressure on other school facilities, such as dining rooms and playground, increases.
June 2012	Consideration given to Keyworth Primary School's site and expansion possibilities where it is recognised that the site is large enough to support a 3 form entry, " <i>a new multistorey building would need to be constructed</i> " and a 3 form entry was not required at that time.
2013	London Plan sets out that London's population will continue to be younger than elsewhere in England and Wales and that by 2031 its school age population will increase by almost 17%.
July 2013	The Council's housing strategy is reported to Cabinet, " <i>Independent Housing Commission- Conclusions and Next Steps Following Community and Stakeholder Engagement</i> ". Cabinet resolve to set the Council an ambitious target to build 11,000 new homes itself by 2043 and a senior officer group crossing all relevant Council Departments is created.
July 2013	Council agrees its Primary Investment Strategy, noting the forecast demands for primary places and associated need to create additional capacity within Southwark's primary estate. This scheme will by 2015 involve a capital commitment of £106.5million to meet a total of 2,631 additional primary school places across the borough by September 2016.

<sup>2</sup> The "Workshops" are variously described in the documents as the "Kennington Workshops" and the "Braganza Workshops" as they are accessed from Braganza Street.



22 Oct 2013	Workshop Site identified in Cabinet report ("Direct Housing Delivery – Phase 2") as a possible future site through joint partnership arrangements in the future.
Jan 2014	Council adopts "Vision for a new housing strategy for Southwark", includes that it "will use every tool at our disposal to increase the supply of all kinds of homes across Southwark".
Jan 2014	Further updates to the Council's Primary Investment Strategy.
March 2014	As primary school needs continue to rise, Keyworth Primary School is one of two schools identified in the north of the Borough "with strong potential for creating new primary places".
June - July 2014	Hawkins/Brown have numerous client meetings as to the expansion of Keyworth Primary School.
July 2014	Leader of the Council states: "London is suffering from a chronic shortage of quality, affordable homes. We in Southwark are committed to using every tool at our disposal to increase the supply of all kinds of homes across the borough, including new council homes... Through our planning policies, we will unlock new sites for house building, both council and commercial".
22 July 2014	The School Places Strategy Update is agreed by Cabinet.
Jan 2015- Feb 2015	Council consults on this particular expansion of Keyworth Primary in accordance with the relevant regulations. Claimant responds to consultation.
10 March 2015	Target under the London Plan raised from 2,005 net new homes a year to <b>2,736</b> net new homes annually. This is a very challenging target.
17 March 2015	<p>Officer's Report to Cabinet notes that "demand for primary school places, particularly in the north of the borough, continues to rise. This report brings forward plans for further additional primary places from 2016 as previously planned in a number of primary places strategies seen by cabinet over the last two years".</p> <p><b>One of the points which arose in the consultation and which was expressly summarised in the Officer's Report was that "The Council has not considered Councillor Neil Coyle's advice to consider using the Kennington Enterprise sit to expand the school, an avenue which would allow a sustainable development to take place" (page 269). This was considered in the Officers' Report which explained that</b></p> <p><b><u>"All suggestions at the time of planning were assessed and considered in the light of available land, project phasing and delivery of the curriculum. The one adopted offered the best combination of all three" (page 270).</u></b></p> <p>Cabinet expressly approves further primary school expansions at 6 specific primary schools, including this school.</p>
28 April 2015	The Planning Officers Report considered a number of issues in relation to this application, including the reasons why the Workshop site were not considered as an alternative: " <b>A suggestion that the adjoining enterprise building could be incorporated as part of the development would not be possible as the building is currently in use, it does not belong to the school and the demand for school places is immediate.</b> "(page 97)
7 May 2015	Grant of planning permission.
20 May 2015	Claimant sends Pre Action Protocol letter.
9 June 2015	Council replies to PAP letter including extensive attachments.
15 June 2015	Claimant requests further documents urgently.
15 June 2015	Council sends requested documents by return.
17 June	Claimant files proceedings in the High Court.

2015		
23 2015	June	High Court seals proceedings.
24 2015	June	Claimant sends notification of claim to the Council, but only the N461 form, under cover of a letter which states that "the <i>bundle follows by post</i> ".
29 2015	June	Council receives bundle in post which does not contain grounds of claim, and urgently seeks these from the Claimant.
29 2015	June	Claimant provides grounds of claim.

8. Three key points emerge from the chronology above:

- (1) There are pressing, indeed overwhelming, needs within the London Borough of Southwark (and London generally) for primary school places. The Mayor's 2020 programme predicts that 4,000 new classes are needed in London by 2020. The NPPF attaches great importance to meeting this need. This growing need for substantially expanded primary school places has been clear to the Council for many years. 1,080 extra primary school places were created in Southwark between 2009 - 2013 (and this school has admitted above its approved admission numbers since 2011 to meet this need) but demand continues to rise, outstripping supply.
- (2) There is an acute need for homes in the London Borough of Southwark (and indeed London generally). The target under the London Plan for Southwark has just been raised yet again to 2,736 net new homes annually. The London Borough of Southwark has carried out an unprecedented consultation exercise and as a result is bringing forward a major innovative housebuilding project of its own which requires major investment to deliver 11, 000 homes. These schemes have been the subject of numerous reports to full Cabinet. It is inconceivable that this "*overwhelming need for housing in the Borough*" would not have been known to all Members of the Committee.
- (3) Plans for the expansion of this school site within its own boundaries, and the reasons why the Workshops were not available, were the subject of consideration by full Cabinet on 17 March 2015 following the statutory consultation. As noted above the issue was raised in the report to Cabinet. In addition a member of the public, Geraldine Vomero, asked Cllr Williams (Cabinet member for Regeneration, Planning and Transport) a specific question at the meeting regarding the use of the Workshops site. Cabinet heard the discussion and resolved to agree the expansion of the School. The minutes of the meeting were published on the Council's website. In so far as the Claimant asserts that it has "*consistently sought to persuade the Council that it should consider the expansion of the School on the Workshops Site in preference to the proposed development*", the proper time to have challenged the Council's decisions as landowner as to how to meet the variety of needs in its area from its resources was in March 2015. There was no challenge to that decision.

*Relevant factual background matters: the Workshops*

9. The Workshops have 19 units, which are multi-tenanted with individual separate leases to individual occupiers of a multi-use space. Some of the leases continue until 2017. The Council has been in negotiations with different tenants for many years and the Council cannot secure vacant possession as of right of the whole site until April 2018 at the earliest (when the current longest lease expires). Further, not all the leases have excluded the Landlord and Tenant Act 1954 ("LTA 1954")<sup>3</sup> and should proceedings become contested there is little possibility that vacant possession would be achieved much before 2020<sup>4</sup>, and indeed significantly longer (many years) if they were strongly contested and particularly if any order refusing a new lease was appealed.
10. Further, and irrespective of LTA 1954 proceedings, the Council would not usually move quickly to litigation to secure re-possession of the properties of valued local businesses and charities, particularly when in any event there is as yet no proposed scheme. Some of those occupying this site have been in occupation for a long time and play an important role in the local community. The Council treats its tenants with respect and where appropriate is keen to preserve employment uses within the borough<sup>5</sup>. As the Council informed the Claimant in its response to his Fol request (to which the Claimant fails to draw the Court's attention in his grounds of claim):

*"The Council have historically given a commitment to the business tenants that they would assist tenants to relocate to alternative locations upon redevelopment. Any redevelopment is some way off and therefore alternative locations have not been identified. Current thinking would see some re provision of the business space on the current site in the event of redevelopment".*

The Council would also be mindful of its public sector equalities duties given the important role local charities play from this site, for example in providing support for disabled people in Southwark. The Council would also wish to retain occupancy levels at this site until a scheme has come forward, in order to maintain an income stream in a time of austerity and to deter squatters. The Council has thus consulted the tenants and others as proposals to redevelop this site continue. There are all important matters in relation to the redevelopment of this site which will require careful balancing of a variety of considerations. These reasons are a significant part of why this site has not yet come forward for redevelopment despite a number of consultations.

11. Lastly, the Workshops have existed for many years and the precise nature of all uses in that time is unknown. There is a strong possibility that at least some of the Workshop land is contaminated.

<sup>3</sup> The Council wrongly informed the Claimant that this was not the case.

<sup>4</sup> Proceedings under the LTA 1954 cannot start until the final year of a tenancy. Once the process of issuing the Notices has taken place and proceedings are lodged, they may take between 9 – 24 months; regional courts are at the lower end, and London cases, usually heard in the very busy Central London County Court, at the higher end. Even if an order is obtained, and the Council would need to show the proposal was deliverable, the tenancy still continues for 3 months and 14 days. Any appeal could take another 20-24 months. The order refusing a new lease does not itself entitle a landlord to possession so possession proceedings would be required if a tenant did not then leave.

<sup>5</sup> From a planning perspective, the principle of a change from employment to any alternative use is assessed under Southwark Plan Saved Policy 1.4. This is an employment site outside the preferred locations expressly preserved within Saved Policy 1.4 and therefore alternative uses can be considered for this site. Any proposal by the Council for the redevelopment of the site would therefore be assessed taking into account all planning policies and relevant material considerations, which could include (if appropriate at that time) that there was a shortage of sites such as this in the borough.

12. The Claimant has been repeatedly informed that there are impediments but has been highly selective in the quotations in the grounds of claim<sup>6</sup>. The Claimant is thus wrong to assert that "*the Workshops Site is available to the Council in short timescales...*". It follows that there is no realistic prospect that the Council will have possession of this site in time for new pupils to use the site in September 2016, or indeed at any time before 2018 at the earliest. This alone is a complete answer to this claim and why permission should also be refused applying s.84 of the Criminal Justice and Courts Act 2015.

*"Interim measures"*

13. The Claimant is also entirely wrong to assert that the "*immediate need is for a single form of entry in 2016 which can be accommodated through interim measures even if the construction is delayed*". The Acting Headteacher has been consulted and is clear that that the only interim measure that would be available is one or two temporary classrooms (i.e. a portacabin) and that such a measure is unworkable and unacceptable, and she could not support it educationally for the clear, cogent and persuasive reasons she gives in her statement. Further, she also makes clear that onward delay of many years whilst waiting for the Workshop site would be absolutely unacceptable, causing massive detriment.

*The Habitat space*

14. The Claimant's grounds are indirectly in part based on an assumption that the habitat space is of some considerable value and that it would be worth avoiding its loss by expanding into the Workshop area, whereas in fact it is an under-used, undervalued part of the school site, and the School welcomes the opportunity presented by this scheme to improve its outdoor space. See in particular the Acting Headteacher's statement, which reflects the earlier comments in the Design and Access Statement, the Planning Officer's Report, and the Acting Headteacher's explanation to the Planning Committee.<sup>7</sup>

<sup>6</sup> The Claimant does not quote either the response to his FoI request which sets out some of the complexities of the multi-tenanted nature of the site and stated clearly that "vacant possession of the site could not be achieved in the time frame required, due to lease obligations and the time needed to relocate current occupiers" or the Council's clear email of 16 June in response to the Claimant's direct request for further information about the leases that "the Council cannot see that there is any possibility of the site being available... in September 2016". In commercial lease terms, where the average lease is around 10 years, the possibility of vacant possession by 2018 is indeed a short period. Nevertheless this does not enable delivery of an expanded primary school by September 2016.

<sup>7</sup> And also as was set out in (1) the Design and Access Report, 2014 that they are "*not an efficient use of the site, and create a disjointed playspace that is difficult to supervise*"; and the Planning Officers' report that the "*existing woodland area and landscaped garden do not provide functional play space and create a disjointed arrangement that is difficult to supervise. The proposal looks to link the outdoor spaces across the site, both visually and physically, to create a varied yet coherent environment for children to learn and play*" (p.99) and as the Acting Headteacher herself explained to the Planning Committee that "*its very difficult for the school to manage they have to take grounds of children to that space because its about safeguarding and not being able to stand back*" (p.157).

### C. ADDITIONAL RELEVANT LEGISLATIVE FRAMEWORK UNDER THE EDUCATION ACTS AND PLANNING POLICY FRAMEWORK

#### *Legislative framework*

15. The Council is under a statutory duty to deliver education places under s.14 of the Education Act 1996. The Education Act 2011 removed the power for local authorities to establish new community schools to address the issue of increased demand for primary places. The only way the Council can meet their statutory duty is to expand existing provision or look to free schools or academies to meet demand.
16. Furthermore when proposing school alteration proposals, the regulations (currently the School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2012) require the Secretary of State's statutory guidance to be given specific consideration<sup>8</sup>. These provide time-frames for publication of the required statutory notices when a prescribed alteration is proposed and for a decision to be made within a short period following consultation. One of the factors in that guidance is that decision-makers "*should be satisfied that any land... required to implement the proposal will be available...A proposal cannot be approved conditionally upon funding being made available*". The report to Cabinet noted in specific response to this requirement that:

"The enlargements will all take place on existing school sites. Funding is considered in the financial paragraphs below, but it should be noted that appropriate land, premises, and the capital required to implement the proposal have been identified, are available, and that all relevant local parties (eg trustees) have already given their agreement" (p.268).

#### *Planning policy framework*

17. The need for primary school places is of very substantial weight. The NPPF attaches "*great importance*" to the need for a choice of school places and provides that local authorities should give "*great weight to the need to create, expand or alter schools*" and Southwark's Core Strategy 4 and the Southwark Plan Saved Policy 2.3 (Enhancement of educational establishments) and Policy 2.4 (Educational deficiency – provision of new educational establishments) encourage new and enhanced educational facilities.
18. It is difficult to conceive of planning considerations which will outweigh this substantial need; they would in principle need to be of very great weight. The only application for increased places (in this case a free school) that this Council as local planning authority has refused was subsequently called-in by the Mayor. The Council had resolved to refuse the Southwark Free School application on seven grounds – the Keyworth School scheme was not recommended for refusal on any ground, indeed there was no substantial harm identified and what harm was identified is adequately mitigated. The Southwark Free School scheme had been the subject of major substantial concerns raised by the Southwark Design Review Panel and many detailed objections were received. In granting planning permission, the Mayor placed substantial weight on the "*established significant*

<sup>8</sup> *School Organisation – Maintained Schools; Guidance for proposers and decision-makers and Annex B, Guidance for decision makers, January 2014*

need for primary schools in the borough and in this area in particular” and “the clear demand for other educational facilities.”

#### **D. THE CLAIMANT’S GROUNDS OF CHALLENGE**

19. Against this stark background, the Claimant brings two grounds of challenge:

- (1) Failure to consider Alternatives;
- (2) Breach of section 77 of the School Standards and Framework Act 1998.

#### **Ground 1: Failure to consider alternatives**

20. The Claimant asserts that the Committee was “*misdirected*” by being repeatedly told that it was “*not open to them to consider alternative solutions*” because, the Claimant asserts, “*the Committee should have been directed to make a judgment as to what weight to accord to the availability of the alternative solution*”. The Claimant asserts that “*this was a clear misdirection*”.

21. As a starting point, this is wrong. There is no clear misdirection. The starting position in planning law is that there is no need to consider alternatives. The case-law is clear that, as a matter of principle, there is always a very real consideration as to whether or not there is a need to consider alternatives before any question of weight begins, see *R. (Mount Cook Land Ltd) v Westminster City Council* [2004] 2 P. & C. R. 405.

22. *Mount Cook* was a case where an objector to a grant of planning permission had design options setting out alternative proposals, but had not himself made any planning application. The local authority considered that those proposals were too vague for consideration but summarised the proposals in the officer’s report to committee, advising that they were irrelevant to the consideration of the applicant’s scheme. This decision was upheld by the Court of Appeal (per Auld LJ) which adopted the following provisions of law:

- 1) *in the context of planning control, a person may do what he wants with his land provided his use of it is acceptable in planning terms;*
- 2) *there may be a number of alternative uses from which he could choose, each of which would be acceptable in planning terms;*
- 3) *whether any proposed use is acceptable in planning terms depends on whether it would cause planning harm judged according to relevant planning policies where there are any;*
- 4) *in the absence of conflict with planning policy and/or other planning harm, the relative advantages of alternative uses on the application site or of the same use on alternative sites are normally irrelevant in planning terms;*
- 5) *where, as Mr. Corner submitted is the case here, an application proposal does not conflict with policy, otherwise involves no planning harm and, as it happens, includes some enhancement, any alternative proposals would normally be irrelevant;*
- 6) *even, in exceptional circumstances where alternative proposals might be relevant, inchoate or vague schemes and/or those that are unlikely or have no real possibility of coming about would not be relevant or, if they were, should be given little or no weight.*

23. Auld LJ further held that

*“...Even in an exceptional case, for such alternative proposals to be a candidate for consideration as a “material consideration”, there had to be at least a likelihood or real possibility of them eventuating in the foreseeable future if the application were to be refused. When approaching the matter as one of likelihood or real possibility, it might often be difficult to distinguish between materiality and weight, both of which were essentially matters of planning judgment. However, a court, when considering the rationality in a judicial review sense of a planning decision, ought not to be shy in an appropriate case of concluding that it would have been irrational of a decision-maker to have had regard to an alternative proposal as a material consideration or to have given it any or any sufficient weight so as to defeat the application proposal.*

24. A need may only begin to emerge and become a material planning consideration if there are clear planning objections to development upon a particular site, which could be met by development on a more appropriate alternative site elsewhere, and the need to even begin to consider them will increase the more significant the adverse effects (per Scott Baker L.J. in **South Cambridgeshire District Council v SSCLG** [2009] P.T.S.R. 37, considering Simon Brown J (as he then was) in **Trusthouse Forte Hotels Ltd v SSE** (1986) 53 P. & C. R. 293). These cases were subsequently considered by Sullivan LJ in **R. (Langley Park School) v Bromley London Borough Council** [2010] 1 P. & C. R. 10, where he held that the less the injury that is caused by an application proposal, the less likely is the need to consider whether the injury might be reduced by a revised siting of proposed new buildings, and where there are no clear objections to a proposal development, alternative proposals, whether for an alternative site or a different siting within the same site, will normally be irrelevant. The sliding scale means that in many – indeed most – cases an alternative is not even a material consideration. Sullivan LJ accepted a similar list to Auld LJ. Whilst emphasising that it was not intended to be exhaustive, he held that the following factors were

*“likely to have a bearing on the issue of whether alternative [schemes] are relevant in a given case:*

*i. the nature and degree of the harm arising from the proposal;*

*ii. the nature and urgency of the need;*

*iii. the scope for alternatives which could sensibly satisfy the need;*

*iv. the extent to which the feasibility of such alternatives has been demonstrated (ie the weight which can be attached to them).”*

25. Sullivan LJ held that alternatives “*may*” only be a material consideration in narrow or exceptional circumstances and whether they are or not in any particular case “*will depend upon the precise circumstance of the case, as assessed by the local planning authority*”.

26. Carnwath LJ (as was) developed this line of authority further in **Derbyshire Dales DC v SSCLG** [2010] 1 P. & C.R. 19 where he rejected a challenge that a planning inspector had erred in law in deciding that he did not need to consider alternative sites for a proposed wind farm development. He concluded that the consideration of alternative sites was unnecessary both as a matter of law and on the merits of the proposal. Carnwath LJ concluded that, short of irrationality, the question of whether something even amounts to a “material consideration” in any particular case is one of statutory construction, i.e. it is necessary to show that the matter was one which the relevant statute expressly or impliedly requires to be taken into account “*as a matter of legal obligation*”. Carnwath L.J. concluded that there was nothing in the statute or in the relevant policies before that Inspector which required the Inspector to consider alternatives, especially because (in that case) none had been identified. As he observed, the emphasis of s.78 of the 1990 Act is on the particular application in question. The statutory provisions and policies relating to the national park required special regard to be paid to their protection, but they fell short of imposing a positive obligation to consider alternatives that might not have the same effects. That was left as a matter of planning judgment on the facts. This was how the inspector had approached it, and he had been entitled to do so.

27. The Claimant therefore faces a high hurdle in this case. He makes little real attempt to confront the major difficulties as to why his view of an inchoate alternative, which is not the subject of any

application for planning permission or design, should be specifically assessed in this case. This case is remarkably similar to that in *Mount Cook*, save that the Council does not even have sketchy drawings of the Claimant's proposed alternative scheme.

28. The Council emphasises the following points in concluding in this case that there was no obligation on the Council, as a matter of planning law, to consider the alternative urged on them by the Claimant:

- (1) Importantly, regardless of whether there was any other application or scheme, the alternative Workshop Site is not available and there is no prospect it would be available in time to meet the need for further provision by September 2016, which is acute. That there is no realistic feasibility of the Claimant's alternative scheme coming forward is one of the factors the Court of Appeal in *Langley Homes* also placed weight on; it is "*unlikely*" with "*no real possibility of coming about*".
- (2) There is in any event no other application for planning permission before the Council. The Court of Appeal in *Mount Cook* has made clear that "*even in exceptional circumstances where alternative proposals might be relevant, inchoate or vague schemes and/or those that are unlikely or have no real possibility of coming about would not be relevant or, if they were, should be given little or no weight*". That is this case here.
- (3) In any event, any application for planning permission or even outline scheme of some sort for use of the alternative site would also need to recognise the complexities around the existing employment use of the Workshop site, see paragraph 10 above;
- (4) Further, any application for planning permission or even outline scheme of some sort would also need to recognise the competing pressures on the Council's limited resources. The reality is that, if the School was to be able to expand into some or all of the Workshop site in time (which it plainly cannot), the under-used habitat land and/or the land occupied by the nursery school would be likely to come forward for housing. This would be consistent with the pre-war planning history of this site and enable the terraced line to continue, albeit that given the scale of the current needs a scheme of greater density would be likely. Clearly there is no such scheme currently before the Council but, if there were, it is likely it would have similar traffic and amenity impacts as the use of the habitat land by the school for extra classrooms. Thus, there are no possible clear planning objections to the current scheme;
- (5) The Council is under a statutory duty to deliver these places under s.14 of the Education Act 1996 and the acute and urgent need and time-frame for delivery is well known, and these are material considerations to take into account when considering whether or not the Council is in the circumstances of this case impliedly required to consider the Claimant's inchoate alternative;
- (6) The reality is that this proposal for the expansion of the School is clearly in accordance with the development plan. The planning impacts of this expansion on the Claimant are in planning terms clearly capable of mitigation (which was extensively discussed at the Committee Meeting and has also been conditioned). Further the impacts are not such that



there would be any prospect whatsoever of such impacts outweighing the overwhelming need for expansion. The existence of the alternative is undeliverable in time and irrelevant.

29. Against this powerful case as to why this alternative was not one that required any assessment (and in fact was given a suitable degree of assessment: see the planning officer's report set out in the chronology), the Claimant asserts that alternatives were required to be assessed in the particular circumstances of this case for three poor reasons.

*Reason 1: Policy 3.3. of the 2007 Southwark Plan*

30. The Claimant asserts that Policy 3.3 of the 2007 Southwark Plan was somehow an "*express policy requirement to consider alternatives*" which also requires a specific alternative to be assessed (see paragraph 37(a) of the grounds of claim). He also complains that "*Members were not advised as to the failure of the applicant to provide a sustainability assessment, nor of the need for such an assessment to demonstrate that the most sustainable option had been identified*". This is wrong for the following reasons.
31. First, Policy 3.3 is a policy requiring a sustainable assessment in order to assess the economic, environmental and sustainability impacts of the proposal. It is only the reasons for the policy which state that these impacts are to be "*assessed and balanced to find the most sustainable option for the development*", not the policy itself. The proper interpretation of Policy 3.3 simply requires assessment of these factors so that the most sustainable option for the development within its envelope is found, pushing developers to maximise the social, environmental and economic opportunities available by requiring their consideration. There is no suggestion in the Policy text, its reasons, or the underlying Sustainability Assessment Supplementary Planning Document that this necessarily requires alternatives outside a site boundary to have been assessed. What is required by this policy, as the accompany guidance makes clear, is that there is a sustainability appraisal so that it can be assessed whether a particular application maximises in so far as it can in accordance with policy the social, environmental and economic impacts. Very clear terms would be required for it to be "read into" a policy such as this that an applicant was required to carry out a wide ranging assessment of any other site any individual might choose to raise outside the red line of a proposal in order to demonstrate sustainability, and such an approach finds no support in the NPPF or the general principles of planning law as set out in *Mount Cook*. It is not a policy even close to equivalent to the "*very special circumstances*" required for inappropriate development in the Greenbelt, which is what sits behind the review of alternatives in Greenbelt cases, and to which LJ Sullivan referred in *Langley Park* which itself concerned Metropolitan Open Land.
32. Second, as to the Claimant's further complaint that no sustainability assessment was required as it should have been, and that if it had been this would have shown that expansion on to the Workshop site was more sustainable. There are three limbs to the response:

32.1 This argument is wholly misconceived. Even if a formal document entitled a "sustainability assessment" had been provided, it was not required to assess the Claimant's preferred Workshop Alternative. If as a matter of its discretion the Council decided to do so, this would plainly show that there are a large number of competing considerations around the delivery of some future wider scheme across both the School's site and the Workshop site. Given the planning constraints in the area and the historic use of the habitat site, the likely result (if possession of the Workshop site could be obtained) would obviously be an alternative housing scheme bringing forward the old line of the terraces but at a greater density that existed in the pre-war era, and would cause similar traffic and amenity impacts of which the Claimant complained. It would in any event be a fruitless exercise, because the Workshop site is not available in time for the acute primary school need.

32.2. In so far as Policy 3.3 was not cited by the Officers, this was plainly remedied by the Claimant, who expressly drew it to the Committee's attention. The Claimant's transcript records that the Claimant expressly quoted to the Committee that

*"environmental, social and economic impacts are assessed through a sustainability assessment... and balanced to find the most sustainable option for the development". This was not carried out. Regardless of misclassification the adopted SPD checklist must be followed requiring as a minimum that "the proposal is on brownfield land and Policy 3.3. demands alternative site analysis".*

The Committee therefore had this point before them and took into account in reaching their decision that there was not a specific sustainability assessment, but that nevertheless officers had assessed the economic, social, and environmental aspects as is required under the NPPF and planning policy and considered that the proposal was sustainable. The Committee nevertheless resolved to grant planning permission. Members clearly carefully considered all the aspects of this scheme and plainly had before them all the necessary information to take into account the overall sustainability of the proposal.

32.3 In so far as there is any technical failure in not having formally required a "sustainability appraisal" with the application, this is not accepted and in any event does not make any material difference. The policy itself states that *"The level of detail required in the Sustainability Assessment should correspond to the scale and complexity of the development"*. All of the relevant information was before the Council. The Council considers that a document labelled a "Sustainability Assessment" would not be a proportionate request in all cases. Policy 3.3 dates from 2007 and whilst it has been "saved" it is interpreted in line with the NPPF and the 2011 Core Strategy in particular SP1 – Sustainable Development, which were referred to at the Committee Meeting and discussed in the Officer's Report. The major applications validation checklist was updated in 2013 and the automatic requirement to provide a Sustainability Assessment was removed. Government policy was for Local Planning Authorities to simplify their validation requirements and to make proportionate requests (see for example *"Guidance of Information Requests and Validation"*, March 2010, now withdrawn by the publication of the NPPF). The Council does not consider it could reasonably refuse to validate an application

simply on the basis that Policy 3.3 required production of a document labelled a Sustainability Assessment. Officers judge on a case-by-case basis whether a specific Sustainability Assessment is required in accordance with Policy 3.3, SP1, and the NPPF. The Council assessed environmental, social and economic impacts in accordance with policy and determined that the application was sustainable. This is the usual approach by other authorities where there is no specific need for a document labelled a Sustainability Assessment provided the information is available in other documents<sup>9</sup>.

33. Given these factors Policy 3.3. simply does not amount to special or particular circumstances such as to require assessment of an alternative site in this case.

*Reason 2: Brownfield site*

34. The Claimant in its grounds asserted that the Committee was misdirected through being advised that the habitat land was previously developed land as it had been built on in the past. This point is both wrong, and irrelevant.

35. The habitat land was undoubtedly previously developed land in the usual meaning of this term, i.e. land which had previously been developed. Officers correctly advised Members as to the planning history of this particular area as having originally been a continuation of residential terraces further to the south but that these had been bombed during the war. The Claimant's argument depends on the amended definition of brownfield land in the NPPF. This provides that brownfield land excludes "*land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time*". The definition within the NPPF was amended to meet a particular planning purpose, namely to restrict (i) the phenomena of "garden grabbing" for residential development which was a major problem in many areas and (ii) to protect the redevelopment of larger areas of land for example around former waterworks which had ceased to be used for this purpose, but had had become significant areas of open space in their own right.

36. The point is wrong for three reasons:

(1) The starting point when assessing an application for planning permission is the red line of the application, which will usually be the same as the planning unit. In this case, there is no doubt that the whole of this site is the land which has been occupied by the primary school and used by the school for educational uses. It is the site as a whole which falls to be assessed. That whole is clearly brownfield land.

(2) The Claimant asserts that the habitat land is akin to a "recreation ground". It is not. It is an under-used area of land managed by the school for educational purposes. It is not used for play-space or recreation (see paragraph 14 above and the Headteacher's statement).

<sup>9</sup> This is also illustrated the Mayor's decision on the Southwark Free School where policy 3.3. is cited, but no specific Sustainability Assessment was submitted, but all the relevant information was clearly before the Council and the Mayor and it was the subject of specific assessment within the report (as was the case here).

(3) The Claimant alternatively asserts that it is land that was previously developed but that the remains of the previous structures "have blended into the landscape in the process of time". Clearly the remains of the former terraces that were bombed in the war have been removed, but the habitat site has not "blended into the landscape". The landscape setting is that of the urban grain of an inner city area. This habitat site is plainly part of an inner city primary school, but the site has not "blended into" a park-scape or rural landscape in the passage of time.

37. The point is also irrelevant, because its relevancy depends on the Claimant's assertion that if the Claimant was right (which he is not) then "*members should have been directed that this was not previously developed land and that accordingly there was a policy presumption against its development and in favour of sites (such as the Workshops Site) which are previously developed land. They then could have assessed what weight to give to the alternative of developing the Workshops Site.....*". As is set out above, no weight can sensibly be given to the Workshop Site, which is not available to the Council and will not be available at any time soon. In any event there is in planning terms no possibility that the history of the actual use made of the small area of this habitat site would be a material consideration in the planning judgment exercised over the expansion of this School, and whether the habitat site should be redeveloped or not, given its low level of use to the School.

38. Given these factors this alleged error simply does not amount to special or particular circumstances such as to require assessment of an alternative site in this case.

### *Reason 3: The School Standards and Framework Act 1998*

39. Lastly, the Claimant asserts that the Council was "*subject to a statutory duty not to take any action intended or likely to result in the change of use of a playing field*". This is wrong and, in any event, irrelevant to the Claimant's alternative considerations argument. It is wrong because the statutory duty the Council was subject to under s.77(7) of the School Standards and Framework Act 1998 is not to dispose or change the use of any playing fields save with the consent of the Secretary of State. The Council has obtained the consent and therefore there is no possible breach of statutory duty. It is well-established that the planning system is not usually concerned with the compliance of other statutory regimes<sup>10</sup>. This ground of challenge is hopeless.

40. It is also irrelevant because, as a matter of its planning judgment, which is what this Committee was charged with, it is plain that the Committee were well aware that what was being proposed was a re-design of the school areas and that some of the playing areas would be affected. The overall changes and benefits of the changes in playing space were also considered in the Officers' Report and by the Committee, with the clear conclusion that they were beneficial. The Claimant's transcript also includes express discussion of, inter alia, the play-space available and the proposed redesign,

<sup>10</sup> Indeed, the material planning policies which act to protect playing fields as defined under the Town and Country Planning (Development Management Procedure) (England) Order 2010 were expressly noted, and that they do not apply.

including as to the amounts of play-space and whether a planting area would be retained. All of these matters were taken into account in their planning judgment.

41. This factor is not capable of being a special particular circumstance such as to require a particular alternative to be assessed.

**Ground 2 – s.77(3) of School Standards and Framework Act 1998**

42. This ground of challenge is wholly without merit and permission should be refused, for two reasons.
43. First, as to its substantive merits. It is entirely based on an alleged "*loss of playing fields in excess of 1,000m<sup>2</sup>*", and the Claimant thus asserts that the condition required for the Secretary of State's consent that there be "*no net loss*" is not met.
44. This is wrong. The documents which accompanied the application to the Secretary of State detail the relevant calculations (see p.262, and the breakdown by reference to a diagram on p.263 which clearly shows how the calculation has been obtained and makes reference to the new 30m<sup>2</sup> first floor terrace and sets out in red that there is a "*NET INCREASE OF 1m<sup>2</sup> OF PLAYING FIELD AREA*" at the end of the calculations (emphasis in original)). The Claimant entirely fails to draw the Court's attention to these documents despite having expressly sought them from the Council. The Claimant inexplicably bases his analysis on other documents which are not designed to address this point. The Claimant also fails to reference the substantial, qualitative improvement in the quality of the play-space which is provided in the new scheme. The Acting Headteacher explains that "*the proposals will be a massive improvement on our current facilities*". The Council is not in breach of its statutory obligations.
45. Second, in any event, the Claimant is not able in these proceedings to challenge the consent given by the Secretary of State. That consent remains valid unless quashed and the Council is entitled to rely on it. Further, the appropriate Defendant to any such claim would be the Secretary of State and/or the Education Funding Agency. Any such challenge is also out of time as the consent was granted on 11 March 2015. It would also be wholly unmeritorious for the reasons as set out in paragraph above in that there is no error in the consent. For the avoidance of any doubt, the Council has recalculated these measurements and confirms that the submission to the Secretary of State is correct.
46. The Claimant does not in its claim form seek to challenge such a consent, makes no application to extend time in relation to challenging any such consent, and simply refers in passing in paragraph 13 to the relevant grant of consent not having been provided sooner. It is no good reason that the Claimant, acting through experienced solicitors from an early time, asked about alternative sites pursuant to section 77 of the School Standards and Framework Act 1998 on 17 April, to which the Council replied to on 27 April, addressing the point raised, and yet now seeks to challenge the terms of that consent. It is self-evident from any understanding of the Act that there would have been an application for consent, as indeed the Claimant's solicitor's pre-action protocol letter referred to (for

the first time). The Claimant was promptly informed of the grant of this consent on 9 June, which would have been in time to challenge it, but did not even seek the terms of such consent until nearly a week after that date, by which point time had expired.

47. Lastly, the Claimant is also wrong to state that "*the Council accepts in its pre-action reply that the proposals do consist of a change of use of playing fields*". This is both a misleading and in any event erroneous. It is misleading because, as the Council's pre-action reply makes clear, the Claimant (but not the Council) has frequently confused the substantially different definitions of playing fields within the Town and Country Planning Act to the definition under an entirely different statutory framework which has its own statutory processes (both of which the Council considered and complied with). It is erroneous because the Council has made no such concession. The Council's use of the term "playing space" simply encompasses the changes taking place within the planning unit and reflects that officers and Members were aware of those changes. The Council has not accepted that the habitat land is necessarily a "playing field" within the terms of the School Standards and Framework Act 1998 as it is not used as a playing field or for recreation, but there is no need to determine this point in this case because there is no net loss of the relevant land, even if the habitat land is included. The point is thus entirely academic.

#### **E. OTHER MATTERS**

##### **Out of time**

48. It is currently unclear to the Council whether this claim has been properly lodged in accordance with the rules. CPR 54.5(5) requires a claim form challenging a planning decision to be lodged within six weeks of the date of the consent and CPR 54.6(1) and (2) requires the claim form to set out the required matters and be accompanied by specified documents, which Practice Direction 54A requires to include the grounds of claim. It appears that the claim was filed on 17 June 2015 but for some reason was not sealed by the court until 23 June 2015. When the claim bundle was finally served on the Council on 29 June 2015 (and it was required to be served within 7 days of the date of issue) it did not include the grounds of claim. It is not clear to the Council that the claim when first filed contained those grounds of claim. The Council's position is therefore reserved. Given the urgency of the subject of this claim, and its lack of merit, the Council considers there would be no good reason to extend time if it were out of time.

##### **Consideration under s.31 of the Supreme Court Act 1981 as amended by s.84 of the Criminal Justice and Court Act 2015**

49. The Court is required to give consideration when requested by a Defendant as to whether it is "*highly likely that the outcome for the applicant would not have been substantially different*" and if so, the "*court must refuse to grant leave*". This provision is clearly met in this case (see paragraph 52 below).

**Urgent need and expedition**

50. The Council seeks expedition of this claim which is of great importance to the hundred or so pupils who will apply to this school in January 2016 for admission. The Council recognises that obtaining such expedition cannot be guaranteed against the variety of urgent business this Court considers, particularly given the summer vacation. Yet the Council as Education Authority is under a statutory duty to deliver school places. The Court is thus urged to determine this current application for permission as expeditiously as possible. The Education Authority is currently moving swiftly forward with the necessary applications to discharge the relevant conditions and it would be the Council's preference to commence works during this summer vacation if possible, which commences on 21 July 2015, subject to discharge of the necessary conditions. This would minimise disruption to the pupils, but construction from late October will still enable delivery by September 2016.
51. The Claimant was informed in its PAP response that because of the Council's overriding need to comply with its statutory obligations and ensure that pupils have a place to be educated next September, the Council would take every step it can to ensure that it will meet its statutory obligation. The Education Authority is therefore currently preparing a further application for planning permission, without prejudice to the Council's clear view that this claim is wholly misconceived and there is no obligation to have considered this inchoate alternative and that there has been no error of law.
52. Whilst clearly every planning application must be determined on its merits (as this one will be), as the Officer's Report concluded in relation to this application, this application is in accordance with the development plan and the relevant planning impacts (including on the Claimant) can be mitigated. They are not undue impacts and the other planning and deliverability constraints within the area will continue to exist. The Claimant's proposed alternative site is simply not available and there is no possibility of it being available for delivery by September 2016. There is therefore no likelihood of a substantially different outcome for the Claimant, for the reasons as set out above. A positive grant of this subsequent application will render this application academic; nevertheless, the Court is urged to determine the permission application to enable the swift conclusion of these proceedings, so that works can begin as soon as possible to minimise the disruption to pupils.
53. For all these reasons, permission to bring this claim should be refused. The Council also seeks its costs of this Acknowledgment of Service.

I believe that the facts stated in these Summary Grounds of Resistance are true.



Doreen Forrester-Brown

Director of Legal Services, London Borough of Southwark

20 July 2015

SASHA BLACKMORE  
LANDMARK CHAMBERS

CLAIM NO: CO/2959/2015

IN THE HIGH COURT OF JUSTICE  
ADMINISTRATIVE COURT

B E T W E E N

DAVID PAUL DOYLE

Claimant

- and -

LONDON BOROUGH OF SOUTHWARK

Defendant

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APPENDIX 1 TO SUMMARY GROUNDS OF RESISTANCE

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Aerial View



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Hawkins  
Brown

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## RECOMMENDATION

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This document shows the case officer's recommended decision for the application referred to below.  
This document is not a decision notice for this application.

<b>Applicant</b>	Mr Steve Platts Southwark Council	<b>Reg. Number</b>	15/AP/2963
<b>Application Type</b>	Council's Own Development - Reg. 3	<b>Case Number</b>	TP/1036-A
<b>Recommendation</b>	Grant permission		

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### Draft of Decision Notice

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**Permission was GRANTED, subject to the conditions and reasons stated in the Schedule below, for the following development:**

Demolition of the existing dining hall and the erection of a new two storey detached school building to accommodate nine new classrooms, double height hall and kitchen, associated landscaping and re-planting are also proposed. Re-submission of application 14AP4715 with additional information on sustainability.

**At:** KEYWORTH PRIMARY SCHOOL, FAUNCE STREET, LONDON, SE17 3TR

**In accordance with application received on 15/07/2015**

**and Applicant's Drawing Nos. 1546\_DWG\_PL\_501, 1546\_DWG\_PL\_502, 1546\_DWG\_PL\_503, 1546\_DWG\_PL\_504, 1546\_DWG\_PL\_505, 1546\_DWG\_PL\_506, 1546\_DWG\_PL\_507, 1546\_DWG\_PL\_508, 1546\_DWG\_PL\_510, 1546\_DWG\_PL\_513, 1546\_DWG\_PL\_514, 1546\_DWG\_PL\_601, 1546\_DWG\_PL\_603, 1546\_DWG\_PL\_701 Rev A, 1546\_DWG\_PL\_702, 1546\_DWG\_PL\_703, 1546\_DWG\_PL\_704, 1546\_DWG\_PL\_705, 1546\_DWG\_PL\_706, 1546\_DWG\_PL\_707, 1546\_DWG\_PL\_708, 1546\_DWG\_PL\_710, 1546\_DWG\_PL\_800 Rev C, 1546\_DWG\_PL\_801 Rev C, 1546\_DWG\_PL\_802, 1546\_DWG\_PL\_850, 1546\_DWG\_PL\_851, 1546\_DWG\_PL\_852, 1546\_DWG\_PL\_900, After School Management Plan, Air Quality Assessment, Daylight/Sunlight Assessment, Arboricultural Impact Assessment, Design & Access Statement, Site Investigation, BREEAM Pre-Assessment, Great Crested Newt Survey, Preliminary Ecological Assessment, Energy Statement, Flood Risk Assessment, Noise Impact Assessment, Planning Statement, Sustainability Report, Transport Statement, Travel Plan**

**Subject to the following seventeen conditions:**

**Time limit for implementing this permission and the approved plans**

- 1 The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans: 1546\_DWG\_PL\_601, 1546\_DWG\_PL\_603, 1546\_DWG\_PL\_701 Rev A, 1546\_DWG\_PL\_702, 1546\_DWG\_PL\_703, 1546\_DWG\_PL\_704, 1546\_DWG\_PL\_705, 1546\_DWG\_PL\_706, 1546\_DWG\_PL\_707, 1546\_DWG\_PL\_708, 1546\_DWG\_PL\_710, 1546\_DWG\_PL\_800 Rev C, 1546\_DWG\_PL\_801 Rev C, 1546\_DWG\_PL\_802, 1546\_DWG\_PL\_850, 1546\_DWG\_PL\_851, 1546\_DWG\_PL\_852, 1546\_DWG\_PL\_900, After School Management Plan

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 The development hereby permitted shall be begun before the end of three years from the date of this permission.

Reason

As required by Section 91 of the Town and Country Planning Act 1990 as amended.

**Pre-commencement condition(s)** - the details required to be submitted for approval by the condition(s) listed below must be submitted to and approved by the council before any work in connection with implementing this permission is commenced.

- 3 Prior to the commencement of development, a detailed method statement for the removal or long-term management/eradication of Japanese Knotweed on the site shall be submitted to and approved in writing by the local planning authority. The method statement shall include proposed measures to prevent the spread of Japanese Knotweed during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds/root/stem of any invasive plant covered under the Wildlife and Countryside Act 1981. Development shall proceed in accordance with the approved method statement.

Reason: Japanese Knotweed is an invasive plant. Without measures to prevent its spread as a result of the development there would be the risk of harm to the environment occurring. The Method Statement is therefore required in the interests of policy 3.28 (Biodiversity) of the Southwark Plan, Strategic Policy 11 (Open Spaces and Wildlife) of the LB Southwark Core Strategy 2011 and Section 11 (Conserving and Enhancing the Natural Environment) of the NPPF.

- 4 All new external works and finishes and works of making good to the original board school shall match existing original work in respect of materials used, detailed execution and finished appearance, except where indicated otherwise on the drawings hereby approved or as required by any condition attached to this consent.

Reason:

In order to achieve a quality of design and detailing in accordance with The National Planning Policy Framework 2012, Strategic Policy 12 - Design and Conservation of The Core Strategy 2011 and Saved Policies: 3.12 Quality in Design and 3.13 Urban Design of The Southwark Plan 2007

- 5 Material sample-boards of all external facing materials to be used in the carrying out of this permission shall be submitted to and approved in writing by the Local Planning Authority; the development shall not be carried out otherwise than in accordance with any such approval given.

Reason:

In order to achieve a quality of design and detailing in accordance with The National Planning Policy Framework 2012, Strategic Policy 12 - Design and Conservation of The Core Strategy 2011 and Saved Policies: 3.12 Quality in Design and 3.13 Urban Design of The Southwark Plan 2007.

- 6 A mock up of brickwork and masonry which includes a corner junction of roof, front wall and side wall and window reveals, cills, lintels and movement joint shall be constructed for inspection on site and approved in writing by the Local Planning Authority; the development shall not be carried out otherwise than in accordance with any such approval given.

Reason:

In order to achieve a quality of design and detailing in accordance with The National Planning Policy Framework 2012, Strategic Policy 12 - Design and Conservation of The Core Strategy 2011 and Saved Policies: 3.12 Quality in Design and 3.13 Urban Design of The Southwark Plan 2007.

- 7 a) Prior to the commencement of any development, a site investigation and risk assessment shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The phase 1 site investigation (desk study, site categorisation; sampling strategy etc.) shall be submitted to the Local Planning Authority for approval before the commencement of any intrusive investigations. The subsequent Phase 2 site investigation and risk assessment shall be conducted in accordance with any approved scheme and submitted to the Local Planning Authority for approval prior to the commencement of any remediation that might be required.

b) In the event that contamination is present, a detailed remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared and submitted to the Local Planning Authority for approval in writing. The scheme shall ensure that the site would not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme (if one is required) shall be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works.

c) Following the completion of the measures identified in the approved remediation strategy, a verification report providing evidence that all work required by the remediation strategy has been completed shall be submitted to and approved in writing by the Local Planning Authority.

d) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it shall be reported in writing immediately to the Local Planning Authority, and a scheme of investigation and risk assessment, a remediation strategy and verification report (if required) shall be submitted to the Local Planning Authority for approval in writing, in accordance with a-c above.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can

be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved policy 3.2 'Protection of amenity' of the Southwark Plan (2007), strategic policy 13' High environmental standards' of the Core Strategy (2011) and the National Planning Policy Framework 2012.

- 8 Prior to landscaping works commencing, full details of all proposed tree planting shall be submitted to and approved in writing by the Local Planning Authority. This will include tree pit cross sections, planting and maintenance specifications, use of guards or other protective measures and confirmation of location, species, sizes, nursery stock type, supplier and defect period. All tree planting shall be carried out in accordance with those details and at those times. Planting shall comply with BS5837: Trees in relation to demolition, design and construction (2012) and BS: 4428 Code of practice for general landscaping operations.

If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place in the first suitable planting season., unless the local planning authority gives its written consent to any variation.

To ensure the proposed development will preserve and enhance the visual amenities of the locality and is designed for the maximum benefit of local biodiversity, in addition to the attenuation of surface water runoff in accordance with The National Planning Policy Framework 2012 Parts 7, 8, 11 & 12 and policies of The Core Strategy 2011: SP11 Open spaces and wildlife; SP12 Design and conservation; SP13 High environmental standards, and Saved Policies of The Southwark Plan 2007: Policy 3.2 Protection of amenity; Policy 3.12 Quality in Design; Policy 3.13 Urban Design and Policy 3.28 Biodiversity.

- 9 Prior to works commencing, including any demolition, an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority.

a) A pre-commencement meeting shall be arranged, the details of which shall be notified to the Local Planning Authority for agreement in writing prior to the meeting and prior to works commencing on site, including any demolition, changes to ground levels, pruning or tree removal.

b) A detailed Arboricultural Method Statement showing the means by which any retained trees on or directly adjacent to the site are to be protected from damage by demolition works, excavation, vehicles, stored or stacked building supplies, waste or other materials, and building plant, scaffolding or other equipment, shall then be submitted to and approved in writing by the Local Planning Authority. The method statements shall include details of facilitative pruning specifications and a supervision schedule overseen by an accredited arboricultural consultant.

c) Cross sections shall be provided to show surface and other changes to levels, special engineering or construction details and any proposed activity within root protection areas required in order to facilitate demolition, construction and excavation.

The existing trees on or adjoining the site which are to be retained shall be protected and both the site and trees managed in accordance with the recommendations contained in the method statement. Following the pre-commencement meeting all tree protection measures shall be installed, carried out and retained throughout the period of the works, unless otherwise agreed in writing by the Local Planning Authority. In any case, all works must adhere to BS5837: (2012) Trees in relation to demolition, design and construction and BS3998: (2010) Tree work - recommendations.

If within the expiration of 5 years from the date of the occupation of the building for its permitted use any retained tree is removed, uprooted is destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

#### Reason

To avoid damage to the existing trees which represent an important visual amenity in the area, in accordance with The National Planning Policy Framework 2012 Parts 7, 8, 11 & 12 and policies of The Core Strategy 2011: SP11 Open spaces and wildlife; SP12 Design and conservation; SP13 High environmental standards, and Saved Policies of The Southwark Plan 2007: Policy 3.2 Protection of amenity; Policy 3.12 Quality in Design; Policy 3.13 Urban Design and Policy 3.28 Biodiversity.

**Pre-occupation condition(s)** - the details required to be submitted for approval by the condition(s) listed below must be submitted to and approved by the council before the building(s) hereby permitted are occupied or the use hereby permitted is commenced.

Prior to first occupation, a Community Use Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of the following:

- i) A detailed plan and / or schedule of the Community Use Facilities;
- ii) The days and times of availability of the Community Use Facilities;
- iii) The access to and right to use the Community Use Facilities by users from the community (whether groups or individuals) who are not staff, pupils or members of the School;
- iv) The management, maintenance and cost for use of the Community Use Facilities;
- v) A mechanism for review of the Community Use Scheme

The approved Community Use Scheme shall be implemented upon occupation of the development and retained/maintained for the existence of the development.

Reason:

To secure community use of facilities in accordance with Saved Policy 2.3 Enhancement of Educational Establishments of the Southwark Plan 2007 and SP4 Places for learning, enjoyment and healthy lifestyles of the Core Strategy 2011 and to ensure that residential amenity is satisfactorily protected with regards to Saved Policy 3.2 Protection of Amenity of the Southwark Plan 2007.

- 11 Prior to first occupation of the development hereby permitted, full particulars and details of a scheme for the ventilation the site to an appropriate outlet level, including details of sound attenuation for any necessary plant and the standard of dilution expected, has been submitted to and approved by the Local Planning Authority and the development shall not be carried out otherwise than in accordance with any approval given. Noise from plant shall be no more than 30dB(A) LAeq, 5min 1m from windows and doors of nearby noise sensitive premises.

Reason

In order to ensure that that the plant and at the site will not result in an odour, fume or noise nuisance and will not detract from the appearance of the building in the interests of amenity in accordance with The National Planning Policy Framework 2012, Strategic Policy 13 - High Environmental Standards of The Core Strategy 2011 and Saved Policy 3.2 Protection of Amenity of The Southwark Plan 2007.

- 12 At the start of the second year of operation of the approved Travel Plan a detailed survey showing the methods of transport used by all those users of the building to and from the site and how this compares with the proposed measures and any additional measures to be taken to encourage the use of public transport, walking and cycling to the site shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out otherwise in accordance with any such approval given.

Reason

In order that the use of non-car based travel is encouraged in accordance with The National Planning Policy Framework 2012, Strategic Policy 2 Sustainable Transport of The Core Strategy 2011 and Saved Policies 5.2 Transport Impacts, 5.3 Walking and Cycling and 5.6 Car Parking of the Southwark Plan 2007.

- 13 Before the first occupation of the building hereby permitted a Service Management Plan detailing how all elements of the site are to be serviced has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approval given and shall remain for as long as the development is occupied.

Reason

To ensure compliance with The National Planning Policy Framework 2012, Strategic Policy 2 Sustainable Transport of The Core Strategy 2011 and Saved Policy 5.2 Transport Impacts of the Southwark Plan 2007.

- 14 Prior to first occupation of the work hereby authorised, detailed drawings of a hard and soft landscaping scheme showing the treatment of all parts of the site not covered by buildings (including cross sections, surfacing materials of any parking, access, or pathways layouts, materials and edge details and material samples of hard landscaping), shall be submitted to and approved in writing by the Local Planning Authority. The landscaping shall not be carried out otherwise than in accordance with any such approval given and shall be retained for the duration of the use.

The planting, seeding and/or turfing shall be carried out in the first planting season following completion of building works and any trees or shrubs that is found to be dead, dying, severely damaged or diseased within five years of the completion of the building works OR five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of the same size and species in the first suitable

planting season. Planting shall comply to BS: 4428 Code of practice for general landscaping operations, BS: 5837 (2012) Trees in relation to demolition, design and construction and BS 7370-4:1993 Grounds maintenance Recommendations for maintenance of soft landscape (other than amenity turf).

#### Reason

So that the Council may be satisfied with the details of the landscaping scheme in accordance with The National Planning Policy Framework 2012 Parts 7, 8, 11 & 12 and policies of The Core Strategy 2011: SP11 Open spaces and wildlife; SP12 Design and conservation; SP13 High environmental standards, and Saved Policies of The Southwark Plan 2007: Policy 3.2 Protection of amenity; Policy 3.12 Quality in Design; Policy 3.13 Urban Design and Policy 3.28 Biodiversity.

**Compliance condition(s)** - the following condition(s) impose restrictions and/or other requirements that must be complied with at all times once the permission has been implemented.

- 15 Unless otherwise agreed in writing by the Local Planning Authority, carbon saving measures to achieve a minimum 40% improvement on 2010 Building Regulations shall be provided and permanently retained.

#### Reason:

In order to ensure that carbon emissions are reduced as part of the development and that renewable energy is incorporated into the development in accordance with Core Strategy policy 13: High Environmental Standards and policies 5.2, 5.3 and 5.7 of the London Plan 2015

- 16 Surface water runoff from the site should be limited to 5 l/s through the use of Sustainable Drainage Systems (SuDS).

#### Reason

To ensure the development is designed safely in reference to flood risk in accordance with The National Planning Policy Framework 2012, Strategic Policy 13 High Environmental Standards of the Core Strategy 2011 and Saved Policy 3.9 Water of the Southwark Plan 2007.

- 17 Upon occupation of the new classroom block/hall hereby permitted, the access gates to/from the school in Faunce Street shall be closed and unavailable for access by pupils (except in the case of emergencies) between 8:15 a.m. and 9:00 a.m. and 3:15 p.m. and 4:00 p.m. on all school (pupil) days. The double entrance doors to the new building and new gate next to 49 Sharsted Street shall not be used before 5:30 p.m. or after 9:00 p.m. on any school day

Reason: In the interests of the safety and amenity of users of the highway and residents within Faunce Street and Sharsted Street in accordance with policy 3.2 (Protection of Amenity) and 5.2 (Transport Impacts) of the Southwark Plan 2007.

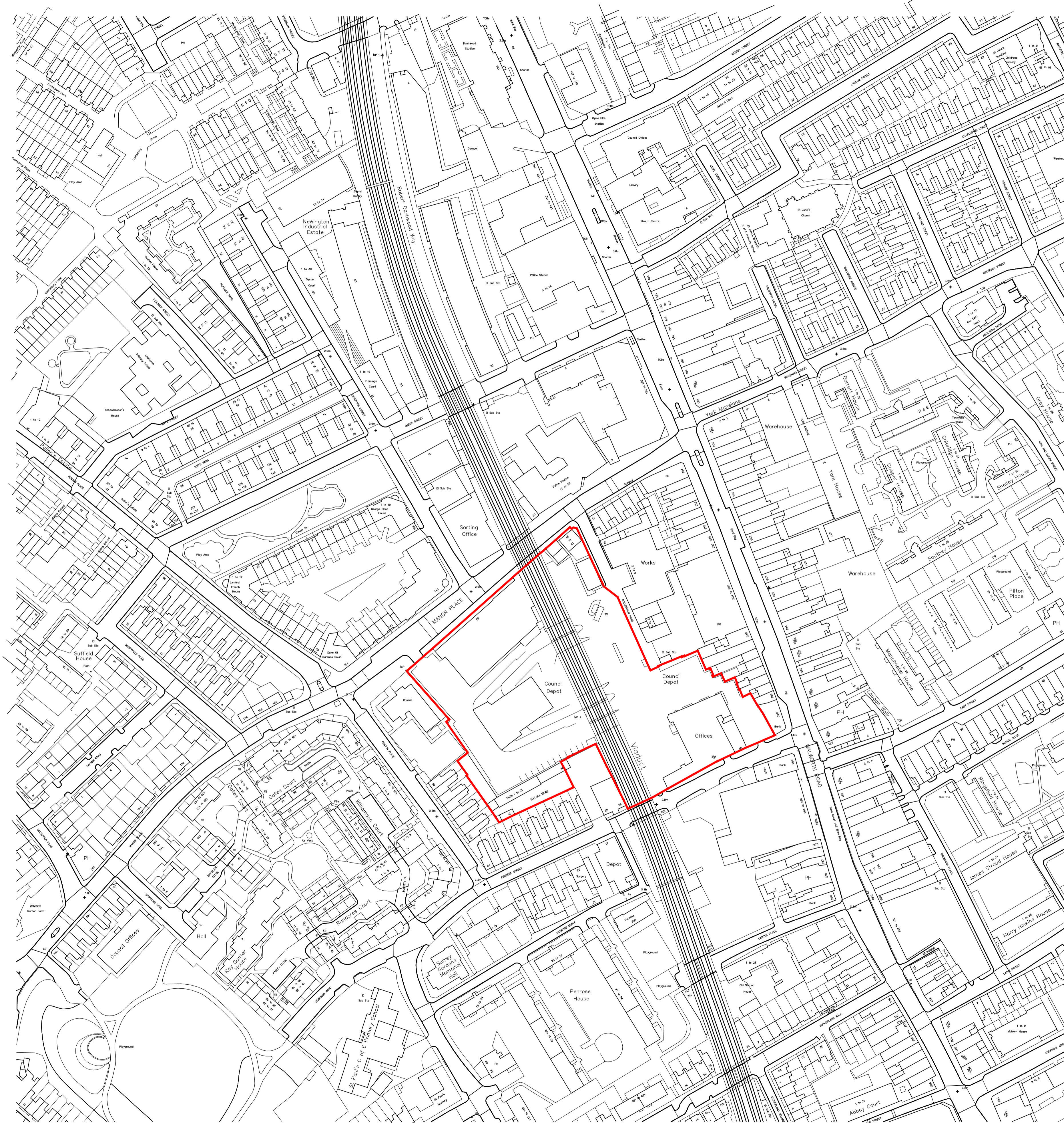
#### **Statement of positive and proactive action in dealing with the application**

Negotiations were held with the applicant to secure changes to the scheme to make it acceptable and the scheme was amended accordingly.

#### **Informative**

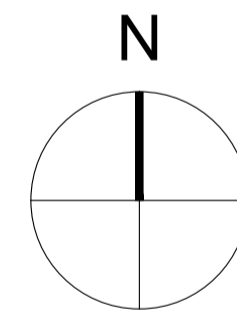
You are advised to consult the Borough Crime Prevention Design Advisor to ensure that the development complies with 'Secured by Design' standards. Please contact [Lyn Poole, Design Out Crime Officer, South East Area](#), Office : [0208 284 8889](tel:02082848889) Mobile: [07872677940](tel:07872677940), Email: [lyn.poole@met.pnn.police.uk](mailto:lyn.poole@met.pnn.police.uk)

**GENERAL NOTES**  
 This drawing is © 2014 PTE architects  
 Use figured dimensions only. DO NOT SCALE.  
 All dimensions are in millimetres unless noted otherwise  
 All levels are in metres above ordnance datum unless noted otherwise  
 This drawing must be read in conjunction with all other relevant drawings and specifications from the Architect and other consultants  
 If in doubt, ask



**Key**

Boundary Line —



no.	date	description	drawn	checked
<b>PLANNING</b>				

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**Pollard  
 Thomas  
 Edwards**

project	job no.	drawn	checked	scale	date
Manor Place Depot London	12-583	RF	SF	1:1250@A1	Mar'15
drawing title	drawing number	revision			
<b>Location Plan</b>	<b>583_PL_001</b>				

<b>Item No.</b>	<b>Classification:</b>	<b>Date:</b>	<b>Meeting Name:</b>
6.2	Open	24 September 2015	Planning Committee
<b>Report title:</b>	<p><b>Development Management planning applications:</b></p> <p><b>Address:</b> MANOR PLACE DEPOT SITE, COMPRISING 30-34 PENROSE STREET, 33 MANOR PLACE, 17-21 MANOR PLACE, UNITS 1-21 MATARA MEWS, 38A PENROSE STREET, LONDON SE17</p> <p><b>Application 15/AP/1062 for: Full Planning Permission</b></p> <p><b>Proposal:</b> Demolition and redevelopment to provide 270 residential units (Class C3) within new buildings ranging from 2 to 7 storeys, a refurbished 33 Manor Place (Grade II listed) and 17-21 Manor Place and 3,730sqm (GEA) of commercial floorspace, comprising 1,476sqm (Classes A1/A2/A3/B1/D1/D2) within 9 refurbished railway viaduct arches and 2,254sqm (Class B1) within the refurbished Pool House and Wash House (Grade II Listed), with associated works including disabled car parking spaces, cycle parking, landscaping and access improvements.</p> <p><b>Address:</b> 33 MANOR PLACE, LONDON SE17 3BD</p> <p><b>Application 15/AP/1084 for: Listed Building Consent</b></p> <p><b>Proposal:</b> Conversion of 33 Manor Place (Former Manor Place Baths) into 10 residential units (Class C3) and 2,254 sqm (GEA) of commercial floorspace (Class B1), along with internal and external refurbishment and alterations, including introduction of a mezzanine floor within the refurbished Pool House</p>		
<b>Ward(s) or groups affected:</b>	Newington		
<b>From:</b>	Director of Planning		
<b>Application Start Date</b> 20/04/2015		<b>Application Expiry Date</b> 20/07/2015	
<b>Earliest Decision Date</b> 27/05/2015			

### RECOMMENDATIONS

1. (i) That planning permission is GRANTED subject to conditions and the applicant entering into an appropriate legal agreement, and subject to referral to the Mayor of London.
- (ii) In the event that the requirements of (i) are not met by 30 November 2015, the Director of Planning be authorised to refuse planning permission for the reasons set out in paragraph 236.



(iii) That Listed Building Consent is GRANTED, subject to conditions.<sup>1</sup>

## **BACKGROUND INFORMATION**

### **Site location and description**

2. The application site is located to the west of Walworth Road and is approximately 1.7 ha in size. The site is bounded by Manor Place to the north, Occupation Road to the east, Penrose Street and Matara Mews to the south, and Penton Place to the west. An elevated railway viaduct running on a north-east / south-west alignment bisects the site.
3. The majority of the site comprises the former Council Waste Transfer Depot which was relocated to a new Integrated Waste Management Facility on Old Kent Road which opened in 2012. The depot now provides temporary storage and parking. Two storey vacant Council offices front Penrose Street to the south.
4. The north-western side of the site includes the former Manor Place Baths which is Grade II listed. Part of the Baths complex (Pool House and Wash House) is currently vacant but the frontage building (33 Manor Place) is in use as a Buddhist Centre. Although not a designated heritage asset, the former Coroner's Court (17-21 Manor Place), located on the corner of Manor Place and Occupation Road, is of historic townscape interest. The application site is not within a conservation area, the nearest being Pullen's Conservation Area to the north.
5. The immediate surrounding area is predominantly residential in character although there are established commercial and light industrial businesses along Occupation Road, Walworth Police Station on Manor Place and a church to the east on Penton Place. Walworth Road is approximately 100m to the east and forms part of the Elephant and Castle Town Centre.
6. The site has excellent access to public transport having a high public transport accessibility level (PTAL) of 6a. Elephant and Castle and Kennington Underground Stations are within an easy ten minute walk of the site. Numerous bus routes serve the site along Walworth Road.

### **Details of proposal**

7. Planning permission and listed building consent is sought for the redevelopment of the site, including refurbishment of 33 Manor Place (Grade II listed) and 17-21 Manor Place, to create 270 residential units and 3,370 sqm (GEA) of flexible commercial space.

### **Residential new build**

8. The new build residential element of the proposal (257 units) would be split between three principal elements: Blocks A-F, which run parallel to the eastern edge of the viaduct; Block G, the L-shaped block to the east of the site; and Blocks J-M, the U-shaped block to the west of the site. The height of the blocks range from 2 to 7 storeys across the site.

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<sup>1</sup> Please note the recommendations for planning permission and listed building consent will be supplied in the addendum report.

### Residential refurbishment

9. 33 Manor Place would be refurbished and converted into 10 residential units. The façade of 17-21 Manor Place would be retained and redeveloped to the rear to create a further three units.

### Residential overview

10. The residential accommodation would be split across tenures and mix as follows:

	Market	Intermediate	Affordable Rented	Total
1 bedroom	38	24	9	71
2 bedroom	110	36	25	171
3 bedroom	18	0	10	28
Total	166	60	44	270

### Commercial floorspace

11. Nine commercial units (934 sqm GIA) would be provided within the railway arches. These are proposed to be in flexible uses across Classes A1/A2/A3 (retail), B1 (office), D1 (community) and D2 (leisure) uses. The remaining commercial floorspace (1,991 sqm GIA) would be provided within the refurbished Pool and Wash Houses (behind and to the east of the refurbished 33 Manor Place). This space would be dedicated Class B1 office use.

### Landscaping and servicing

12. The development includes landscaped residential courtyards and new public realm in the form of shared through routes crossing the site. Vehicular access for servicing would be via Manor Place, Occupation Road and Penrose Street. 14 disabled parking spaces would be provided on site. Cycle and refuse stores would be provided within the residential blocks and the remaining railway arches not used for commercial purposes.

### Revisions

13. Revisions have been made following consultation on the application and further discussion with officers. The principal changes comprise:
- Revised Transport Assessment, Travel Plans, Delivery and Servicing Management Plans, Commercial Trip Rates (dated August 2015);
  - Increased number of cycle parking spaces;
  - Reduction in number of wheelchair accessible homes and revised location of disabled car parking spaces, including widening of carriageway on Occupation Road;
  - Addendums to Design and Access Statement providing additional detail on façade treatment to Blocks A-F (June 2015) and Character Areas (August 2015);
  - Addendum to Landscape Strategy;
  - Further details on Affordable Housing offer (set out in cover letter dated 22 June

- 2015);
- Amended floor layout plans
- Further details on Energy Strategy, including layout of district heating network and technical assessment;
- Updated Accommodation Schedules (dated 12 August 2015); and
- Overshadowing Studies for 7-10 Occupation Road Studios (11 August 2015)

**14. Planning history – Manor Place Depot Site (15/AP/1062)**

14/EQ/0040 Application type: Pre-Application Enquiry (ENQ)

Part demolition / part retention of existing buildings and provision of a mixed use development comprising 295 residential (Use Class C3) units, flexible commercial floorspace and associated car and cycle parking

Decision date 20/06/2014 Decision: Pre-application enquiry closed (EQC)

14/EQ/0218 Application type: Pre-Application Enquiry (ENQ)

Part demolition/part retention of existing buildings or provision of a mixed use development comprising 270 residential units, flexible commercial floorspace and associated car and cycle parking

Decision date 15/10/2014 Decision: Pre-application enquiry closed (EQC)

14/AP/3295 Application type: Screening Opinion (EIA) (SCR)

Request for a Screening Opinion in relation to the demolition and the redevelopment of Manor Place Depot, the partial retention of 17-21 Manor Place and retention of 33 Manor Place and the Bath House for residential led mixed use development; which includes the creation of seven commercial units under the railway viaducts and refurbishment of the Bath House building into a commercial premises.

Decision date 27/10/2014 Decision: Screening Opinion - EIA Regs (SCR)

15/EQ/0124 Application type: Pre-Application Enquiry (ENQ)

Part demolition/part retention of existing buildings or provision of a mixed use development comprising 270 residential units, flexible commercial floorspace and associated car and cycle parking

Decision date 18/05/2015 Decision: Pre-application enquiry closed (EQC)

**15. Planning history – 33 Manor Place (15/AP/1084)**

05/AP/0648 Application type: Listed Building Consent (LBC)

Removal of existing partitions and installation of new stud walls

Decision date: 17/11/2005 Decision: Grant (GRA)

05/AP/0646 Application type: Full Planning Permission (FUL)

Change of use of the basement, ground, first and second floors to a Tibetan Buddhist Centre (Place of Worship, Use Class D1) for a temporary period of 5 years [Full Planning Permission]

Decision date 17/11/2005 Decision: Grant

**16. Planning history of adjoining sites - 2-6 Occupation Road**

15/AP/0904 Application type: Full Planning Permission (FUL)

Demolition of existing building and redevelopment to provide 1,112 sqm (GIA) of business floorspace (B1c) and 24 residential units (C3) (18x 2 bed and 6 x 3 bed), alterations to the existing access and commercial parking, provision of disabled residential parking and associated public realm improvements

Decision date: Pending decision

## **KEY ISSUES FOR CONSIDERATION**

### **Summary of main issues**

17. The main issues to be considered in respect of this application are:
- Principle of the proposed development in terms of land use and conformity with strategic policies;
  - Environmental impact assessment;
  - Density;
  - Dwelling Mix;
  - Affordable Housing;
  - Design;
  - Impact on heritage assets and the setting of listed buildings and/or conservation areas;
  - Quality of residential accommodation;
  - Neighbouring amenity;
  - Impact on adjoining and nearby uses on occupiers of proposed development;
  - Transport;
  - Trees and landscaping;
  - Ecology and biodiversity;
  - Archaeology;
  - Land contamination;
  - Flood risk;
  - Energy and sustainability; and
  - Planning obligations

### **Planning policy**

18. The statutory development plan for the borough comprises the London Plan 2015, the Southwark Core Strategy 2011, saved policies of the Southwark Plan 2007 along with Supplementary Planning Documents (SPDs). The National Planning Policy Framework is a material consideration.
19. The following policy designations apply to the site:
- Urban Density Zone;
  - Elephant and Castle Opportunity Area;
  - Elephant and Castle Major Town Centre;
  - Walworth Village Archaeological Priority Zone; and
  - Air Quality Management Area
20. The former depot site is a designated development site, 'Proposal Site 49P,' suitable for redevelopment where residential (Class C3) is the required use with other acceptable uses being Class A retail, Class B business, industrial and warehouse uses, and Class D community and leisure uses.
21. National Planning Policy Framework (NPPF)

Section 1: Building a strong competitive economy  
 Section 2: Ensuring the vitality of town centres  
 Section 4: Promoting sustainable development  
 Section 6: Delivering a wide choice of quality homes  
 Section 7: Requiring good design  
 Section 10: Meeting the challenge of climate change, flooding and coastal change  
 Section 11: Conserving and enhancing the natural environment  
 Section 12: Conserving and enhancing the historic environment

22. On 19 March 2013 the council's cabinet considered the issue of compliance between Southwark's planning policies and guidance in the NPPF, as required by NPPF paragraph 215. All policies and proposals were reviewed and the council satisfied itself that those in use were in general conformity with the NPPF. The resolution was that with the exception of Southwark Plan policy 1.8 (location of retail outside town centres) all policies would be saved. Therefore due weight should be given to relevant policies in existing plans in accordance to their degree of consistency with the NPPF.
23. London Plan July 2015 consolidated with alterations since 2011  
 Policy 2.13 Opportunity Areas and Intensification Areas  
 Policy 2.15 Town centres  
 Policy 3.2 Improving health and addressing health inequalities  
 Policy 3.3 Increasing housing supply  
 Policy 3.4 Optimising housing potential  
 Policy 3.5 Quality and design of housing developments  
 Policy 3.6 Children and young people's play and informal recreational facilities  
 Policy 3.8 Housing choice  
 Policy 3.9 Mixed and balanced communities  
 Policy 3.10 Definition of affordable housing  
 Policy 3.11 Affordable housing targets  
 Policy 3.12 Negotiating affordable housing on individual and private residential and mixed use schemes  
 Policy 3.12 Affordable housing thresholds  
 Policy 4.1 Developing London's economy  
 Policy 4.7 Retail and town centre development  
 Policy 4.8 Supporting a successful and diverse retail sector  
 Policy 4.12 Improving opportunities for all  
 Policy 5.1 Climate change mitigation  
 Policy 5.2 Minimising carbon dioxide emissions  
 Policy 5.3 Sustainable design and conservation  
 Policy 5.6 Decentralised energy in development proposals  
 Policy 5.7 Renewable energy  
 Policy 5.9 Overheating and cooling  
 Policy 5.10 Urban greening  
 Policy 5.11 Green roofs and development site environs  
 Policy 5.12 Flood risk management  
 Policy 5.13 Sustainable drainage  
 Policy 5.15 Water use and supplies  
 Policy 5.21 Contaminated land  
 Policy 6.1 Strategic approach (transport)  
 Policy 6.3 Assessing effects of development on transport capacity  
 Policy 6.5 Funding Crossrail and other strategically important transport infrastructure  
 Policy 6.9 Cycling

Policy 6.10 Walking  
 Policy 6.11 Smoothing traffic flow and tackling congestion  
 Policy 6.13 Parking  
 Policy 7.1 Lifetime neighbourhoods  
 Policy 7.2 An inclusive environment  
 Policy 7.3 Designing out crime  
 Policy 7.4 Local character  
 Policy 7.5 Public realm  
 Policy 7.6 Architecture  
 Policy 7.8 Heritage assets and archaeology  
 Policy 7.9 Heritage-led regeneration  
 Policy 7.14 Improving air quality  
 Policy 7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes  
 Policy 7.19 Biodiversity and access to nature  
 Policy 8.2 Planning obligations  
 Policy 8.3 Community Infrastructure Levy

24. Core Strategy 2011

Strategic Targets Policy 1 – Achieving growth  
 Strategic Targets Policy 2 – Improving places  
 Strategic Policy 1 – Sustainable development  
 Strategic Policy 2 – Sustainable transport  
 Strategic Policy 3 – Shopping, leisure and entertainment  
 Strategic Policy 5 – Providing new homes  
 Strategic Policy 6 – Homes for people on different incomes  
 Strategic Policy 7 – Family homes  
 Strategic Policy 10 – Jobs and businesses  
 Strategic Policy 11 – Open spaces and wildlife  
 Strategic Policy 12 – Design and conservation  
 Strategic Policy 13 – High environmental standards  
 Strategic Policy 14 – Implementation and delivery

25. Southwark Plan 2007 (July) - saved policies

Policy 1.1 Access to employment opportunities  
 Policy 1.7 Development within town and local centres  
 Policy 2.5 Planning obligations  
 Policy 3.1 Environmental effects  
 Policy 3.2 Protection of amenity  
 Policy 3.3 Sustainability assessment  
 Policy 3.4 Energy efficiency  
 Policy 3.6 Air quality  
 Policy 3.7 Waste reduction  
 Policy 3.9 Water  
 Policy 3.11 Efficient use of land  
 Policy 3.12 Quality in design  
 Policy 3.13 Urban design  
 Policy 3.14 Designing out crime  
 Policy 3.17 Listed buildings  
 Policy 3.18 Setting of listed buildings, conservation areas and world heritage sites  
 Policy 3.19 Archaeology  
 Policy 3.28 Biodiversity  
 Policy 4.1 Density of residential development  
 Policy 4.2 Quality of residential accommodation

Policy 4.3 Mix of dwellings  
 Policy 4.4 Affordable housing  
 Policy 4.5 Wheelchair affordable housing  
 Policy 5.1 Locating developments  
 Policy 5.2 Transport impacts  
 Policy 5.3 Walking and cycling  
 Policy 5.6 Car parking  
 Policy 5.7 Parking standards for disabled people and the mobility impaired.

26. Southwark Supplementary Planning Documents  
 Sustainability Assessment 2009  
 Design and Access Statements 2007  
 Section 106 Planning Obligations/CIL 2015  
 Sustainable Transport 2010  
 Affordable Housing 2008  
 Residential Design Standards (0011  
 Sustainable Design and Construction 2009  
 Elephant and Castle SPD / Opportunity Area Planning Framework (OAPF) 2012

### **Principle of development and land uses**

27. At the heart of the NPPF is the presumption in favour of sustainable development. Amongst the key themes in achieving sustainable development are ensuring the vitality of town centres, promoting sustainable transport, delivering a wide choice of high quality homes and delivering a good design.

### **Policy context**

28. The site is located within an Opportunity Area where redevelopment of brownfield sites for high quality mixed use development is strongly supported by regional and local planning policy. The London Plan considers Opportunity Areas to be “the capital’s major reservoir of brownfield land with significant capacity to accommodate new housing, commercial and other development linked to existing or potential improvements to public transport accessibility” (Para. 2.58). Policy 2.13 advises that development proposals within Opportunity Areas should contribute towards meeting (or where appropriate, exceeding) the minimum guidelines for housing and/or indicative estimates for employment capacity including supporting wider regeneration (including in particular improvements to environmental quality) and integration of developments to the surrounding area.
29. Southwark’s Core Strategy reinforces the London Plan aspirations for development within Opportunity Areas which are targeted as growth areas within the borough where development will be prioritised. The Core Strategy sets out the council’s vision for the Elephant and Castle Opportunity Area which is for redevelopment into an attractive central London destination and a more desirable place for both existing and new residents with excellent shopping, leisure and cultural facilities. Strategic Targets Policy 2 of the Core Strategy seeks around 45,000 sqm of additional shopping and leisure space within the Elephant and Castle Opportunity Area over the plan period.
30. The depot site is no longer required to be used as a waste site, owing to the opening of the larger waste management facility on Old Kent Road, and as such has become surplus to requirements as a civic amenity site. It is identified in the Saved Southwark Plan as ‘Proposal Site 49P, allocated for a residential-led mixed

use development with Class A/B/D uses within the railway arches. The Elephant and Castle SPD/OAPF identifies the site as being within the 'Rail Corridor' Character Area where the depot site (and other opportunity sites in the area) can provide a range of uses, including residential and business. The guidance also strongly encourages the retention of the adjacent Grade II listed Manor Place Baths which would be appropriate for conversion for a non-residential use. Furthermore, redevelopment of the site would provide a good opportunity to integrate new buildings and streets into the surrounding development, creating a new neighbourhood.

31. The site is currently occupied by temporary uses, including vehicle parking and storage which does not represent an efficient use of land nor maximise the development potential of this central urban location. The listed baths buildings are now largely vacant (save for the frontage building – 33 Manor Place) and are in a poor and deteriorating condition. Redevelopment of the site would make an important contribution towards the regeneration of the Elephant and Castle and, importantly, would bring the listed baths buildings back into a viable use. Similarly, the now vacant Former Coroner's Court (17-21 Manor Place) whilst not listed makes an important townscape contribution and would be retained. The principle of redevelopment is therefore strongly supported and is in accordance with development plan policy subject to detailed land use and planning considerations.
32. The council's Elephant and Castle Regeneration Team have confirmed their support of the development proposal, particularly noting the land use benefits and townscape and public realm enhancements that the development would bring. Overall, the team welcome the proposal and consider that the application would play a significant role in delivering the planning and regeneration objectives set out in the Elephant and Castle SPD/OAPF.

### **Housing**

33. The existing buildings on site do not contain housing and therefore the proposal would deliver 270 net new homes which would help meet the Core Strategy housing target of 4,000 new homes within the Elephant and Castle (or 5,000 new homes as defined in the Emerging Southwark Plan). The uplift in new residential units would maximise the use of the site and would make an important contribution to housing supply in the borough.

### **Non-residential uses**

34. The proposal would include a total of 3,370 sqm (GEA) of commercial floorspace (2,925 sqm GIA). The majority of the proposed commercial use would be provided for in the listed structure with 1,991 sqm (GIA) of dedicated Class B1 business floorspace proposed within the refurbished Pool House and Wash Houses which form part of the listed Manor Place Baths building complex. Additionally, nine of the railway arches would be brought into use providing a further 934 sqm (GIA) of commercial floorspace in the form of flexible retail (Classes A1/A2/A3), office (Class B1), and community or leisure (Classes D1/D2) uses. Flexible uses for the arches is sought in order to ensure that they would appeal to a variety of potential occupiers.
35. The inclusion of a range of business and other town centre uses are highly appropriate given the site's location within the Elephant and Castle Major Town Centre and will contribute towards achieving local plan policy targets in terms of



employment provision and new shopping and leisure floorspace. The proposed range of uses fully accord with the land use aspirations for the site as defined in the Elephant and Castle SPD/OAPF and would encourage the activation and regeneration of the railway arches which is a key objective for the Rail Corridor Character Area.

### **Marketing of non-residential uses**

36. The Local Economy Team considers that the new commercial floorspace would make a positive contribution to the local economy and the growth of the existing employment cluster to the west of Walworth Road. However, they have raised a query over the marketing of the commercial space.
37. A Disposal & Marketing Report has been submitted which comments on the local commercial market and outlines a potential high level marketing strategy for the commercial spaces. The Local Economy Team considers that at this stage the marketing proposal isn't clear. Similarly, the GLA requested evidence of organisations the applicant has contacted in relation to the take-up of the space within the listed building to ensure the proposed works to the building would be suitable for future occupiers.
38. Officers consider that this matter can be satisfactorily addressed by the submission of a detailed marketing strategy (to cover the railway arches and listed building) confirming how the space will be marketed, fitted out, and managed.

### **Loss of community use**

39. Permission was granted in November 2005 (Ref. 05/AP/0646) for use of 33 Manor Place, as a Buddhist Centre for a temporary period of 5 years. This building forms the front of the Manor Place Baths complex and would be refurbished and converted in to 10 residential units as part of the redevelopment of the wider depot site.
40. Although the temporary permission expired in 2010, the Buddhist Centre is still in use and as such the proposal would result in a loss of the existing Class D1 space. In this case, the redevelopment of Manor Place depot and adjoining baths was always envisaged to be a residential led development with an element of non-residential floorspace. The proposal allows for the inclusion of replacement Class D1 uses, albeit on a much smaller scale, and taking into account that the proposal would secure the long-term retention of the Grade II listed baths complex by converting them into a viable use, the loss of Class D1 floorspace is considered acceptable in this instance.

### **Environmental impact assessment**

41. A request for an Environmental Impact Assessment (EIA) Screening Opinion was submitted in September 2014 (Ref. 14/AP/3295) pursuant to Regulation 5 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The purpose of a Screening Opinion is to assess whether a development would be likely to have environmental effects of such significance that an EIA would need to be undertaken.
42. Applications where an Environmental Impact Assessment (EIA) is required will either be mandatory or discretionary depending on whether the proposal

constitutes Schedule 1 (mandatory) or Schedule 2 (discretionary) development. Schedule 2 Development could require an EIA depending on whether certain thresholds are breached and having regard to the sensitivity of the setting and likely significance of impacts. Schedule 3 of the Regulations sets out that in considering significance of anticipated environmental effects, regard should be had to the characteristics of the development, environmental sensitivity of the location and magnitude and duration of likely impacts.

43. The proposed development was considered against the EIA Regulations and the council confirmed that the likely environmental effects associated with the development would only be of local significance and therefore an EIA would not be required. The Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015 came into force on 6 April 2015 which amend the development thresholds for EIA projects. The 2015 Regulations do not raise any new matters that would alter the council's decision in respect of the requirement for an EIA and as such the Screening Opinion issued by the council remains valid.

### **Density and dwelling mix**

#### **Density**

44. Core Strategy Strategic Policy 5 advises that the density for both residential and mixed-use schemes in the Urban Zone should be within a range of 200 to 700 habitable rooms per hectare.
45. The proposed development across the site (i.e. inclusive of new build and conversion) is 525 habitable rooms per hectare based on 1.7 hectare site area (using the council's methodology for calculating mixed use developments). This density sits comfortably within the range expected for developments in the Urban Zone. A higher density on site is likely to be difficult to achieve given the need to protect the setting of the listed former Baths buildings. As such, the proposal maximises the efficient use of land without compromising the setting of important heritage assets.

#### **Dwelling mix**

46. Core Strategy Strategic Policy 7 prioritises the development of family homes. The policy sets out differing requirements for provision of family sized units depending upon geographical area. Developments of 10 or more units within the Elephant and Castle Opportunity Area must provide at least 60% of units with 2 or more bedrooms and at least 10% of units to have 3, 4, or 5 bedrooms. Any studio provision should not be higher than 5%.
47. The proposed development comprises the following mix of units across the site:

<b>Unit Type</b>	<b>Quantity</b>	<b>Percentage</b>
1-bedroom	71	26.3
2-bedroom	171	63.3
3-bedroom	28	10.4
Total	270	100%

48. From the above, it is demonstrated that the proposed residential accommodation provides a high proportion (73.7%) of two plus bedroom units which is welcome. It

also makes an appropriate provision of family three bedroom units. No studio flats are proposed. The development is therefore considered to provide a good mix of units and fully accords with the requirements of Strategic Policy 7.

### **Wheelchair accommodation**

49. The London Plan Policy 3.8 requires 10% of new housing to be designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users. Saved Policy 4.3 of the Southwark Plan requires a minimum of 10% of units to be provided as wheelchair accessible. The wheelchair units should be distributed proportionally across all tenures and include a range of unit types. Saved Policy 5.7 requires one disabled parking space for each wheelchair accessible unit.
50. The development makes provision for 13 wheelchair units (or 4.8%) with a designated car parking space for each unit. This represents an under-provision of 14 wheelchair units (or 5.2%) from the 10% minimum requirement. The reason for the shortfall is because providing 27 parking spaces would seriously impact on the quality of the landscaped open spaces and public realm within the site. Various car parking options were tested during pre-application discussions and it was concluded that 27 parking spaces could not be provided without serious detriment to the scheme. Furthermore, ensuring that the spaces were convenient and easily accessible to the wheelchair units was problematic. In light of this, the applicant has agreed to make a payment of £400,000 in-lieu of the wheelchair unit shortfall, calculated in accordance with the Council's Section 106 Planning Obligations and Community Infrastructure Levy SPD which makes provision for such a payment when it has been demonstrated that the required amount of wheelchair accessible units is not achievable. The monies would contribute towards funding adaptations to existing housing in the borough. When taking account of the commuted sum offered, the level of wheelchair provision on site is acceptable.
51. Of the 13 wheelchair units, three (1 x 1-bed; 1 x 2-bed and 1 x 3-bed) would be market units, four (all 2-bed) would be shared ownership units and six (4 x 1-bed and 2 x 3-bed) would be affordable rented accommodation. The proposed range of unit sizes across all tenures is welcome. The majority of wheelchair units would be located on the ground floor of the new build blocks with direct access to private gardens. All units located on the upper floors are conveniently located close to two lift cores and have access to private balconies.
52. The six affordable rented wheelchair units would be designed and fully fitted out in accordance with the South East London Housing Partnership Wheelchair Housing Design Guidelines. Due to uncertainty over the demand for wheelchair units in the private sector it is agreed that the 10 market and shared ownership units would be adaptable in that they would be fitted out to a 'base specification' and adaptations made to meet individual wheelchair user requirements (at no additional cost to the wheelchair user). The wheelchair accommodation, including marketing for the adaptable units, will be secured by legal agreement.
53. All the units within the new build blocks would be built to Lifetime Homes standards. However, due to the constraints of converting the listed frontage Baths building (33 Manor Place) and the Former Coroner's Court (17-21 Manor Place), the proposed layout for these flats do not meet all the required criteria. This is considered acceptable given that the affected units would be market accommodation and the public benefit of retaining these buildings outweighs any minor failures in this respect.

## **Affordable housing**

### **Policy context**

54. Core Strategy Strategic Policy 6 requires major developments to provide as much affordable housing as is reasonably possible. It sets a target of 8,558 net affordable housing units to be provided between 2011 and 2026, including 1,400 affordable units within the Elephant and Castle Opportunity Area. In order to achieve this, the policy requires a minimum 35% affordable housing on major developments.
55. Saved Southwark Plan Policy 4.4 is used alongside the overarching Strategic Policy 6. In terms of tenure, affordable housing within the Elephant and Castle Opportunity Area should be delivered at 50% intermediate and 50% social rented units. Saved Policy 4.5 of the Southwark Plan states that for every affordable housing unit which complies with the wheelchair design standards, one less affordable habitable room will be required.
56. The council's adopted Affordable Housing SPD (2008) together with the draft Affordable Housing SPD (2011) provide further detailed guidance to supplement local plan policy and sets out the approach in relation to securing the maximum level of affordable housing provision. The SPDs also give guidance on how to calculate the level of affordable housing proposed. It describes the habitable room calculation for affordable housing purposes, which takes into account an additional habitable room where the size of a room is more than 27.5 sqm.

### **Representations**

57. Local objections have been received primarily concerned about the lack of clarity over the affordable housing offer and whether a viability assessment has been submitted. Furthermore, the submission doesn't address how rents will be kept affordable or why affordable rents [as opposed to social rented housing] should be allowed.
58. Further information has been submitted during the course of the application, including the submission of a financial viability appraisal, to justify the affordable housing offer.

### **Assessment**

#### **Quantum**

59. In total, there are 952 habitable rooms across the development (those habitable rooms over 27.5 sqm have been counted as two habitable rooms), 35% of which equates to 333 habitable rooms which would be the minimum required level of on-site affordable provision. Six of the 13 wheelchair units would be affordable rented and built as fully accessible and therefore the target 333 habitable rooms would reduce by six rooms to 327 habitable rooms. The remaining 10 wheelchair units (six market and 4 shared ownership units) don't qualify for an affordable housing wheelchair discount as these units would be offered as 'adaptable', built to a base specification and offered as general needs housing in the event there is no take-up by wheelchair user(s).

60. The proposal comprises 104 affordable units (or 351 habitable rooms) with 44 rented units located within Block G and 60 intermediate units provided within the Viaduct Block (Blocks A—F) which also contains private market accommodation. The affordable housing is broken down as follows:

Unit	Intermediate (shared ownership)	Affordable Rent	Social Rent
1 bedroom	24	9	0
2 bedroom	36	25	0
3 bedroom	0	0	10
Total Unit (Habitable room)	60 (179)	34 (122)	10 (50)
			104 units (351 habitable rooms)

61. The proposal equates to a total 36.9% on-site affordable provision by habitable room (38.5% by unit), or 39% when taking account of the wheelchair habitable room allowance, which exceeds the minimum 35% policy requirement. The level of on-site affordable housing provision is a particularly positive aspect of the scheme.

#### **Tenure**

62. In terms of tenure, the affordable accommodation would be split between 51% intermediate (shared ownership) and 49% rented accommodation (by habitable room) which broadly complies with the 50:50 tenure split required for developments within the Elephant and Castle.
63. The 60 shared ownership units would be offered in accordance with Southwark's income thresholds. Of the affordable rented accommodation, the one and two bedroom units would be charged at 56.7% and 61.6% of market rent respectively (inclusive of service charges), capped at Local Authority Housing Allowance Levels. This would equate to a rent of £186.68 per week for a one bedroom unit and £250.95 per week for a two bedroom unit (based on market rent values at June 2015).
64. The proposed 10 three bedroom family homes would be social rented accommodation where the rent levels are determined through the national rent regime. The method for calculating the level of rent for this tenure is based on a pre-set formula which doesn't include service charges. The social rented units will be defined in the legal agreement as:

*Housing owned and let by Local Authorities and private Registered Providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which formula rents are determined through the National Rent Regime (meaning the rent regime under which the social rents of tenants of social housing are set by the Homes and Communities Agency (or any successors thereto) with particular reference to the "Guidance for Rents on Social Housing" May 2014, and the "Rent Standard Guidance" April 2015 including Appendix 1 or any subsequent revisions thereof.*

### Financial appraisal

65. Notwithstanding that the proposal would deliver in excess of the 35% policy compliance, a financial viability appraisal has been submitted to demonstrate that the proposal represents the maximum amount that could be reasonably delivered on site at the rent levels specified. As is the case with any development, the ability to make an affordable housing contribution is dependent on its ability to produce a financial surplus over and above a reasonable profit level.
66. The appraisal and its assumptions have been reviewed by the District Valuer (DV). Following negotiation, an agreed position has been reached on the majority of inputs into the appraisal and the DV concurs that the affordable housing offer represents the maximum that can be viably delivered.

### Conclusion

67. The London Plan and Core Strategy require as much affordable housing on-site as is financially viable. The proposal exceeds the minimum 35% policy requirement and officers are satisfied that it has been adequately demonstrated that the proposal is the maximum reasonable amount that could be delivered and to that extent the scheme is strongly supported.

### Quality of residential accommodation

68. Saved Policy 4.2 of the Southwark Plan asserts that planning permission will be granted provided the proposal achieves good quality living conditions, and includes high standards of accessibility, privacy and outlook, natural light, ventilation, space, safety and security, and protection from pollution. This policy is reinforced by the council's Residential Design Standards SPD.

### Internal unit sizes

69. The SPD defines the minimum standards required for internal accommodation, including overall unit as well as individual room sizes. The following table shows the range of proposed unit sizes as compared with the recommended SPD standards.

Unit Size (bedroom / person)	SPD Minimum Unit Area (sqm)	Proposed Unit Range (sqm)
<i>Flats</i>		
1-bed (2 person)	50	50 - 87
2-bed (3 person)	61	64 - 108
2-bed (4 person)	70	73 - 97
3-bed (4 person)	74	95
3-bed (5 person)	86	93 - 138
3-bed (6 person)	95	108 - 114
<i>2 storey houses / Duplex</i>		
2-bed (4 person)	83	88 - 103
3-bed (5 person)	96	113 - 126

70. All the residential units would either meet or, in the majority of cases, exceed the

recommended minimum unit sizes and are provided with sufficient bulk storage. There are however 17 flats which contain individual room(s) that don't meet minimum standards. Seven of these units are located within the listed building where the constraints of converting such a building are acknowledged. Of the remaining 10 new build flats, the open plan lounge / kitchen areas fall marginally below the recommended minimum sizes (between 0.9 and 1.8 sqm shortfall) but the units are provided with larger bedrooms to the extent that they meet or exceed overall unit requirements. When taking this into account and that only a relatively small number out of the 270 units are affected, the minor discrepancies are accepted.

71. The majority of the family sized (3-bedroom) units, including all the affordable rented family units, have separate kitchen/diners. Where open plan living areas are proposed, the rooms are well in excess of the minimum required size and would allow for some separation of activities. Overall, in terms of unit size and layout, the proposal would deliver an acceptable standard of internal accommodation with the majority of dwellings, including affordable units, in excess of minimum standards.

#### **Aspect and outlook**

72. A good proportion of the accommodation would have either a double or triple aspect. Across the scheme there are 210 units (or 77%) with dual (or better) aspect and 60 single aspect units (or 22%). All the single aspect flats are smaller one bedroom units rather than family accommodation and none face directly north. They have private outdoor space of at least 5 sqm which somewhat offsets their lack of aspect. Overall, officers are satisfied that the scheme offers a predominance of dual aspect units.

#### **Daylight analysis**

73. A comprehensive assessment has been undertaken for levels of daylight and sunlight within the new development. This includes an analysis of the amount of daylight and sunlight reaching each habitable room within the development, as well as the anticipated amount of sunlight reaching communal amenity spaces. The assessment has been carried out in accordance with the guidelines established by the Building Research Establishment (BRE).
74. The residential element of the proposal is split between three principal elements: Blocks A-F, which run parallel to the eastern edge of the viaduct; Block G, the L-shaped affordable block to the east of the site; Blocks J-M, the U-shaped block to the west of the site. Further accommodation is included in the converted former Bath House. The Average Daylight Factor (ADF) test has been undertaken for all habitable rooms.

#### **Blocks A-F**

75. Of 313 rooms assessed, 283 (90.4%) achieve the levels of daylight recommended by the BRE. All failures are on the ground, first and second floor and are predominantly the Living/Kitchen/Dining rooms. These results are largely due to the proximity to the railway viaduct to the west and presence of overhanging balconies on Occupation Road. However, the depth of the rooms is also a factor; the majority of living/kitchen/dining rooms span the block and have a dual aspect, with windows fronting both Occupation Road and the Viaduct route. By the third

floor, every room achieves the ADF values recommended by the BRE.

	Pass	Fail	<i>Total</i>
LKD	80	24	<i>104</i>
Living	9		<i>9</i>
Kitchen	9		<i>9</i>
Bedroom	185	6	<i>191</i>
<i>Total</i>	<i>283</i>	<i>30</i>	<i>313</i>

### Block G

76. Of 140 rooms assessed, 123 (87.9%) achieve the daylight levels recommended by the BRE. The habitable rooms that fail tend to be single aspect living spaces that have a recessed balcony or are shadowed by an overhanging balcony. Only 2 of the 88 bedrooms fail to achieve the recommended daylight level, this is likely a result of them being larger and, particularly, deeper than other bedrooms.

	Pass	Fail	<i>Total</i>
LKD	27	13	<i>40</i>
Living	5		<i>5</i>
Kitchen	5	2	<i>7</i>
Bed	86	2	<i>88</i>
<i>Total</i>	<i>123</i>	<i>17</i>	<i>140</i>

### Blocks J-M

77. Of the 293 rooms assessed, 236 (80.5%) achieved the recommended levels of daylight. Consistently low levels of daylight are experienced in bedrooms on the eastern side of Block J, immediately adjacent to the viaduct. Whilst all units in this Block are dual aspect and are configured such that the main living spaces sensibly overlook the courtyard gardens, the level of daylight reaching bedrooms is constrained by the proximity to the viaduct and the deck access arrangement. This includes a number of rooms achieving an average daylight factor at, or extremely close to, zero. These figures should be understood as representing a worst case scenario when the sky is overcast and, in reality, reflections of light from other surfaces will result in daylight entering these properties. The quality of light entering these particular rooms will be influenced by internal decoration and will therefore be dependent on the developer and future owner occupiers. Of 57 bedrooms in this elevation, 25 are lower than the 1% ADF advocated by the BRE.

	Pass	Fail	<i>Total</i>
LKD	82	18	<i>100</i>
Living			
Kitchen			
Bed	154	39	<i>193</i>
<i>Total</i>	<i>236</i>	<i>57</i>	<i>293</i>

### Former Bath House

78. 10 new flats will be created in the Bath House. Of the 26 habitable rooms this



comprises, 22 rooms (84.6%) achieve the recommended levels of daylight. The four rooms that fail are three living/kitchen/dining rooms and a single bedroom. Where rooms fail to meet the recommended levels, the degree of non-compliance is slight. Officers consider that this represents a very good degree of compliance considering the constraints that the listing of the building imposes on residential layouts.

### Summary

79. Overall, the development shows a very good level of compliance (86%) with the daylight standards recommended by the BRE for new residential development. This is true for all blocks, with no discernible differences between tenure or unit size. Where failures occur, units tend to benefit from dual aspect or the level of deviance is slight.

### Sunlight analysis

80. The BRE also set recommendations on the amount of sunlight reaching residential properties. They advise that rooms will benefit from a good level of sunlight if they receive 25% of the total number of sunlit hours that could be expected at a particular location over the course of a year, and 5% of the total in winter. The levels of sunlight reaching each living/kitchen/dining room and each independent living rooms has been tested.

#### Block A-F

	Rooms Pass	Rooms Fail
APSH (25%)	48 (42%)	65
Winter (5%)	65 (58%)	48

#### Block G

	Rooms Pass	Rooms Fail
APSH (25%)	28 (64%)	16
Winter (5%)	29 (66%)	15

#### Block J-M

	Rooms Pass	Rooms Fail
APSH (25%)	47 (47%)	53
Winter (5%)	60 (60%)	40

#### Listed building

	Rooms Pass	Rooms Fail
APSH (25%)	4 (40%)	6
Winter (5%)	4 (40%)	6

81. The results of the sunlight tests are mixed, which is typical for an urban environment. The results for the various blocks are comparable, with the affordable units in Block G achieving slightly better levels of sunlight annually and

in winter.

82. Though the density of the scheme is relatively modest for this location, the proximity to the railway viaduct limits the sunlight received by units at lower levels on either side of the viaduct, whilst overhanging balconies have a shadowing impact on upper floors. The impacts are at least tempered by the fact that balconies in Blocks A-F are triangular in form and have been staggered, whilst the vast majority of units adjoining the viaduct are dual aspect. This is considered a reasonable outcome for an urban location of this nature.

### **Overshadowing of communal gardens**

83. Further testing has considered the sunlight received by communal garden areas. The BRE recommend that 50% of space receives 2hrs direct sunlight on 21 March. The large area of public realm/courtyard space in front of the listed building and the garden space between Blocks J-L and Matara Mews comfortably meet this standard, whilst 38% of the communal space serving Block G reaches this level. Very few residential neighbours currently enjoy this level of sunlight in their private gardens. This is considered to represent a good level of sunlight in communal spaces.

### **Privacy and overlooking**

84. In order to prevent harmful overlooking between residential properties, the Residential Design standards SPD requires developments to achieve a separation distance of 12m at the front of a building and any elevation that fronts a highway and a minimum of 21m separation at the rear of buildings.
85. The separation distances for direct facing main habitable windows within the new development comfortably achieve the recommended distances due to the inclusion of new shared routes and open spaces between the blocks. Planting, railings and low level brick walls would provide defensible space for ground floor units along the viaduct (Blocks A-F) which also help soften the edges of the public route. Similarly, planting would be provided between private gardens and communal courtyards to protect resident amenities.

### **Amenity space**

86. New residential development must provide an adequate amount of useable outdoor amenity space for future residents. In terms of the overall amount of space required, the following would need to be provided in accordance with the Residential Design Standards SOD:
- Minimum 50 sqm of communal amenity space per development
  - For units containing 3 or more bedrooms – 10 sqm of private amenity
  - For units containing 2 or less bedrooms – ideally 10 sqm of private amenity, but where this isn't possible the remaining amount should be added to the communal amenity space total area
  - 10 sqm of play space per child bed space (covering a range of age groups).
87. A development providing 270 residential units should make provision for at least 2,750 sqm of outdoor amenity space calculated on the basis of 10 sqm per unit and 50 sqm of communal space.

### **Private amenity**

88. The proposal provides a total of 3,996 sqm of private amenity space in the form of gardens, balconies or terraces. All the new build units would have access to private amenity space of at least 5 sqm with many of the units having access to much larger spaces, including all the family units. Where balcony provision is below the minimum 10 sqm, the shortfall has been accounted for within the communal amenity courtyards proposed for each block. Six of the 10 units within the listed building do not have access to any private amenity space but no issues are raised with this given the difficulties associated with converting a listed building. Occupiers of these units would have easy access to a large landscaped communal garden (including child play space) to the rear of the listed building. The principal access to the private amenity areas is from the main living areas rather than bedrooms.

### **Communal amenity**

89. 2,322 sqm of communal amenity space would be provided across the development in the form of various landscaped courtyard gardens and roof terraces. On the western side of the development, a central open landscaped courtyard (560 sqm) would be provided to the front of the 'U-shaped' Blocks J-M and include a variety of distinct spaces, including a decked seating area, to cater for a range of activities for all users. This courtyard would be open and available for all future occupiers across the development.
90. Dedicated landscaped communal courtyards would be provided to the rear (south) of Blocks J and M on the western side (972 sqm) and to the rear of Block G (488 sqm) on the eastern side of the development. Occupiers of the Viaduct Block (Blocks A-F) would have direct access to a series of communal roof terraces (total 302 sqm) accessed at fourth floor level which would provide a range of seating areas and child play elements.

### **Child play space**

91. The development would generate a requirement of 671 sqm of child play space based on the GLA's Child Play Calculator broken down as:
- 5 years and younger = 371 sqm  
 5-11 years = 190 sqm  
 12+ years = 110 sqm.
92. It is proposed to incorporate the 0-11 year old group play on site (total 561 sqm) with play spaces provided within each of the communal courtyards. These will combine a selection of naturalistic play elements and sculptural fixtures such as stepping stones/logs, boulders and balancing objects. The wider communal areas will also provide the opportunity for informal play. It is recognised that providing quality play space for the 5-11 year old group within the Viaduct Block is limited given that the communal space for this block comprises a series of smaller roof terraces. Provision has therefore been made within the large open courtyard on the western side of the viaduct which is easily accessible to all blocks.
93. In terms of play provision for the older 12+ age group, an off-site solution is proposed given that there are a number of open spaces and play facilities within 800m of the site. A payment of £16,610 has been agreed (calculated in

accordance with the S106 Planning Obligations/CIL SPD) to contribute towards the provision of new or improved play facilities in the area.

94. The separation distances for direct facing main habitable windows within the new development comfortably achieve the recommended distances due to the inclusion of new shared routes and open spaces between the blocks. Planting, railings and low level brick walls would provide defensible space for ground floor units along the viaduct (Blocks A-F) which also help soften the edges of the public route. Similarly, planting would be provided between private gardens and communal courtyards to protect resident amenities.

#### **Conclusion on residential quality**

95. The proposed development would provide accommodation that is considered to be of a high standard which, in the majority, includes good sized internal spaces with all units having access to private amenity and/or easily accessible communal outdoor amenity space and doorstep child play space. The daylight and sunlight testing undertaken identifies some shortcomings in terms of compliance with BRE standards but generally the scheme achieves good daylight levels considering the urban context of the site. Furthermore, the predominance of dual aspect flats will improve the quality of the accommodation. Accordingly, officers consider that the overall standard of residential accommodation is acceptable.

#### **Impact of proposed development on amenity of adjoining occupiers and surrounding area**

96. Strategic Policy 13 of the Core Strategy sets high environmental standards and requires developments to avoid amenity and environmental problems that affect how we enjoy the environment. Saved Policy 3.2 of the Southwark Plan states that planning permission for development will not be granted where it would cause a loss of amenity, including disturbances from noise, to present and future occupiers in the surrounding area or on the application site.

#### **Outlook and privacy of neighbouring properties**

97. A 12m separation would be achieved between the proposed development and existing properties fronting Occupation Road. Elsewhere, a greater separation would exist for those properties along Manor Place and Penrose Street facing the development and therefore meets the recommended distances to the front of buildings. A separation distance of circa 18m would exist between the rear of the new Courtyard Block (Blocks J-M) and the rear windows of residential properties on Penton Place, rising to well in excess of 21m towards the rear of adjoining properties on Penrose Street. An adequate amount of separation would be also maintained between Block G and the rear of adjoining Walworth Road properties. Whilst the recommended 21m distance would not be achieved towards the rear of all adjoining properties, the separation is considered acceptable given the site's urban context. As such, the proposed development is unlikely to unduly adversely affect the privacy of neighbouring properties.

#### **Impact on daylight received by neighbours**

98. An assessment on the amount of daylight received by neighbours surrounding the development site presently and on completion of the development has also been

completed. The potential impact has been assessed at:

- 140 Manor Place, 142-152 Manor Place and 13 Manor Place to the north;
- 238-248 Walworth Road, 250-252 Walworth Road, 260 Walworth Road and 1 Occupation Road to the east;
- 40-64 Penrose Street to the south; and
- 89-103 Penton Place to the west.

99. In accordance with guidance produced by the BRE, the principal test for impact on neighbouring properties is the Vertical Sky Component (VSC) test. This simply considers the amount of daylight falling on the centre of a window, taking account of obstructions, compared to the amount of light that would be expected on a normal, overcast day. The BRE set out that a VSC score of 27% indicates a good level of daylight. Where a proposed development would lead to a reduction in VSC of more than 20% and the resulting level would be less than 27% this would result in a noticeable impact.

#### **140 and 142-152 Manor Place**

100. 101 windows assessed. Only 4 windows experience a reduction in VSC in excess of 20% with the resulting value being less than 27%. These windows are all located at ground floor in the feature corner entrance on the corner with Crampton Street and the scale of impact here is skewed by the fact that the existing VSC levels are well below 27%.

#### **13 Manor Place**

101. 6 windows tested, of which a single window fails to meet the recommended level by virtue of a reduction of 25% down to a VSC of 17%. A further 'No sky line' test- which considers the proportion of a room that would receive daylight- indicates a less noticeable reduction of 14% with around two thirds of the room receiving daylight.

#### **1 Occupation Road**

102. 5 windows tested and both of the ground floor windows, which immediately abut the existing kerb line, would experience a reduction of around 40% with the resulting VSC levels around 18%. Both windows are assumed to serve the same room and the applicant contends that the ADF value for this room would exceed the level recommended by the BRE.

#### **Walworth Road**

103. 56 windows tested along the rear of properties fronting Walworth Road. Modelling indicates that 4 windows will experience reductions in excess of 20% and have a resulting VSC level lower than the recommended 27%. Of the properties affected, the levels of daylight in the existing condition tends to be low. The overall impact of development here is slight.

#### **40-64 Penrose Street**

104. 146 windows tested across 13 properties located immediately to the south of the development site. None of the windows tested experience a reduction greater than 20%, with some windows assessed as having improved VSC scores after development has taken place.

### **89-103 Penton Place**

105. 95 windows assessed across 8 properties located immediately to the west of the development site. The majority of the windows (91.6%) meet the recommended VSC levels and would not experience noticeable reductions in daylight. A small number of windows would experience an increased level of daylight as a result of the alignment of new buildings moving further from their properties, whilst a similar number are assessed as having a minor reduction.
106. At 95 Penton Place, 1 window is determined as experiencing a 24% reduction in daylight, whilst at numbers 93 and 91, each property has 2 windows that experience reductions of a similar magnitude. At 89 Penton Place, 3 windows experience a reduction of between 22 and 34% and the resulting VSC levels are between 13% and 22%.

### **Summary**

107. Overall, the impact on the level of daylight received by neighbouring residential properties is relatively minor and achieving such high levels of compliance is commendable in an urban location on the periphery of the Central Activities Zone. This is partly a reflection of the particular site constraints that have necessitated a relatively low density of development, as well as adherence to the minimum separation distances between properties that are set out in the council's Residential Design Standards SPD.

### **Impact on sunlight received by neighbouring properties**

108. The BRE also set recommendations on the amount of sunlight reaching residential properties. They advise that rooms will benefit from a good level of sunlight if they receive 25% of the total number of sunlit hours that could be expected at a particular location over the course of a year, and 5% of the total in winter. As with the daylight analysis, the BRE advise that where sunlight is reduced to 0.8 times its original value and as a result falls beneath these thresholds, residents would experience a noticeable reduction in sunlight. If the absolute reduction is greater than 4% rooms may appear colder. The BRE recommend that all living rooms with a window within 90 degrees of due south are tested.

### **Impact on neighbouring properties**

109. The only properties experiencing an annual reduction in sunlight hours in excess of 20% are 1 Occupation Road (45%) and 252 Walworth (38%), but in both cases the resulting levels are above the 25% recommended by the BRE; indicative of a good level of sunlight. A number of properties along Penton Place and Penrose Street experience slight increases in levels of sunlight received due to the building line shifting further from the rear of these properties.
110. In winter, when the sun is at a lower angle in the sky, the reductions in sunlight are more pronounced. Properties along Walworth Road tend to experience

reductions in excess of 20% though only a small number of windows affected fall beneath the 5% level recommended by the BRE.

### **Impact on neighbouring gardens**

111. Further assessments indicate that the development will not have a significant impact on the amount of sunlight received in neighbouring gardens. For properties along Penton Place, the proportion of garden receiving more than 2hrs direct sunlight on 21<sup>st</sup> March generally increases after development. The exception to this is 103 Penton Place, which is modelled as having a negligible 0.3% reduction. At 244 Walworth Road, a more noticeable reduction of 7% is anticipated; however 37% of the rear yard will continue to receive the recommended level of sunlight.

### **Overshadowing of artist studios on Occupation Road**

112. Waterslade have prepared a supplementary note examining the potential for overshadowing of the artists studios at 7-10 Occupation Road, opposite the Manor Place depot. Whilst the BRE guidance is primarily related to residential dwellings, it does acknowledge that care should be taken to safeguard access to sunlight for nearby non-domestic buildings where there is a particular requirement for sunlight. Though not explicitly referenced, artists' studios could be considered to have such a requirement.
113. The assessment considers the potential overshadowing effect on 44 windows, assumed to serve 14 separate studios. The assessment asserts that more than half of the studios will experience a reduction of around 50-60% in annual sunlight hours. Whilst this will undoubtedly be noticeable to the users of these spaces, the resulting values for sunlight hours received are almost entirely in excess of the 25% figure recommended by the BRE. A single studio on the ground floor would drop below this recommendation, the resulting figure being 24%. Similarly, whilst there are reductions in the number of winter sunlight hours, there are no instances where the proposed development would lead to a failure to meet the 5% recommended by the BRE.
114. The conclusions depend to an extent on the grouping of windows and assumed number of studios. Correspondence received from the artists suggests that there are currently 20 separate studios operating in the building as opposed to 14, so the impacts on individual tenants could differ from those presented in the report. However, where it has been determined that the Manor Place development will impact on the amount of sunlight entering any individual window, the lowest resulting levels are 23% of annual sunlight hours and 5% for winter hours. Overall, this is considered to represent a good level of compliance with the BRE guidance. Whilst a few windows on the internal courtyard elevation have lower values, these are predominantly north facing and not normally subject to sunlight analysis.
115. Furthermore, consideration has been given to the potential for overshadowing of the internal courtyard space. This analysis indicates that the Manor Place development will have no impact on the proportion of the internal courtyard that receives a minimum of 2 hours direct sunlight in summer or winter.

### **Impact of adjoining and nearby uses on occupiers and users of proposed development**

116. The proposed land uses are compatible with those already existing in the locality.

There are no uses in the area that would adversely impact future occupiers of the development, the character of which is entirely in-keeping with existing uses in the area.

### **Noise**

117. Noise and vibration surveys have been undertaken to determine the existing baseline conditions at the site. Road and rail traffic are identified as key sources of both noise and vibration, whilst plant equipment associated with energy provision and commercial premises is also likely to generate an impact. Despite the proximity to the railway, the assessment states that the levels of vibration experienced in the commercial arches and in those residential units closest to the viaduct are consistent with national guidance.
118. The report sets out that the impacts of noise and vibration can be addressed adequately through considered construction and appropriate mitigation measures. It is proposed that a series of standard planning condition are imposed to address noise from plant, internal noise levels and the level of vibration experienced in residential units.

### **Design and heritage issues**

#### **Policy context**

119. The NPPF stresses the importance of good design which is a key aspect of sustainable development (Para 56). Chapter 7 of the London Plan deals with design related matters, in particular Policy 7.1 sets out the design principles required for new development. Policy 7.8 asserts that development affecting heritage assets and their settings should conserve their significance by being sympathetic in their form, scale, materials and architectural detail.
120. The relevant Southwark design and conservation policies include Core Strategy Strategic Policy 12 and Saved Policies 3.12, 3.13, 3.15, 3.17 and 3.18 of the Southwark Plan. These policies require the highest possible standards of design for buildings and public spaces. The principles of good urban design must be taken into account, including height, scale and massing of buildings, consideration of the local context, including historic environment.
121. Representations have been received raising a number of design related concerns:
- Height and massing of Viaduct Block
  - Inappropriate cladding and use of materials
  - Angled projecting balconies on Viaduct Block are incongruous
  - Gateway buildings at end of Occupation Road / Penrose Street new route appear insubstantial

#### **Site context**

122. Manor Place is an important development site with enormous potential. The site is bisected by the existing brick built railway viaduct which is an important part of the industrial heritage of the site. In the area to the north of the site, the eastern side of the viaduct has been opened up over time to become a route which has brought industry, commerce and animation to this part of the borough.



123. The depot site is generally landlocked and has limited interface with the surrounding public realm. The main outlook from the site is towards the rear of existing properties on the Walworth Road, Penrose Street, Penton Place and Manor Place. Any future development on the site is therefore likely to be relatively inward looking but should make the most of opportunities to integrate into the surrounding area.
124. The site includes a number of heritage assets. The Grade II listed Manor Place is an important designated heritage asset. The former Coroners Court at the north-eastern entrance to the site is a modest but sound piece of historic townscape with elegant proportions and many preserved features worth of retention. Most of the other industrial buildings on the site have little merit, with the exception of the buildings on Penrose Street, specifically an administration block and garages. The former is a late Art Deco style office block of modest scale that addresses the street positively, the latter is much altered but retains some interesting glazed brick interior.
125. The site is not within a conservation area. The nearest neighbouring heritage assets are the listed building at 33 Penrose Street which also have the undesignated warehouse and postal sorting office nearby. On Manor Place the more recent church at the corner with Penton Place is not so much a heritage asset but it is an important community building and a landmark in the area. To the north of the site on Amelia Street is the Pullens Estate Conservation Area, whilst to the south is the Sutherland Square Conservation Area.
126. The site is identified for regeneration in the Elephant and Castle SPD / OAPF. Broadly, this document sets out the importance of conserving or enhancing the heritage assets on the site, including the Manor Place Baths and the setting of the Pullens Conservation Area. In relation to design and conservation it also advises that:
- Buildings with larger footprints may be appropriate adjacent to the viaduct but that their massing should be broken down by sub-division of elevations and well articulated and active frontages
  - Building heights should relate to the surrounding context, with an opportunity for heights to culminate on plots adjacent to the viaduct, particularly on the eastern side
  - Pedestrian and cycle routes which link into the surrounding area should be provided
  - Development opportunities should be used to improve east-west links and open up routes through the viaduct as well as a continuous link alongside the viaduct
  - Some green space should be provided on the site.

### **Site layout**

127. In terms of site layout, the two sides of the viaduct have been treated differently in response to their different characters. To the east, the long linear nature of the site defined by the viaduct would be emphasised by a long linear building (Blocks A-F) with a north-south route either side of it. To the east of this, would be a lower 'L-shaped' block (Block G) defining the corner of Penrose Street and Occupation Road with a communal garden at the rear. To the west of the viaduct, the primary focus would be the refurbished listed bathhouse which would form the northern edge of a new landscaped courtyard. The other side of the courtyard would be

enclosed by a 'U-shaped' 5 and 6 storey building (Blocks J-M). To the south of this would be a communal residential garden. This approach to site layout has been captured by the creation of three Character Areas; 'The Courtyard', 'The Viaduct' and 'Penrose Street'. This approach is welcomed as it would ensure distinction, variety and visual interest across the site.

128. Entrance to Occupation Road with a lower scale, timber clad building providing a contemporary transition to the adjacent new linear 'Viaduct Block' (Blocks A-F). At the southern end of the 'Viaduct Block' would be a taller 'tower' element five storeys high. This would have a unique kinked form that would allow generosity to the public realm at the entrance to the 'low line' route proposed alongside the viaduct. It would also feature a small area of timber cladding linking it back to the other 'gateway' buildings. The generosity of the public realm at the southern entrance to the low line would encourage people to use this route rather than the more private and residential extension of Occupation Road.
129. The railway arches would be refurbished and reused as either small commercial spaces arranged in clusters along its length or as refuse or cycle stores. The clusters of commercial uses are welcomed but the cycle and refuse stores could potentially deaden the frontage along sections of this 'low-line' viaduct route unless treated very carefully. Further detail on the design of the ground floor treatments along the low line route (both the viaduct arches and the viaduct block) will be required by condition.

#### **Routes and movement**

130. A through-route linking the two sides of the viaduct is proposed, created by opening up three arches in the viaduct. This connection and the generosity of the space created is welcome as it would make a pleasant contribution to the public realm without compromising the place making potential of the viaduct. Similarly, the way in which the viaduct is treated as the main organising element of the site, defining the primary north-south link which is designed to respond to the borough's aspirations for a new 'low-line' route is also welcomed.

#### **East of the viaduct**

131. To the east of the Viaduct Block would be a smaller north-south route intended for more local movement. This would extend Occupation Road into the site but at the point where it enters the site, access would be restricted to residents only disabled parking and limited service delivery.
132. The relationship between these two parallel routes has been of some concern throughout the pre-application discussions. Officers have been keen to ensure a sense of hierarchy that would encourage footfall along the 'low-line'. It is considered that a number of design features have been incorporated in order to achieve this, including the gateway buildings and the wider public realm at the southern entrance (off Penrose Street) to the 'low-line' and the use of corner balconies to restrict the width of the opening to the Occupation Road link. Furthermore, the detailed design of the streets, including surface materials, boundary treatments and landscaping will contribute to this. These details will need to be reserved by condition.

#### **West of the viaduct**

133. To the west of the viaduct would be a gated street serving the front doors of the ground floor units within Blocks J-M facing the viaduct. Officers initially raised concerns why these units were orientated away from the main courtyard space as gated streets are generally discouraged in terms of urban design and designing out crime. However, the applicant has clarified that these units would also be accessed via a central lobby within Block J. This is important as it allows the units to share a legible Block J address and mitigates over-reliance on the use of the gated route. Indeed, it is intended that the gate to the route would be locked at all times, save for service access, which would be controlled by the site concierge.
134. Officers also queried the impact of private amenity spaces backing onto the main communal courtyard space to the front of the blocks. The design has subsequently been revised to extend the proposed privacy zone of heavy planting and to introduce 1.5m high fences with open railings which would ensure an appropriate balance between privacy and visual permeability. Furthermore, this condition would exist on only one side of the open courtyard space and therefore it is not considered that it would suffer from a lack of natural surveillance of active frontages.

### **Scale and massing**

135. Across the site, building heights would generally be limited to 5 or 6 storeys with the exception of the site edges close the viaduct and to the rear of the listed building. Along Manor Place, the existing Coroner's Court and the frontage of the listed Bathhouse create a streetscape of 3 to 4 storey frontages. Behind each of those buildings, 3 storey timber clad buildings act as a transition to the brick-clad new apartment blocks in the centre of the site. The Viaduct Block would step up from the 3-storey transition building behind the Coroner's Court to a datum height of 5 storeys. Above this, and only visible from the viaduct site, it would modulate up to a height of 7 storeys. These modulations at roof level would allow for roof terraces and a shared rooftop communal amenity space. The tower marking the 'gateway' to the site on Penrose Street would be 5 storeys. The Penrose Street block would be mostly 4 storeys with an additional floor to mark the corner. To the west of the viaduct, two wings of the courtyard block would be 5 storeys with a further storey on the eastern wing closest to the viaduct.
136. This approach to heights across the site is considered acceptable and is in line with the Elephant and Castle SPD/OAPF which advises that "buildings heights should relate to the surrounding context, with an opportunity for heights to culminate on plots adjacent to the viaduct, particularly on the eastern side." The massing of the long Viaduct Block has been considered very carefully, particularly the way in which the building would be experienced at street level given the restricted width of the viaduct route (9m separation between viaduct at ground floor and 7m above).
137. A Design and Access Statement Addendum has been submitted which seeks to show how the elevations could be treated to introduce a greater degree of vertical emphasis to the six points along the elevation where the balconies and communal entrances align. A definitive solution is not offered at this stage, but rather the Addendum presents an architectural 'device' the delivery of which (accompanied by materials) will be secured by condition. This device is welcome as an appropriate way in which to break up the elevation to counteract the horizontal emphasis as originally shown. The four options presented all employ this device but use different materials to do so, including:

- Options 1 and 2 – use of different combinations of dark brick, buff brick and ribbons of perforated metal panels running up the height of the building
  - Option 3 – use of a different cladding material (e.g. timber) behind the balconies, running up the height of the building
  - Option 4 – use of a coloured cladding material as above and on the balcony soffits.
138. Each of these options has the potential to deliver a greater level of articulation and would bring some vertical articulation down to the ground, thereby not only introducing a vertical rhythm to the elevation and breaking up the elevation, but also contributing to the legibility of the entrances and enhancing the pedestrian experience along this narrow route. Accordingly, officers recommend that detailed drawings of the final preferred option are required by condition prior to commencement of works above grade.
139. The proposed triangular balconies have an important role to play on the elevation as they provide a focus and rhythm to the façade. This feature is welcomed and the manner in which the 'device' would relate to them is considered entirely appropriate. Given their distinctive form and potential importance in articulating the appearance of the viaduct building, it is considered that the detailing of these unique balconies is crucial. As such, 1:1 mock-ups of the balconies will be required by condition.
140. Officers previously raised concerns that the residential frontages of the Viaduct Block had been designed to ensure privacy rather than activity or overlooking of the public realm. To address this, the previously proposed high level brick boundary walls have been replaced with railings. Whilst the private amenity spaces would be raised at a higher level than the viaduct route, the revisions would achieve a much better balance between privacy and visual permeability. Furthermore, the revisions would result in a stronger relationship between the amenity space and the public realm without compromising its amenity value.
141. With the exception of the Viaduct Block, across the site the proportions of the ground floors need to be carefully considered, particularly where protruding balconies are proposed at first floor level. In some views, the ground floors of the blocks appear rather squat in proportion, thereby weakening the overall proportions of the buildings and compromising the legibility of entrances. Greater generosity in floor to ceiling heights or careful articulation of materials at ground floor level is required. Although no further revisions have been made to address this point, it is not considered to be of such harm as to warrant a refusal of planning permission and, moreover, the final choice of materials could go some way to overcoming this concern.

### **Architectural design and quality**

142. The predominant building fabric would be brick which is considered appropriate given the context and history of the site. The proposal at this stage contains relatively little detail in relation to all the proposed facing materials and so it will be important to secure this detail by condition.

### **Viaduct Block (Blocks A-F)**

143. The vertical articulation proposed to the Viaduct Block would provide a welcome

balance to the listed building. This approach would create a strong response to the listed Baths building whilst differentiating the eastern side of the development. This allows familial unity across the site whilst also emphasising and enhancing the variety between the three character areas. The introduction of additional materials and further variation in the brick tones would also offer enhanced visual interest and ensure that there is sufficient visual interest across the site.

144. The gateway building at the southern (Penrose Street) end of the Viaduct Block is welcomed in principle. The unique shift in geometry at this point is considered particularly successful. This building would be finished in buff brick which would contrast with the proposed treatment for the rest of the Viaduct Block without jarring uncomfortably.
145. The application is less clear about the proposed treatment to the ground floor of the Viaduct Block and also the material finish to the protruding orange bays at first floor level. The change in colour and geometry of these bays provide visual interest to this elevation and therefore their material finish will be important and will be reserved by condition.
146. The Occupation Road frontage of the Viaduct Block would be treated in a more domestic manner than the viaduct frontage. As such, it would respond well to the lower 'L-shaped' block on Penrose Street (Block G). The architectural treatment of the Occupation Road façade is broken down into bays of differing widths. These bays vary in length and alternating balcony positions, materials and bay windows create interest along this façade. A subtle colour variation in the brickwork forms banding that runs horizontally along the bays and wraps around the balconies. As a result this façade has a greater degree of articulation than the viaduct façade.

#### **Courtyard Building (Blocks J-M)**

147. The main façade of the courtyard building would wrap around the central landscaped courtyard becoming a perforated brick frame to the deck access on the southern wing, and wrapping around and over the entrance building. The brickwork would be punctuated with a lighter cladding material that would add a formal character to the courtyard.
148. The introduction of a curving geometry to the eastern block of the courtyard building is welcomed as a way of ensuring some visual interest and distinctive points of reference to the new buildings without competing with the listed Baths building. Similarly, the architectural concept of using horizontal banding to pick up on the articulation of the listed building is strong. Ultimately, the success of this will rely heavily on the quality of the materials used and the detailed design which will need to be controlled by conditions, including the submission of 1:20 bay studies through the façade.
149. The rear elevation of the courtyard building would be finished in buff brick with contrasting panels of vertical and horizontal brick coursing which would offer visual interest and articulation. Other details proposed include overheating shading interventions on parts of the ground floor glazing. Whilst subject to detailed design, this is acceptable on those parts of the building facing the communal garden to the rear of the block and shouldn't compromise the natural surveillance and/or active frontages facing onto this space.

#### **Design review panel**

150. December 2014. Initially, the panel raised concerns with the scheme considering it to make an inappropriate response to its urban context, its harmful impact on the setting of the listed building, poor design and inappropriate response to the railway viaduct. The panel therefore requested the see the revised scheme again.
151. A revised scheme was represented to the panel with significant key changes made to the layout of each half of the site (i.e. either side of the viaduct). The panel welcomed the substantially altered approach to the site and endorsed the arrangement of buildings and the architectural strategy for the site. The panel encouraged further minor urban and detailed design changes to better reflect the urban hierarchy, gateways and nodes and further changes have been made.

### **Conclusion on design matters**

152. The existing depot buildings are functional in nature and appearance and do not make a positive contribution to the local townscape. Officers welcome the opportunity for redevelopment on the site and are generally very supportive of the scheme, particularly following the proposed revisions to the western elevation of the Viaduct Block. A number of design conditions will however be required in relation to detailed design and material specification to ensure the delivery of a high quality scheme on this key development site

### **Impact on the heritage significance of the listed building**

153. The Manor Place Baths, attached walls, piers and railings is a Grade II listed structure and an important designated heritage asset within the borough. It includes the main bath building, the boiler room with its chimney and the vast pool room to the rear. The proposal for alterations to the listed baths is integral to the wider redevelopment of the depot site and, accordingly, a Heritage Statement has been submitted to fully assess the impact on this important heritage asset.
154. Paragraph 132 of the NPPF states that “when considering the impact of a proposed development on the significance of the designated heritage asset, great weight should be given the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.”
155. The existing building in its current state comprises one remaining part of what was once a much larger complex of baths and washhouses. The former Ladies swimming pool, slipper baths and men’s second-class swimming pool (within the western and rear ranges) were demolished circa 1978 following the construction of the Elephant and Castle Leisure Centre. Hence the remaining building comprises a former administration block, washhouses within the former east range and the men’s first-class swimming pool (“Main Pool Hall”). However, these have been substantially altered, including the infilling of the main swimming pool. Today parts of the building are vacant and much of it is in a poor and deteriorating condition. As such, the primary heritage significance of the listed building lies in its external appearance, particularly the distinctive front elevation facing Manor Place. The building’s complex roofscape, including the clock tower and chimney add interest to this elevation and are an important silhouette in the wider townscape. Although much of the interior has been lost, the remaining features

and the plan form that survive are considered to contribute to its heritage value as they allow an understanding of how the baths and washhouse complex functioned. As such, they should be retained wherever possible. The external appearance of the main pool hall was not intended to be viewed or form part of the wider townscape. As such, it is largely utilitarian in character. It has also been rendered, painted and altered with the addition of modern openings. It is therefore considered to be of limited heritage significance.

156. The proposed alterations to the listed building include the following:

- Change of use of the baths to residential and commercial accommodation
- Minor external alteration to the principal façade on Manor Place
- Creation of a courtyard space within the area between the former administration block and the bathing hall
- Adaption of existing openings and introduction of new openings in the rear elevation of the main pool house and washhouse
- internal alterations at each level.

157. Each of the alterations are considered in turn.

#### **Change of use**

158. The original use of the building as public baths and washhouse ceased following partial demolition in the 1970s and has since been used as local authority offices, a Buddhist Centre, and depot parking and storage. The proposed change of use into residential dwellings would bring the baths complex back into use and secure its on-going optimum viable use, as required by the NPPF. The proposed use of the main pool house as a commercial office space is considered less harmful than its current use for parking and storage and to that extent is strongly supported.

#### **Manor Place façade alterations**

159. The proposed external alterations to this front elevation are limited to general repair and refurbishment. The existing entrances would be reused and sensitively adapted to provide separate access to the residential and commercial uses.

#### **Courtyard space**

160. Sandwiched between the former administration block and the main pool hall is an existing single storey range. It is proposed to demolish this and take the floor level down to basement level to create an open courtyard area for residential amenity. This change would not be visible from the public realm, but it would necessitate the loss of historic fabric. However, this element is of relatively low heritage significance and has been previously altered. Piers and sections of existing masonry would be retained at both basement and ground floors with glazed partitions on the line of the existing walls. This would allow natural light to be drawn into the new residential units whilst retaining the legibility of the original plan form. Although the loss of historic fabric is regrettable, it is considered that the creation of new courtyard amenity space is important to allow the successful conversion of the building into a viable use. Without this change, the new residential units would be dark and lacking sufficient amenity space. It is therefore considered that the harm caused by the proposed demolition is outweighed by the public benefit of converting this part of the building into high quality residential units.

161. A further basement space would be created at the southern corner of the administration block. This would be excavated on the site of previously demolished and in-filled parts of the complex and is therefore not considered to represent unjustifiable harm to the heritage significance of the building.

#### **Alterations to rear elevation of Main Pool Hall and Washhouse**

162. The external appearance at the rear of the main pool hall and washhouse is considered to be much less of heritage significance. It is utilitarian in character and has been unsympathetically altered in the past. The wider redevelopment of the depot site would see these rear elevations opened up to public view, fronting onto a new shared open space (The Courtyard). The proposal would reinstate existing openings, adapt modern openings that were previously inserted and create new fully glazed openings. The largely modern cement rendered rear and part return elevations would be relined and clad in timber. These changes would necessitate the loss of some historic fabric but this is considered to be of little heritage significance. The proposal would result in a more active façade with a strong relationship to the public realm whilst retaining the imposing sense of scale and utilitarian character of the existing elevation. The relining of the wall would also improve the insulation and thermal performance of the internal space.
163. The Victorian Society, whilst expressing support for the re-use of the listed building, raise a concern in relation to the architectural treatment of the former pool's exterior. They consider that the proposed timber cladding would be detrimental to the building's appearance and would wrap uncomfortably around the south-western corner of the building.
164. Whilst officers acknowledge this concern, it is noted that the existing rear elevation was never intended to be publicly visible and both the rear and part return elevation referred to have been unsympathetically altered in the past as a result of demolition works and the addition of modern cement render. As such, it is considered appropriate that a clearly discernible modern material should be applied to this elevation in order to allow the front elevation to remain the primary focus and to compliment the modern proportions of the proposed new openings. Indeed, officers consider that the cladding would represent an enhancement to the appearance of the rear of the listed building.
165. Furthermore, it is considered that the rear elevation was never intended to be viewed and both the rear and return elevations have been much altered over time, they are of limited value to the heritage significance of the listed building. As such, recladding these elevations would not cause unjustifiable harm to the heritage significance of the listed building or its special architectural or historical interest. A condition is recommended to secure the submission of samples of all facing materials, including the timber cladding to allow officers the certainty that the timber will be of sufficient quality.

#### **Internal alterations**

166. The proposal seeks to retain the key elements of the historic plan form and interior features of high heritage significance in the former administration block to the front of the site. This includes the retention and reuse of the main entrance hall and other secondary stairs. On each level, the remaining plan form would be retained and adapted to create the new residential units and the remaining decorative



materials and features would be kept.

167. The former washhouses and main pool hall to the rear of the site would be converted for commercial use. The unsympathetic modern interventions within the washhouse would be removed to better reveal the original plan layout and allow a full appreciation of the distinctive roof form. These changes are considered to enhance the heritage significance of the washhouses and are welcomed. New mezzanines, a toilet block and lightweight partitions to create meeting rooms would be installed in the main pool house and southern part of the washhouses to create additional useable commercial space. This would still enable the full extent and proportions of both the main pool hall and washhouses and their distinctive roof forms to be experienced and the new additions would be designed to read as distinct from the historic fabric. As such, these aspects of the proposal are not considered to cause unjustifiable harm to the heritage significance of the building.
168. A new opening would also be introduced between the main pool hall and washhouse which would result in some loss of historic fabric but the legibility of the plan form and appreciation of these two distinct spaces would remain.
169. The extensive and utilitarian basement space under the washhouse would accommodate an energy centre. This would allow the reuse of the existing boiler chimney and is considered appropriate. The Heritage Statement advises that the replacement of the existing boiler system would not have any impact on the significance of the building as a heritage asset. However, officers recommend that further details are required by condition to ensure that any new flues or similar would not impact upon the heritage significance of the building.
170. In order to improve the thermal performance of the building, areas of flat roof (in addition to the relining of the rear façade as discussed above) would be upgraded to modern roofing materials and insulation introduced to the gap between external and internal pitched roof materials. The external walls (and floors) to the new residential units in the former administration block would be insulated internally. These works would only impact upon areas that are considered to be of lower heritage significance and therefore the harm can be outweighed by the public benefit of securing the optimum use of the building. The features of much greater heritage significance such as traditional slate roof cladding, glazed lanterns, distinctive exposed roof structure and internal panelling within the main pool hall and washhouses would be retained. Similarly, the existing wall materials in the main entrance hall and staircase in the administration block would remain unaltered.
171. Strategic Policy 12 of the Core Strategy advises that proposals should conserve or enhance the significance of Southwark's heritage assets. Officers consider that the work proposed to the listed building would conserve or enhance this important heritage asset. Where harm would be caused or historic fabric lost, this can be justified by the public benefit of securing the optimum viable use of the building. Furthermore, the proposal would meet the tests set out in saved Policy 3.17 of the Southwark Plan as there would be no loss of important historic fabric; the development would not be detrimental to the special architectural or historic interest of the building; the proposal would relate sensitively to the period, style, detailing and context of the listed building and existing detailing and features of the building would be preserved, repaired, or, if missing, replaced.
172. Historic England confirm they have no comments to make on the proposed works

to the Grade II listed building. Further, the GLA consider that the proposed works would bring the designated and non-designated heritage assets into viable long term uses with sympathetic interventions.

### **Conclusion**

173. The proposal is sensitively and thoughtfully designed, with clear respect for the appearance, style and age of the building. The alterations proposed would result in less than substantial harm to its heritage significance and that this harm would be outweighed by the public benefit of securing its optimum viable use and on-going maintenance and repair. In many areas, the repair and refurbishment particularly along the Manor Place frontage would better reveal its heritage significance. Similarly, the removal of the unsympathetic modern interventions in the washhouse would result in a heritage benefit. The proposal to alter the largely blank and utilitarian rear elevations of the washhouse and main pool hall would better integrate the listed building with the wider redevelopment to ensure that it contributes positively to the public realm.

### **Impact on character and setting of a listed building and/or conservation area**

174. Sections 7 and 12 of the NPPF relate to the design and conservation of the historic environment. Paragraph 137 is particularly relevant to this application which advises local planning authorities to look for opportunities for new development within the setting of heritage assets to enhance or better reveal their significance. "Proposals that preserve those elements of the setting that makes a positive contribution to or better reveal the significance of the asset should be treated favourably."
175. Saved Policy 3.18 of the Southwark Plan states that planning permission will not be granted for developments that would not preserve or enhance the immediate or wider setting of a listed building or important views of a listed building and/or setting of a conservation area.
176. In relation to the conservation of the setting of the listed Baths building complex and setting of the nearby conservation areas, the proposal is considered to comply with policy. During pre-application discussions, the blocks to the rear of the listed bathhouse were rearranged and significantly reduced in height and consequently the important roof profile and distinctive silhouette of the listed baths building (which is one of the principal factors contributing to its heritage significance) would be preserved. This is demonstrated in the testing of the three key views submitted in support of the application. Although they have not been provided as verified views, they give Officers sufficient comfort that the proposal would barely be visible within the setting of the listed building. As such, it is considered that the setting of this principle elevation and important roof form would not be harmed.
177. To the west of the listed Baths building, a 3-storey entrance gatehouse (adjacent to Block M) is proposed. This is considered to be sensitive to the setting of the listed building whilst creating a suitable entrance to the site as well as contributing to natural surveillance and activity along the new public shared route. It would be modest in scale and clad in timber to match the approach proposed for the rear elevation of the listed building.
178. The Former Coroner's Court (1899) whilst not statutorily listed, is an important

local building and is of some architectural interest as an example of a former public building. Paragraph 135 of the NPPF requires the effect of an application on the significance of a non-designated heritage asset to be taken into account in determining an application. The proposal would retain and convert this non-designated asset in a sensitive and appropriate manner, celebrating its importance by treating it as one of the 'gateway' buildings. The retention of the building and its sensitive refurbishment is particularly positive feature of the scheme.

179. The existing site also contains another non-designated heritage asset in the form of two memorial stones set into the façade of the existing building fronting Penrose Street. It is considered that they should be retained and re-displayed somewhere prominently within the redevelopment site. A condition is therefore recommended requiring details of the relocation of the memorial plaques.
180. The GLA have confirmed that the proposal raises no strategic issues in terms of the setting of the listed building and preserving the character and appearance of the neighbouring conservation areas.

### **Landscape and impact on trees**

#### **Trees**

181. An Arboriculture Impact Assessment and Tree Protection Plan have submitted. There are no existing trees on site but there are eight large and prominently located Category A and B London Plane trees which form a significant feature to the northern boundary on Manor Place, together with a smaller sapling adjacent to the railway bridge. All these trees are proposed to be retained which is positive.
182. The council's Urban Forester advises that the Arboricultural Assessment and Method Statement Report successfully describe how the adjacent street trees are to be protected such that the proposed development can proceed without damage. The trees' crowns are, in any event, regularly reduced as part of routine cyclical highway maintenance. It is recommended that tree protection measures are secured by condition(s).

#### **Landscaping**

183. A Landscape Strategy and Addendum detail the proposed landscaping scheme which includes new landscaped open spaces and public routes (shared surface lanes) through the site. 10 'character areas' would be created with each area having a distinct character defined by its function, form and material palette (both soft and hard materials).
184. Significant opportunity exists for amenity to be enhanced on the site. The residential blocks would be arranged to form landscaped residential amenity courtyards to the front and rear which include an acceptable amount and quality of communal amenity. Private amenity is confined to gardens and roof terraces, the former providing a green edge facing either side of the railway viaduct. More informal resident courtyards and play areas to the rear of blocks provide screening to adjacent gardens which back onto the site. A generous extension to the public realm would be created outside the rear of the listed Baths buildings which would be well overlooked being situated on the public route through the site. As such, it has the potential to become a successful and well used space. It would also give

the new commercial units a proper address and sense of place.

185. Together with the courtyard areas, the viaduct forms a central defining characteristic of the scheme where lighting is proposed to accentuate its role linking the western and eastern side of the site via the new shared access road. A suitable restrained palette of materials is proposed with the aim of promoting pedestrian priority.
186. Climbing plants are proposed to further soften the railway arches and facing elevations. There is the potential to increase areas of soft landscaping outside the listed Baths Buildings and adjacent to the linear seating wall opposite the Western Courtyard. This would compliment the proposed line of trees bordering the front gardens to the west of the courtyard and would soften the hard surfaced area on this side of the development. Appropriate detailed design details for hard and soft landscaping, including areas of new public realm, and boundary treatments will be required in order to ensure the quality of landscaping aspired to.

### **Ecology and biodiversity**

187. Core Strategy Strategic Policy 11 concerning open spaces and wildlife requires new development to avoid harming protected and priority plants and animals to help improve and create habitat. Saved Policy 3.28 of the Southwark Plan requires that biodiversity is taken into account in all planning applications and encourages the inclusion of features which enhance biodiversity. It also states that developments will not be permitted which would damage the nature conservation value of Sites of Importance for Nature Conservation and local nature reserves and/or damage habitats of priority species. The proposal has no such effect.
188. The council's Ecology Officer has reviewed the submitted Ecological Assessment (which includes an Extended Phase 1 Habitat Survey) and agrees with the findings of the assessment. The site currently has a low ecological value when considering that it mainly comprises buildings and hard standing with no on site trees. No roosting bats were found on site and that existing high lighting levels means that the site is of low value to bats. The Ecology Officer does however recommend that an ecologist is retained on a watching brief during the demolition phase in case any bats are discovered and this can be secured by condition. Furthermore, there are no ecological features on site that require protection.
189. The proposed development has good potential for ecological enhancement with the inclusion of features such as bio-diverse green roofs and walls, native planting, installation of bird, bat and insect boxes and the provision of invertebrate homes, log piles and habitat wall. The implementation of a Sustainable Urban Drainage (SUDs) scheme would also help irrigate the soft landscaping features. Officers recommend that conditions should be attached to any grant of permission to secure ecological enhancement, including a management and maintenance plan and monitoring plan in order to assess the success of new urban habitat features.

### **Transport issues**

190. Core Strategy Strategic Policy 2 encourages walking, cycling and the use of public transport rather than travel by car. Saved Policy 5.2 of the Southwark Plan asserts that planning permission will be granted for development unless there is an adverse impact upon transport networks; and/or adequate provision has not been

made for servicing, circulation and access; and/or consideration has not been given to impacts on the bus priority network and the Transport for London Road Network (TLRN).

191. The application site has excellent levels of public transport accessibility which is reflected in the PTAL rating of 6a. Walworth Road (approximately 600m to the east) forms part of the Strategic Road Network.
192. Revised transport documentation has been submitted during the course of the application to address comments raised by statutory and local consultees. Local representations were received raising the following:
  - Increased traffic on Occupation Road which is currently barely useable for servicing existing properties
  - Proposal fails to take into account the narrow width of the southern end of Occupation Road
  - Disproportionate amount of disabled parking located on narrow section of Occupation Road
  - Proposal will affect the operations and safety of existing business users
  - Potential for routes through the site to be used as a 'rat-run'
  - A car club bay should be provided on site.

### **Trip generation**

193. The revised Transport Assessment includes predicted trip rates for both the commercial and residential elements of the scheme. Officers are satisfied with the assessment undertaken and agree that vehicle trips associated with the development could be readily accommodated by the local transport network and therefore is unlikely to be any material impact on the highway in terms of trip generation.
194. Transport for London (TfL) are also satisfied that the development, once operational, is unlikely to have a negative impact on the capacity of either public transport or the road network. They did however object to the original proposal to relocate a nearby bus stop (stop 'S') on Penrose Street but the applicant has since confirmed that this is no longer required. A £10,000 payment has been agreed with TfL to contribute towards the installation of a bus shelter at this stop. The payment will be secured through the S106 legal agreement. TfL also request that a Construction Logistics Plan is secured to manage any potential adverse effects on the road network during construction.
195. London Underground (LU) confirm they have no comments to make in terms of protecting LU infrastructure. Network Rail have confirmed they have no objections although any use of the railway arches would need to include provision for access to inspect the arches.

### **Access**

196. The application site currently has five vehicular accesses. Two of the existing accesses would be retained and improved (Manor Place and one on Penrose Street) whilst the other three would be removed and three new accesses created. The proposed five vehicular access points would be arranged as follows:
  - A two-way access point would be created from Manor Place (north-western

- corner) leading into the Western Courtyard;
  - A one-way (northbound) route from Penrose Street into the new 'Viaduct Route' running alongside the eastern side of the viaduct with an exit onto Manor Place;
  - A two-way extension of Occupation Road, with access through the site controlled by bollards, exiting onto Penrose Street.
197. Although the proposal involves a large number of crossovers, the peculiarities of the site, bisected by the viaduct, and the need to ensure Network Rail retain access to the viaduct means that this number of access points is deemed acceptable. The five access points will need to be constructed to the relevant Southwark Streetscape Design Manual (SSDM) standards.
198. The provision of the new Manor Place access (egress) at the northern end of the new Viaduct Route would necessitate the removal of five existing on-street car parking spaces. Similarly, one doctor's parking bay on Penrose Street will need to be relocated to create space for left turning vehicles entering the new Viaduct Route. These changes will require a variation to the existing Traffic Management Order.

### **Vehicular movement**

199. Vehicular access to the site would be limited to disabled drivers, delivery, servicing and refuse and emergency vehicles only. A number of local concerns have been raised that the site, particularly the new 'Viaduct Route,' could be used for through traffic. To ensure the site remains effectively 'car-free' a number of measures are proposed to be in place.

### **Viaduct route**

200. Access to this route would be restricted to refuse collection and deliveries for the residential units in the Viaduct Block (Blocks A-F) as well as servicing for the commercial units located within the arches. To discourage the use of the route as a cut through, only right turn in (from Penrose Street) and out (onto Manor Place) movements would be permitted. The Penrose Street entrance has been designed with a build out to enforce this arrangement. Furthermore, five speed tables have been introduced along the length of the route to reduce the potential for 'rat running' and ensure traffic is kept to a low speed. Surface materials and landscaping will further discourage car use and it is recommended these details are secured by condition. Signage would be provided to inform people of the restricted access. Officers are now satisfied that the revised plans show adequate highway design to facilitate an effective operation of this route ensuring traffic is appropriately directed into and out of the route.
201. It should be noted that an earlier iteration of the design of this route showed retractable bollards positioned at the southern end (Penrose Street) of the Viaduct Route. Officers considered these to lead to potential management problems and could pose greater issues with access; in particular, vehicles not gaining entry and reversing onto Penrose Street. As such, the applicant was encouraged to revise this option.

### **Occupation Road**

202. It is proposed to extend this route southwards through the site with an egress onto

Penrose Street. The northern end of Occupation Road is proposed to become two-way from its junction with Manor Place to the edge of the development site where a turning area is proposed to facilitate refuse collection for the northern end of Block G.

203. The southern end of the route ('Community Street') would be a shared surface area containing 10 disabled parking spaces. Vehicular access to this section would be restricted primarily to disabled drivers as well as emergency vehicles. Access would be controlled by an electronic bollard solution (key fob controlled for disabled drivers). Electronic bollards are also proposed at the southern end (egress) to ensure no vehicles access the site from Penrose Street. Officers consider that the bollards at the end of Occupation Road will prevent traffic using this route to cut through the development site. Similarly, the set of bollards on the exit of this route onto Penrose Street will reduce the number of vehicles crossing the footway.
204. Occupation Road currently narrows to the south of the existing access into the Manor Place Depot site. As part of the highway works, it is proposed to widen the existing southern section of Occupation Road to provide a route of continuous width (circa 7m) for its full length. The new section of Occupation Road (currently within Notting Hill's demise) will be offered for adoption in addition to the new turning head at the end of Occupation Road. Occupation Road, to the south of Nos. 2-6 Occupation Road, would also be resurfaced.
205. The works to Occupation Road will effectively accommodate vehicular trips associated with the development and will significantly improve vehicular access and servicing to existing properties on Occupation Road. Officers consider the revisions made address the concerns raised by Occupation Road users in terms of servicing and access and to that extent will make a welcome improvement to the local highway network. A S278 Agreement will be required to complete the works to Occupation Road.

#### **Manor Place access**

206. Vehicular access via Manor Place would be restricted to refuse vehicles, residential and commercial deliveries and disabled parking (three residential and one commercial space). This access leads to a large landscaped courtyard with a layout that shows an adequate turning area for vehicles to enter and exit the site safely in forward gear. Bollards would be placed in the courtyard at both ends of the turning area to ensure vehicle movements don't occur outside the designated route and encroach on the landscaped amenity areas.

#### **Pedestrian and cycle movements**

207. The main pedestrian and cycle route through the site would be via the new public diagonal route linking the north-western corner of the site (Manor Place) to the south-east (Penrose Street). Three of the viaduct arches would be left open to encourage permeability between the west and east sections of the site. Occupation Road and the new Viaduct Route would provide secondary pedestrian and cycle routes. These shared routes would be designed to ensure appropriate delineation to indicate vehicle 'track' and separate footway to ensure a safe route for all users.
208. The pedestrian footways fronting the development on Manor Place, Penrose

Street and Occupation Road will be resurfaced as part of the highway works associated with the development. Existing street lighting along these roads fronting the development will also be upgraded. These works will be secured by an S278 Agreement.

209. An important objective for the site set out in the Elephant and Castle SPD is to improve east-west linkages and open up routes through the viaduct as currently the viaduct acts a barrier to movement across the site. The proposed site layout would significantly improve permeability and pedestrian and cycle linkages through the site. This is a particularly positive feature of the scheme which will also help to integrate the development into the surrounding streets.

#### **Legible London signage**

210. To support sustainable travel, a payment of £6,000 has been agreed with TfL for Legible London way finding signage which will be secured in the legal agreement.

#### **Cycle docking station**

211. TfL advise that there is an existing shortage of available cycle docking stations in the area and therefore a contribution towards the provision of a new docking station is required. Following discussions with TfL, a payment of £50,000 has been agreed to contribute towards new or enlarged station(s) in the vicinity of the site. Again, this payment will be secured in the legal agreement.

#### **Car parking**

212. The development would effectively be 'car-free' save for 14 Blue Badge parking spaces. Given the excellent public transport accessibility of the site, the 'car-free' nature of the site is welcome. 13 disabled spaces would cater for the residential element of the scheme with 10 parking spaces located on the eastern side of the site in the new 'Community Street' (connecting Occupation Road to Penrose Street) and three spaces provided in the courtyard area on the western side. A further disabled parking space is proposed for the commercial development which would be located adjacent to the concierge facility at the Manor Place entrance to the site. Three active and three passive electric vehicle charging points are also proposed in accordance with the requirements of the London Plan.
213. It should be noted that local objections had been received concerned about disabled parking spaces proposed along the eastern side of Occupation Road, at its southern extent. These spaces are now relocated elsewhere within the site and, as discussed above, the land will form part of a widened Occupation Road. As such, it is considered that the objections raised have been addressed.
214. A condition will be required on any grant of permission to ensure that future residents within the development (with the exception of blue badge holders) are excluded from eligibility for on-street parking permits.

#### **Car club**

215. There are currently four car club locations close to the site. The applicant has agreed to fund either the provision on additional car club bay or an extension to an existing bay as well as fund three years car club membership for the first occupants of each residential unit. Car club obligations will be secured by legal



agreement.

### Cycle parking

216. The London Plan requires 469 residential cycle spaces, 30 commercial spaces and 20 short stay parking spaces for visitors. The cycle parking has been revised during the course of the application and the following provision is now proposed:

	Sheffield stands	Double stackers	Vertically mounted	Total	Policy requirement
Residential	26	180	267	473	469
Residential (visitor)	16	0	0	16	
Commercial	2	28	9	39	
Commercial (visitor)	22	0	0	22	
Total	66 (12%)	208 (38%)	276 (50%)	550	528

217. Overall, there would be 31 additional parking spaces beyond the London Plan requirements which is positive. The resident and commercial cycle parking would be provided in stores located across the site, including six of the railway arches, to ensure they are easily accessible to each of the blocks. 88% of the parking would be in the form of double stackers or vertically mounted racks with 12% provision of Sheffield stands for visitors. A higher proportion of Sheffield stands would be preferred to ensure the parking is accessible to all users but it is acknowledged that this type of storage is space intensive.
218. The revised Transport Assessment advises that shower and locker facilities will be provided as part of the commercial cycle parking offer in order to encourage employees to cycle to the site. The detailed design of the stores is not evident from the submitted layout drawings and therefore officers recommend a condition is imposed requiring detailed design of the commercial cycle stores.

### Travel plan

219. Revised Residential and Workplace Travel Plans have been submitted and are considered to be acceptable. TfL have requested that final travel plans, including monitoring post occupation, should be secured by legal agreement.

### Refuse and servicing

#### Refuse

220. Refuse collection would be undertaken from bin stores located throughout the blocks and railway arches. Individual residents and commercial occupiers would be responsible for transporting their waste to the bin stores for collection. Refuse would be collected primarily from within the site. On the western side of the development, refuse vehicles would collect from the courtyard (Blocks J-M and Pool House). On the eastern side, refuse vehicles would collect from the new Viaduct Route (Blocks A-F and Coroners Court) and Occupation Road (Block G – northern end). Refuse collection for the southern end of Block G would be undertaken direct from Penrose Street.

### **Deliveries**

221. Deliveries to the commercial units would be undertaken from the landscaped courtyard and Viaduct Route. A concierge facility would be available for residential deliveries that are too large to be put in a letter box. It is anticipated that the number of daily deliveries would be relatively small and would primarily be by small or transit type vans with limited need for larger goods vehicles. In terms of infrequent deliveries such as maintenance or removals, these trips would need to be arranged with the concierge to ensure access is provided to the appropriate area.
222. Officers and TfL are satisfied that the proposed delivery and servicing arrangements are acceptable subject to the final Delivery and Service Plan being secured by condition.

### **Archaeology**

223. Saved Policy 3.19 of the Southwark Plan requires an archaeological assessment to be submitted for applications affecting sites within Archaeological Priority Zones (APZs).
224. The Manor Place development site is partially located within the Walworth Village APZ and a desk-based assessment has been completed by the Museum of London Archaeology (MOLA). The proximity of the site to St John's Chapel, located to the south of the site, is noted as increasing the prospect of archaeological remains being preserved in the locality and the report acknowledges the site as being archaeologically sensitive. The council's archaeologist advises that it is highly likely that post-medieval burials will be present on-site and that such remains would be of significant archaeological interest.
225. In line with the findings of the report and the views of the council's archaeologist, it is recommended that a series of planning conditions are imposed to require further archaeological evaluation of the site, mitigation and archaeological recording. The foundation design should also allow for any archaeological remains to be preserved in situ.

### **Ground conditions and contamination**

226. A Phase 1 desk-based report has been prepared by AECOM setting out details of historic site investigation, geology and the likely presence of contamination. The report asserts that the historical land-uses of the site make it plausible that a range of contaminants will be present. The report acknowledges that limited site investigations were undertaken 2012 and that whilst traces of contaminants were discovered, the concentrations were not deemed to present any significant risks. However, the submitted AECOM report considers the risk of on-site contamination to range from low to moderate and recommends a more intrusive scheme of site investigation be undertaken prior to the commencement of development. A standard planning condition is proposed to address this.
227. Further, the desk-study acknowledges that the site was subject to heavy bomb damage during World War II and as such there is a high risk of unexploded bombs. It recommends that a specialist report is undertaken prior to development commencing to investigate more thoroughly the risk of unexploded ordnance and

the mitigation that will be undertaken to minimise any risk.

**228. Planning obligations (S.106 undertaking or agreement)**

229. Policy 8.2 of the London Plan advises that planning obligations can be secured to overcome the negative impacts of a generally acceptable proposal. Core Strategy 14 and Saved Policy 2.5 of the Southwark Plan state that planning obligations will be sought to reduce or mitigate the impacts of the development. These local policies are reinforced by the council's S106 Planning Obligations / Community Infrastructure Levy SPD.

**S106 contributions**

230. Following the adoption of Southwark CIL (SCIL) on 1 April 2015, much of the previous 'S106 toolkit' obligations such as education and strategic transport have been replaced by SCIL. With SCIL in place, S106 contributions will be used to address site specific impacts of the development such as public realm improvements. S106 obligations can be negotiated where items sought are clearly linked to the development site and are needed to make that particular development acceptable. The S106 / CIL SPD establishes that it is reasonable that S106 obligations may be sought to address site-specific impacts on a case-by-case basis. SCIL on the other hand will be used to fund local and strategic infrastructure required to support growth across the borough.

231. The NPPF echoes the Community Infrastructure Levy Regulation 122 which requires obligations to be:

- Necessary to make the development acceptable in planning terms
- Directly related to the development;
- Fairly and reasonably related in scale and kind to the development.

232. Only defined site specific mitigation that meets the Regulation 122 tests can be given weight. The site specific contributions set out below have been agreed.

Planning Obligation	Mitigation
Archaeology	£11,171 – to support Southwark's monitoring of archaeological matters
Child play – over 12 year age group	£16,610 – there is a shortfall of 110 sqm in over 12's play. Monies will be secure improving play provision elsewhere in the surrounding area
Wheelchair accessible housing	£400,000 – payment in lieu for shortfall in amount of wheelchair provision to contribute towards funding adaptations to existing housing
Employment during construction	Applicant to provide own construction training initiative scheme. A default payment (to be confirmed) will be secured in the event that the applicant fails to provide training scheme or in the event agreed job training targets are not met.
Employment in the development	£21,500 – towards a skills and employment plan for employment opportunities in the final

	development.
Transport site specific	Contribution towards provision of new / extended provision of car club bay in the vicinity.
Public realm	Payment in kind works - Applicant will be delivering improvements along Manor Place, Occupation Road and Penrose Street. Works will include, but not exclusively, widening of Occupation Road (including resurfacing carriageway), repaving footways and upgraded street lighting to development frontages. Works to be secured via S278 Agreement.
Administration charge (2%)	To be confirmed

233. In addition, the following contributions have been agreed with TfL which will be secured in the S106 legal agreement:

- £10,000 towards provision of a new bus shelter (Stop 'S') on Penrose Street
- £6,000 towards Legible London signage
- £50,000 towards provision of a new or enlarged cycle hire docking station(s) within a 600m catchment of the site.

234. The S106 will also include provisions for:

- 104 affordable housing units on-site
- Marking Strategy for the commercial units
- Marketing Strategy for the wheelchair adaptable units (i.e. market and intermediate wheelchair accessible units)
- Funding of 3 years free car club membership
- Travel Plans
- Demolition and Construction Environmental Management Plans.

235. The aforementioned S106 planning obligations are considered necessary to mitigate the impacts of the development, they are directly related to the development and are proportionate to its size and scale.

236. In the event that the legal agreement has not been signed by 30 November 2015, it is recommended that the Director of Planning be authorised to refuse planning permission, if appropriate, for the following reason:

*In the absence of a signed S106 legal agreement, there is no mechanism in place to secure adequate provision of affordable housing and mitigation against the adverse impacts of the development through contributions and would therefore be contrary to Saved Policy 2.5 Planning Obligations of the Southwark Plan (2007), Strategic Policy 14 Delivery and Implementation of the Core Strategy (2011), Policy 8.2 Planning Obligations of the London Plan (2015) and the Southwark Section 106 Planning Obligations Supplementary Planning Document (2015).*

#### **Mayoral and Southwark CIL**

237. Section 143 of the Localism Act states that any financial contribution received in terms of community infrastructure levy (CIL) is a material "local financial

consideration” in planning decisions. The requirement for payment of the Mayoral or Southwark CIL is therefore a material consideration; however the weight attached is determined by the decision maker. The Mayoral CIL is required to contribute towards strategic transport investments in London as a whole, primarily Crossrail, while Southwark’s CIL will provide for infrastructure that supports growth in Southwark.

### **Mayoral CIL**

238. The Mayor CIL (MCIL) came into effect on 1 April 2012. All new developments that create 100 sqm or more of additional floorspace are liable to pay the MCIL which is charged at £35 per sqm (indexed at £40.02 per sqm). Based on the total new proposed floorspace the Mayoral CIL would equate to **£571,827** (to be confirmed).

### **Southwark CIL**

239. The Southwark CIL rate is based on the type and location of the development. Within the Elephant and Castle, a levy of £200 per sqm is charged for residential development and £0 for offices. A charge of £125 per sqm is applicable to Class A1-A5 retail uses. At this stage, the end user(s) of the commercial space is unknown and hence at this stage a calculation for retail use has not been included. Based on the existing occupied floorspace (i.e. 33 Manor Place) and the proposed new floorspace, the SCIL is calculated to be **£3,969,100** (to be confirmed).

### **Sustainable development implications**

#### **Air quality**

240. London Plan policy 7.14 ‘Improving Air Quality’ states that development proposals should minimise exposure to poor air quality, being at least ‘air quality neutral’. This is particularly the case where developments are located within designated Air Quality Management Areas, as is the case with this proposal. Further, Southwark Plan policy 3.6 stipulates that planning permission will not be granted where a development would lead to a reduction in air quality.
241. RPS have completed an Air Quality Assessment that considers the potential air quality impacts during construction and on completion of the development. The residential nature of the development and the surrounding area makes it particularly sensitive and so receptors were chosen at various locations, and at various heights, within the site and surrounding streets to assess the potential impacts.
242. Dust is highlighted as the most important issue during construction and appropriate mitigation measures will need to be employed to reduce adverse impacts. Such measures should be detailed in a demolition and construction environmental management plan, the submission of which will be secured via the s106 agreement.
243. Once operational, the most important consideration is emissions linked to the gas-fired boilers in the on-site energy centre. Modelling indicates that the impacts are predicted to be ‘slight adverse’ or ‘negligible’. Nitrogen Dioxide concentrations are anticipated to be within the objective limits prescribed in legislation. It is proposed

that planning conditions will be imposed to require monitoring of emissions.

244. Subject to appropriate mitigation measures being implemented, including the installation of mechanical ventilation for all residential units, the assessment concludes that the effects on air quality will be 'not significant' and that the scheme is compliant with local, regional and national guidance.
245. In addition, an Air Quality Neutral calculation has been completed, following the methodology prescribed in the Mayor's Sustainable Design and Construction SPG (2014). The calculation considers whether a development will have an adverse impact on local air quality by comparing the anticipated emissions linked to the buildings and transport with benchmark values for each of the land-uses proposed.

## Energy

246. Core Strategy strategic policy 13: High environmental standards sets out that all development should meet the highest possible environmental standards. This includes reducing greenhouse gas emissions by applying the Mayor's energy hierarchy: be lean (building fabric efficiency), be clean (clean supply of energy), be green (incorporating renewable technologies). The London Plan requires that all major development achieves a 40% reduction in carbon dioxide emissions relative to Building Regulations 2010, however, the Mayor's Sustainable Design and Construction SPG 2014 confirms that this is broadly equivalent to a 35% reduction relative to the revised Building Regulations 2013.
247. The submitted energy assessment determines the target emission rate for a development that would be compliant with Part L of Building Regulations 2013, before modelling the carbon savings achieved at each stage of the energy hierarchy. For the new build residential element, the starting point is a notional new build residential unit, whilst for the refurbished commercial floorspace, the starting point is the existing building in its current state. This approach is consistent with the relevant Mayoral guidance.
248. The submitted energy strategy proposes a range of fabric efficiency measures and connection to a sitewide district heat network with combined heat and power (CHP) boilers. This system will utilise the existing Manor Place chimney and the boiler plant will be 'future proofed' such that it would allow for connection to a wider heating network if this were to be delivered in the vicinity of the site. The CHP network will serve all of the residential units as well as commercial space in the converted listed building. In addition, photovoltaic (PV) panels are proposed at roof level on the majority of the residential blocks.
249. The energy assessment indicates the following reductions in Regulated CO<sub>2</sub> emissions (all measurements in Kg CO<sub>2</sub>):

	Residential	Carbon saving	Commercial	Carbon saving	Whole development	Carbon saving
Target emission rate	359,963		190,710		550,673	
Be lean	313,753	-46,210	67,275	-123,435	381,028	-169,645
Be clean	256,308	-103,655	57,330	-133,380	313,638	-237,035
Be green	232,810	-127,153	57,330	/	290,140	-260,533
Total saving		35.3%		69.9%		47.3%

250. The assessment demonstrates that a 35% saving in carbon emissions is

achievable for new build residential assessment, whilst a 70% saving can be achieved on the refurbished commercial space. As a whole, the development is modelled as achieving a 47% reduction in carbon dioxide emissions relative to Part L of Building Regulations 2013 and is, in this regard, consistent with the London Plan and Southwark Core Strategy.

251. PV panels alone are responsible for a 23,498Kg annual reduction in carbon emissions (6.5% of residential emissions or 4.3% overall), which though lower than the Core Strategy target is considered a reasonable reduction in the context of the overall savings achieved and the fact that a large proportion of the available roof space is being used for PV panels.

### **BREEAM**

252. Core Strategy policy 13 also states that all non-residential development should aim to achieve a BREEAM rating of 'Excellent'. A BREEAM Pre-Assessment has been prepared in the form of an investigative report that considers the scope for intervention, on a room-by-room basis, to improve the environmental performance of the Listed Building. The report concludes that whilst internal alterations are possible without jeopardising the significance of the listed building, there are limitations to what can be achieved. For example, whilst there are opportunities for secondary glazing and insulation in some of the ancillary spaces, there is less scope for work of this nature in the Former Pool and Wash House without compromising the heritage value of the space. In light of this, officers are satisfied that requiring a BREEAM rating of 'Very Good' will strike an appropriate balance between improving environmental performance and safeguarding the character and significance of the listed building.

### **Flood risk and drainage**

253. The Environment Agency's flood mapping identifies the site as being located predominantly in Flood Zone 3a, indicating a high probability of flooding. The NPPF technical guidance note identifies residential development as being a 'more vulnerable' use and states that the 'exception test' should be passed when such development is proposed in Flood Zone 3a. The two conditions of the exception test are that it is demonstrated that the development brings wider sustainability benefits that outweigh the flood risk and that a site specific Flood Risk Assessment (FRA) demonstrates that the site will be safe throughout the lifetime of the development and will not increase the flood risk elsewhere.
254. The submitted FRA considers the risk of flooding presented by the Thames, as a result of surface water, from sewers, from groundwater and as a result of proximity to local reservoirs, canals or ponds. It acknowledges that the site is protected by flood defences along the banks of the Thames, as well as by the Thames Barrier and that, given the distance of the site from the Thames, it is unlikely that a breach of these defences would affect the site. This is confirmed by the Environment Agency in their comments. The FRA states that the risk presented from other sources is also low and that the proposed development would not increase these risks. It is considered that the proposal is consistent with Core Strategy policy 13: High Environmental Standards and the relevant NPPF guidance.
255. The incorporation of additional areas of soft landscaping across three communal gardens, a series of private amenity space and via a number of green roofs will

contribute to required reductions of surface water runoff. The council's flood risk and drainage team have reviewed the FRA and Drainage Statement, both prepared by AECOM, and endorsed both documents. The approach to reducing runoff by 50% is considered appropriate in principle and officers recommend that a planning condition is introduced that requires further detail of sustainable drainage systems to demonstrate that the saving can be achieved.

### **Conclusion on planning issues**

256. The Manor Place Depot site has been identified as a development site to facilitate the wider regeneration of the Elephant and Castle. The site is within an Opportunity Area where high quality mixed use development is encouraged. The depot site is no longer required to be used as a waste site and the existing under-used buildings on site make a poor contribution to the local streetscape. As such, the principle of redevelopment of the site is strongly supported. The retention and re-use of the Grade II listed Manor Place Baths is of further benefit. The proposed land uses are highly appropriate in this location, including the activation of the railway arches with flexible town centre uses, and the new public realm and landscape enhancements would also benefit the wider area and provide an improved relationship between the site and the surrounding streets.
257. The proposal would deliver 270 new homes, including a level of affordable housing that well exceeds the minimum 35% policy requirement. As such, the development would make a significant contribution to Southwark's housing supply. The quality of the internal residential accommodation and outdoor amenity spaces is sufficiently high across all tenures and the units generally achieve a high rate of compliance with BRE daylight standards.
258. The height, scale and massing of the new build elements are acceptable. Revisions have been made to alleviate the unbroken massing of the Viaduct Block and officers are satisfied that a high quality scheme would be delivered, subject to detailed section drawings and material samples being secured by condition. In terms of works to the listed building, the proposal is sensitively designed with a clear respect for the appearance, style and age of the building. The proposed alterations would result in less than substantial harm to its heritage significance. Any harm would be outweighed by the public benefit of securing its viable reuse.
259. The impacts of the development on the amenities of neighbouring properties have been considered very carefully. No impacts have been identified that would warrant the refusal of planning permission. Revisions have been made to the transport strategy, including relocation of on-site disabled parking bays and the widening and of Occupation Road. The works to Occupation Road will adequately accommodate vehicular trips associated with the new development and improve access and servicing to existing properties on this route. In terms of sustainability, the proposal complies with the environmental standards set out in the London Plan and Southwark Core Strategy. Taking all matters into consideration, officers recommend that planning permission is granted for the proposed development and listed building consent is given for the refurbishment and works to the listed building.

### **Community impact statement**

260. In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to



local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process. The impact on local people is set out above.

### **Statement of Community Involvement**

261. A Statement of Community Involvement has been submitted which details the public consultation and engagement process undertaken by the applicant prior to submission of the planning application. The public engagement included a series of exhibitions held in June, August, and November 2014 and February 2015.

### **Design Review Panel**

262. Various iterations of the proposal were presented to the Design Review Panel (DRP) in September and December 2014. A summary of the panel's comments are provided in the main body of the report.

### **Consultations**

263. Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

### **Consultation replies**

264. Details of consultation responses received are set out in Appendix 2.

### **Summary of consultation responses**

#### **Neighbours and local groups**

265. Representations to the scheme have been received from The Walworth Society, Elephant Amenity Network/35percent Campaign, and occupiers of properties on Occupation Road, Penton Place, and Walworth Road.
266. The following concerns have been raised as part of the consultation and re-consultation undertaken:

#### **Affordable housing**

Application is not open and transparent - Application Form states 44 units of 'Social Rented Housing' but the submitted documents make it clear there will be no social rented units.

Applicant doesn't address issues raised in the council's Clarifications Report (December 2011) about how rents will be kept affordable or why the proposed development is exceptional and should be allowed affordable rent.

No mention of whether a viability assessment required for the development to be treated as exceptional has been submitted or which of the three options [outlined in Clarifications Report] would be used to achieve either reduced levels of affordable rent or provide some social rented housing.

#### **Overdevelopment on eastern side of viaduct**

Densest of the housing is located on the narrowest eastern parts of the site with consequent under-provision of amenity space and play areas on this side.

Density of Viaduct Block would be much higher than that given for the site if it were taken in proportion to its own plot.

Overdevelopment of the eastern side creates a 'split-site' with unequal distribution of benefits either side of the railway.

### **Height and scale**

7 storey height and massing of Viaduct Block is excessive and overdominant in its lower scale surroundings.

Viaduct Block presents a monolithic structure with lack of breaks and vertical delineation.

More variation in height / actual physical break up / variation in depth required to Viaduct Block - modulations in height and depth would allow greater daylight and sunlight penetration for existing neighbours.

### **Architectural treatment and materials**

Cladding for 7<sup>th</sup> storey of Viaduct Block is too dark.

Predominance of red brick is overwhelming and risks diluting the status of the listed Baths Building and Former Coroner's Court.

Use of yellow stock brick would be more appropriate for the Viaduct Block and improve light / reflectance towards Occupation Road.

Use of pale grey balcony and window details would keep the tone of the street bright and light.

Angled projecting balconies on eastern Viaduct Block are incongruous and give unwelcome prominence to balconies in views along viaduct route.

Dark wooden cladding is out of context with local area.

Gateway buildings at end of Occupation Road / Penrose Street new route feel insubstantial.

### **Public access / circulation**

Lack of visual or physical penetration across the whole site.

Impenetrable division of the Viaduct Block renders the railway line even more of a barrier than the existing viaduct.

East-west movement is now concentrated through 3 adjacent arches which are visually blocked off from outside the site.

### **Daylight and Sunlight**

Height of Viaduct Block will overshadow and significantly impact on daylight and sunlight to artists' studios (including central amenity courtyard) on Occupation Road.

Potential sunlight impact to properties on Penton Place.

### **Parking and highway safety**

Proposal will increase demand on the very narrow existing Occupation Road which currently is barely useable for servicing existing properties.

Proposal fails to adequately take into account the narrow width of the southern part of Occupation Road.

Occupation Road should be widened to a sufficient width along its length.

Disproportionate amount of disabled parking located on narrow section of Occupation Road and should be relocated.

Proposal will affect the operations and safety of existing business users  
Car club bay should be provided on site.

### **Access**

Occupiers of Walworth Road properties wish to have a fire escape access to the back of their properties from the new development via an entrance in the boundary wall.

### **Memorial Stones**

Memorial Stones on Penrose Street façade should be preserved and prominently located within redeveloped site.

### **In support**

267. The Walworth Society, whilst raising concerns with the application (noted above), also support aspects of the proposal as follows:

Quality of the engagement with the applicant.

Retention of Former Coroner's Court

Restriction of vehicle movements through the site whilst maximising cycle / pedestrian movement and developer's support for the 'Low Line'.

Opening up of the arches for new businesses.

The benefits that almost 300 new households will bring to businesses on Walworth Road.

### **Internal services**

### **Local economy team**

268. Acknowledge the positive contribution that the new commercial floorspace would bring to the local economy. However, some concerns are raised about the absence of clear proposals for managing and operating the commercial space. A

marketing plan should be sought and secured by condition / obligations.

### **Elephant and Castle regeneration team**

269. Supports the redevelopment of the former depot. The scheme creates an opportunity to transform a key brownfield site. The proposed layout would give prominence to the listed building. The creation of a new north-south public route alongside the viaduct would deliver a section of the 'low-line' and increase the employment density of the business space within the arches. The project also enhances the permeability of the viaduct by opening up three arches to create a new public route through the site. The employment floorspace will create valuable new enterprise opportunities for local SME businesses and create additional employment. New housing, including high quality affordable housing, will help contribute towards meeting plan targets and will contribute to the viability and future success of Walworth Road. The project delivers new high quality public realm, meets the council's energy targets. CIL contributions would deliver key local infrastructure projects.

### **Highways team**

270. All footways should be minimum 1.8m in width and resurfaced with silver grey granite natural stone paving slabs and 300mm wide kerbs of similar material. The private access road off Penrose Street linking Occupation Road is to be controlled by a bollard. The applicant should provide information at the gateway entering the private road. The proposed servicing, mainly through the new private access road and the viaduct route is acceptable. A turning facility needs to be provided at the southern end of Occupation Road. A S278 Agreement will be required to complete: repaving footways around the site; construction of new vehicle accesses; upgrade street lighting; relocation of gulley on Penrose Street.

### **Flood and drainage team**

271. No objection, subject to a condition requiring use of SuDS and limiting surface water run-off.

### **Ecology officer**

272. No objections raised, subject to conditions to secure ecological enhancements, including management plan.

### **Environmental protection team**

273. No objections subject to conditions requiring further details on land contamination, noise, and air quality mitigation.

### **Archaeology officer**

274. No objections, subject to conditions requiring building recording on the listed building and archaeological evaluation.

### **Statutory and non-statutory organisations**

#### **Environment Agency**

275. No objection, subject to securing conditions requiring further details concerning site contamination and remediation, foundation design, and surface water drainage.

#### **London Underground**

276. No comments to make on the application.

#### **Metropolitan Police**

277. No objection, subject to condition requiring the development to achieve Secured by Design accreditation to prevent crime and criminality.

#### **Network Rail**

278. No objections. The application makes reference to the covenant that no building can be erected within 3m of the viaduct. Any use of the arches, once agreed, would need to include provision for Network Rail to inspect the arches.

#### **Historic England**

279. No comments to make on the planning application.
280. The application for Listed Building Consent should be determined as you think fit.

#### **Greater London Authority**

281. The application is broadly acceptable in strategic planning terms, on balance the application does not comply with the London Plan. The following changes are required:

#### **Principle of development**

Further information on groups or businesses who have demonstrated interest in taking up the business space within the listed building to ensure the works proposed are suitable for future occupiers.

#### **Urban design**

Concerned with the quality of the new pedestrian route alongside the viaduct and request further work on the layout and use of the ground floor units of Block A-F. The overall form of this block should be reviewed. The material palette should be reserved by condition.

#### **Sustainable development**

Revised overheating work should be produced which may include additional passive measures. Dynamic overheating modelling in line with CIBSE Guidance TM52 and TM49 is recommended. A drawing of the route of the site heat network should be provided. The drainage strategy should be secured by condition and the application should consider how landscaping could be designed to attenuate rainwater.

## **Transportation**

Access arrangements to the site should be rearranged to avoid the moving of bus stop 'S'. Cycle parking spaces should be increased in line with London Plan Standards. Applicant should consider increasing the number of on-street car club spaces and future occupiers should be given membership to car clubs. Servicing and construction plans should be secured by condition and future occupiers barred from applying for parking permits. The S106 agreement should include £10,000 towards a new bus shelter, £6,000 towards Legible London signage, £100,000 and a site for a new cycle hire docking station and the submission and monitoring of a travel plan.

## **Transport for London**

282. Are satisfied that there will be no adverse impacts upon the TLRN and SRN. Request that the walking and cycling connections through the site are publically accessible. The level of cycle parking doesn't comply with London Plan standards. Additional blue badge parking should be provided for commercial occupants. Future occupiers should be exempt from applying for parking permits.
283. Conditions / obligations recommended in respect of Delivery and Service Plan, Construction Logistics Plan, and Travel Plan. Request S106 financial contributions towards bus shelter improvements, Legible London signage, and installation of new cycle docking station.

## **Thames Water**

284. No objections subject to condition regarding impact piling.

## **London Fire and Emergency Planning Authority**

285. Premises are not due currently due for an inspection under the risk based re-inspection programme. It will be inspected in line with our programme at which time the fire risk will be assessed. No comments to make.

## **LAMAS – Historic Buildings & Conservation**

286. No real objections but consider that the building is excessively overpowering. Conversion of the listed and undesignated buildings is well considered and the overall scale of the new was not inappropriate. However, the mass of the new brickwork was overwhelming and the upper storeys should be 'lighter' architecturally.

## **Victorian Society**

287. Supportive of the principle of the sympathetic reuse of the listed building. However, the proposed architectural treatment of the former pool's exterior would be detrimental to the building's appearance and character. At the rear, it is intended to clad much of the elevations with timber which is an alien material and would provide an unhappy contrast with the robust and vivid Victorian brickwork to both the front and rear blocks. The manner in which the timber cladding is proposed to wrap round the south-western corner would be particularly harmful.

The material and architectural form of this new work would be detrimental to the character and appearance of the listed building.

### Human rights implications

288. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
289. These applications have the legitimate aim of providing a mixed use development and refurbishment and conversion of a Grade II listed building. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

### BACKGROUND DOCUMENTS

Background Papers	Held at	Contact
Site history file: TP/1171-B  Application file: 15/AP/1062  Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: <a href="mailto:Planning.enquiries@southwark.gov.uk">Planning.enquiries@southwark.gov.uk</a> Case officer telephone: 020 7525 5349 Council website: <a href="http://www.southwark.gov.uk">www.southwark.gov.uk</a>

**APPENDICES**

<b>No.</b>	<b>Title</b>
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Images
Appendix 4	Recommendations – to follow in addendum report

**AUDIT TRAIL**

<b>Lead Officer</b>	Simon Bevan, Director of Planning	
<b>Report Author</b>	Helen Goulden, Team Leader	
<b>Version</b>	Final	
<b>Dated</b>	15 September 2015	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic director, finance & corporate services	No	No
Strategic director, environment and leisure	No	No
Strategic director, housing and community services	No	No
Director of regeneration	No	No
<b>Date final report sent to Constitutional Team</b>		15 September 2015



**APPENDIX 1****Consultation undertaken****Site notice date:** 28/04/2015**Press notice date:** 30/04/2015**Case officer site visit date:** n/a**Neighbour consultation letters sent:** 28/04/2015**Internal services consulted:**

Ecology Officer  
 Economic Development Team  
 Elephant and Castle Special Projects  
 Environmental Protection Team Formal Consultation [Noise / Air Quality / Land Contamination / Ventilation]  
 Flood and Drainage Team  
 Highway Development Management  
 Housing Regeneration Initiatives  
 Waste Management

**Statutory and non-statutory organisations consulted:**

Council for British Archaeology  
 English Heritage  
 Environment Agency  
 Greater London Authority  
 Historic England  
 London Fire & Emergency Planning Authority  
 London Underground Limited  
 Metropolitan Police Service (Designing out Crime)  
 Network Rail (Planning)  
 Thames Water - Development Planning  
 The Victorian Society  
 Transport for London (referable & non-referable app notifications and pre-apps)

**Neighbour and local groups consulted:**

	Flat 9 George Elliot House SE17 3AQ
	Flat 11 George Elliot House SE17 3AQ
	Flat 10 George Elliot House SE17 3AQ
	106 Penton Place London SE17 3JB
28 Sutherland Square SE17 3EQ	Flat 7 140 Manor Place SE17 3BH
The Pullens Centre 184 Crampton Street SE17	Flat 5 140 Manor Place SE17 3BH
Via Email x	Flat 8 140 Manor Place SE17 3BH
Flat 64 Penrose House SE17 3DY	Flat 11 140 Manor Place SE17 3BH
Flat 63 Penrose House SE17 3DY	Flat 10 140 Manor Place SE17 3BH

Flat 65 Penrose House SE17 3DY	First Floor Flat 33 Manor Place SE17 3BD
Flat 67 Penrose House SE17 3DY	Flat 30 Manor Place SE17 3BB
Flat 66 Penrose House SE17 3DY	Second Floor Flat 33 Manor Place SE17 3BD
Flat 59 Penrose House SE17 3DY	Flat 4 140 Manor Place SE17 3BH
Flat 58 Penrose House SE17 3DY	Flat 3 140 Manor Place SE17 3BH
Flat 60 Penrose House SE17 3DY	Flat 12 140 Manor Place SE17 3BH
Flat 62 Penrose House SE17 3DY	Flat 21 140 Manor Place SE17 3BH
Flat 61 Penrose House SE17 3DY	Flat 20 140 Manor Place SE17 3BH
Flat 68 Penrose House SE17 3DY	Flat 22 140 Manor Place SE17 3BH
Flat 75 Penrose House SE17 3DY	Flat 27 140 Manor Place SE17 3BH
Flat 74 Penrose House SE17 3DY	Flat 25 140 Manor Place SE17 3BH
Flat 76 Penrose House SE17 3DY	Flat 14 140 Manor Place SE17 3BH
Flat 78 Penrose House SE17 3DY	Flat 13 140 Manor Place SE17 3BH
Flat 77 Penrose House SE17 3DY	Flat 17 140 Manor Place SE17 3BH
Flat 70 Penrose House SE17 3DY	Flat 19 140 Manor Place SE17 3BH
Flat 69 Penrose House SE17 3DY	Flat 18 140 Manor Place SE17 3BH
Flat 71 Penrose House SE17 3DY	Flat 5 East Street SE17 2DJ
Flat 73 Penrose House SE17 3DY	Unit C Ground Floor 237 Walworth Road SE17 1RL
Flat 72 Penrose House SE17 3DY	Unit D 237 Walworth Road SE17 1RL
Flat 57 Penrose House SE17 3DY	Second Floor 227 Walworth Road SE17 1RL
Flat 42 Penrose House SE17 3DY	Flat 2 204 Walworth Road SE17 1JE
Flat 41 Penrose House SE17 3DY	Flat 1 204 Walworth Road SE17 1JE
Flat 43 Penrose House SE17 3DY	Flat 3 239 Walworth Road SE17 1RL
Flat 45 Penrose House SE17 3DY	Flat 2 239 Walworth Road SE17 1RL
Flat 44 Penrose House SE17 3DY	Rios De Vida Church Unit A 237 Walworth Road SE17 1RL
Flat 37 Penrose House SE17 3DY	Unit C First Floor 237 Walworth Road SE17 1RL
Flat 36 Penrose House SE17 3DX	Unit B 237 Walworth Road SE17 1RL
Flat 38 Penrose House SE17 3DY	Flat 3 204 Walworth Road SE17 1JE
Flat 40 Penrose House SE17 3DY	248c Walworth Road London SE17 1JE
Flat 39 Penrose House SE17 3DY	Room 117 140 Manor Place SE17 3BH
Flat 46 Penrose House SE17 3DY	Living Accommodation Good Intent Public House SE17 2DN
Flat 53 Penrose House SE17 3DY	Living Accommodation 267 Walworth Road SE17 1RL
Flat 52 Penrose House SE17 3DY	Flat 5 204 Walworth Road SE17 1JE
Flat 54 Penrose House SE17 3DY	Flat 4 204 Walworth Road SE17 1JE
Flat 56 Penrose House SE17 3DY	Flat 6 204 Walworth Road SE17 1JE
Flat 55 Penrose House SE17 3DY	Flat 8 204 Walworth Road SE17 1JE
Flat 48 Penrose House SE17 3DY	Flat 7 204 Walworth Road SE17 1JE
Flat 47 Penrose House SE17 3DY	Flat 29 140 Manor Place SE17 3BH
Flat 49 Penrose House SE17 3DY	Unit 2 Martara Mews SE17 3DG
Flat 51 Penrose House SE17 3DY	Unit 1 Martara Mews SE17 3DG
Flat 50 Penrose House SE17 3DY	Unit 3 Martara Mews SE17 3DG
Flat 79 Penrose House SE17 3DY	Unit 5 Martara Mews SE17 3DG
16 Gates Court Marsland Close SE17 3JN	Unit 4 Martara Mews SE17 3DG
1 Gates Court Marsland Close SE17 3JN	5-9 Amelia Street London SE17 3PY
2 Gates Court Marsland Close SE17 3JN	First Floor 3-9 Amelia Street SE17 3PY
21 Gates Court Marsland Close SE17 3JN	Middle Unit First Floor SE17 3PY
20 Gates Court Marsland Close SE17	Unit 8 Martara Mews SE17 3DG

3JN	6 Williamson Court Borrett Close SE17	Right Hand Unit First Floor SE17 3PY
3JE	5 Williamson Court Borrett Close SE17	Unit 6 Martara Mews SE17 3DG
3JE	7 Williamson Court Borrett Close SE17	Flat B 257 Walworth Road SE17 1RL
3JE	9 Williamson Court Borrett Close SE17	Flat A 257 Walworth Road SE17 1RL
3JE	8 Williamson Court Borrett Close SE17	Flat A 295 Walworth Road SE17 2TG
3JE	22 Gates Court Marsland Close SE17	Flat 4 Ground Floor Rear 257 Walworth Road SE17
3JN	7 Gates Court Marsland Close SE17	1RL
3JN	6 Gates Court Marsland Close SE17	Flat B 295 Walworth Road SE17 2TG
3JN	8 Gates Court Marsland Close SE17	Unit 9 Martara Mews SE17 3DG
3JN	8 Gates Court Marsland Close SE17	Unit 7 Martara Mews SE17 3DG
3JN	89a Penton Place London SE17 3JR	Unit10 Martara Mews SE17 3DG
3JN	9 Gates Court Marsland Close SE17	Unit 12 Martara Mews SE17 3DG
3JN	24 Gates Court Marsland Close SE17	Unit 11 Martara Mews SE17 3DG
3JN	23 Gates Court Marsland Close SE17	Ground Floor 3 Amelia Street SE17 3PY
3JN	3 Gates Court Marsland Close SE17	Flat 2 252 Walworth Road SE17 1JE
3JN	5 Gates Court Marsland Close SE17	Flat 1 252 Walworth Road SE17 1JE
3JN	4 Gates Court Marsland Close SE17	Part Third Floor North And Part Fourth Floor North
3JN	4 Williamson Court Borrett Close SE17	224-236 Walworth Road SE17 1JE
3JE	10 Williamson Court Borrett Close SE17	Flat 1 286 Walworth Road SE17 2TE
3JE	10 Williamson Court Borrett Close SE17	284 Walworth Road London SE17 2TE
3JE	1 Williamson Court Borrett Close SE17	Flat 33 140 Manor Place SE17 3BH
3JE	11 Williamson Court Borrett Close SE17	Flat 31 140 Manor Place SE17 3BH
3JE	13 Williamson Court Borrett Close SE17	22 Martara Mews London SE17 3EG
3JE	12 Williamson Court Borrett Close SE17	24 Martara Mews London SE17 3EG
3JE	Flat 81 Penrose House SE17 3DY	23 Martara Mews London SE17 3EG
3JE	Flat 80 Penrose House SE17 3DY	Flat 2 286 Walworth Road SE17 2TE
3JE	Flat 82 Penrose House SE17 3DY	25 Martara Mews London SE17 3EG
3JE	Flat 84 Penrose House SE17 3DY	Store C 1 Martara Mews SE17 3DG
3JE	Flat 83 Penrose House SE17 3DY	Flat 1 301 Walworth Road SE17 2TG
3JE	14 Williamson Court Borrett Close SE17	Flat 3 301 Walworth Road SE17 2TG
3JE	20 Williamson Court Borrett Close SE17	Flat 2 301 Walworth Road SE17 2TG
3JE	2 Williamson Court Borrett Close SE17	First Floor 186 Walworth Road SE17 1JJ

3JE  
 21 Williamson Court Borrett Close SE17 Flat 3 286 Walworth Road SE17 2TE  
 3JE  
 3 Williamson Court Borrett Close SE17 Second Floor 186 Walworth Road SE17 1JJ  
 3JE  
 22 Williamson Court Borrett Close SE17 Store B 1 Martara Mews SE17 3DG  
 3JE  
 16 Williamson Court Borrett Close SE17 Workshop A 1 Martara Mews SE17 3DG  
 3JE  
 15 Williamson Court Borrett Close SE17 14 Martara Mews London SE17 3EG  
 3JE  
 17 Williamson Court Borrett Close SE17 13 Martara Mews London SE17 3DG  
 3JE  
 19 Williamson Court Borrett Close SE17 15 Martara Mews London SE17 3EG  
 3JE  
 18 Williamson Court Borrett Close SE17 17 Martara Mews London SE17 3EG  
 3JE  
 121 Manor Place London SE17 3JP 16 Martara Mews London SE17 3EG  
 119 Manor Place London SE17 3JP 9 Martara Mews SE17 3DG  
 123 Manor Place London SE17 3JP 8 Martara Mews London SE17 3EG  
 127 Manor Place London SE17 3JP 10 Martara Mews SE17 3DG  
 125 Manor Place London SE17 3JP 12 Martara Mews SE17 3DG  
 111 Manor Place London SE17 3JP 11 Martara Mews SE17 3DG  
 109 Manor Place London SE17 3JP 18 Martara Mews London SE17 3EG  
 113 Manor Place London SE17 3JP Flat 2 Duke Of Clarence Court SE17 3BG  
 117 Manor Place London SE17 3JP 259b Walworth Road London SE17 1RL  
 115 Manor Place London SE17 3JP Flat 12 Duke Of Clarence Court SE17 3BG  
 101 Penton Place London SE17 3JR Flat 10 Duke Of Clarence Court SE17 3BG  
 24 Marsland Close London SE17 3JW Flat 11 Duke Of Clarence Court SE17 3BG  
 22 Marsland Close London SE17 3JW 20 Martara Mews London SE17 3EG  
 26 Marsland Close London SE17 3JW 19 Martara Mews SE17 3DG  
 30 Marsland Close London SE17 3JW 21 Martara Mews London SE17 3EG  
 28 Marsland Close London SE17 3JW Second Floor Flat 238 Walworth Road SE17 1JE  
 80 Penton Place London SE17 3JS 259a Walworth Road London SE17 1RL  
 103 Penton Place London SE17 3JR 7 Martara Mews London SE17 3EG  
 82 Penton Place London SE17 3JS Flat 24 140 Manor Place SE17 3BH  
 84 Penton Place London SE17 3JS Flat 23 140 Manor Place SE17 3BH  
 9 Borrett Close London SE17 3JF Flat 26 140 Manor Place SE17 3BH  
 120 Penton Place London SE17 3JB Flat 30 140 Manor Place SE17 3BH  
 118 Penton Place London SE17 3JB Flat 28 140 Manor Place SE17 3BH  
 122 Penton Place London SE17 3JB Flat 1 140 Manor Place SE17 3BH  
 10 Borrett Close London SE17 3JF 18 East Street London SE17 2DN  
 1 Borrett Close London SE17 3JF Flat 15 140 Manor Place SE17 3BH  
 110 Penton Place London SE17 3JB Flat 2 140 Manor Place SE17 3BH  
 108 Penton Place London SE17 3JB Flat 16 140 Manor Place SE17 3BH  
 112 Penton Place London SE17 3JB Flat 32 140 Manor Place SE17 3BH  
 116 Penton Place London SE17 3JB 3 Martara Mews London SE17 3EG  
 114 Penton Place London SE17 3JB 2 Martara Mews London SE17 3EG  
 11 Borrett Close London SE17 3JF 4 Martara Mews London SE17 3EG  
 5 Borrett Close London SE17 3JF 6 Martara Mews London SE17 3EG  
 4 Borrett Close London SE17 3JF 5 Martara Mews London SE17 3EG  
 6 Borrett Close London SE17 3JF Flat 9 140 Manor Place SE17 3BH  
 8 Borrett Close London SE17 3JF Flat 6 140 Manor Place SE17 3BH  
 7 Borrett Close London SE17 3JF 11 Walworth Place London SE17 2TQ

15 Borrett Close London SE17 3JF  
 13 Borrett Close London SE17 3JF  
 17 Borrett Close London SE17 3JF  
 3 Borrett Close London SE17 3JF  
 2 Borrett Close London SE17 3JF  
 32 Marsland Close London SE17 3JW  
 36a Penrose Street London SE17 3DW  
 50b Penrose Street London SE17 3DW  
 58b Penrose Street London SE17 3DW  
 58a Penrose Street London SE17 3DW  
 Flat 9 Penrose House SE17 3DU  
 Flat 8 Penrose House SE17 3DU  
 Flat 1 52 Penrose Street SE17 3DW  
 Flat 3 52 Penrose Street SE17 3DW  
  
 Flat 2 52 Penrose Street SE17 3DW  
 Flat 25 Penrose House SE17 3DX  
 Flat 32 Penrose House SE17 3DX  
 Flat 31 Penrose House SE17 3DX  
 Flat 33 Penrose House SE17 3DX  
 Flat 35 Penrose House SE17 3DX  
 Flat 34 Penrose House SE17 3DX  
 Flat 27 Penrose House SE17 3DX  
 Flat 26 Penrose House SE17 3DX  
 Flat 28 Penrose House SE17 3DX  
 Flat 30 Penrose House SE17 3DX  
 Flat 29 Penrose House SE17 3DX  
 Flat 7 Penrose House SE17 3DU  
 8 Pasley Close London SE17 3JY  
 6 Pasley Close London SE17 3JY  
 1 Amelia Street London SE17 3PY  
 4 Berryfield Road London SE17 3QE  
 10 Berryfield Road London SE17 3QE  
 10 Pasley Close London SE17 3JY  
 34 Marsland Close London SE17 3JW  
 12 Pasley Close London SE17 3JY  
 4 Pasley Close London SE17 3JY  
 2 Pasley Close London SE17 3JY  
 6 Berryfield Road London SE17 3QE  
  
 Flat 3 Penrose House SE17 3DU  
 Flat 2 Penrose House SE17 3DU  
 Flat 4 Penrose House SE17 3DU  
 Flat 6 Penrose House SE17 3DU  
 Flat 5 Penrose House SE17 3DU  
 Flat 1 Penrose House SE17 3DU  
 8 Berryfield Road London SE17 3QE  
 Flat 10 Penrose House SE17 3DU  
 Flat 12 Penrose House SE17 3DU  
 Flat 11 Penrose House SE17 3DU  
 89b Penton Place London SE17 3JR  
 Flat 2 91 Penton Place SE17 3JR  
 Flat 1 277-279 Walworth Road SE17 2TG  
  
 1 Martara Mews London SE17 3EG  
 248a Walworth Road London SE17 1JE  
 Flat 9 Duke Of Clarence Court SE17 3BG  
 Flat A 245 Walworth Road SE17 1RL  
 8 East Street London SE17 2DN  
 Flat B 245 Walworth Road SE17 1RL  
 10 Laugan Walk London SE17 2EA  
 9 Laugan Walk London SE17 2EA  
 First Floor Flat 241 Walworth Road SE17 1RL  
 Room 2 Surrey Gardens Memorial Hall SE17 3DW  
 31 Amelia Street London SE17 3PY  
 6 East Street London SE17 2DN  
 4 East Street London SE17 2DN  
 Basement And Ground Floors 214 Walworth Road SE17 1JE  
 Flat B 255 Walworth Road SE17 1RL  
 Flat A 255 Walworth Road SE17 1RL  
 Flat C 255 Walworth Road SE17 1RL  
 Flat 1 239 Walworth Road SE17 1RL  
 Flat 1 233 Walworth Road SE17 1RL  
 Flat 2 Pearlec House SE17 2DL  
 Flat 1 Pearlec House SE17 2DL  
 Flat 3 Pearlec House SE17 2DL  
 Flat 5 Pearlec House SE17 2DL  
 Flat 4 Pearlec House SE17 2DL  
 Part Ground Floor 238 Walworth Road SE17 1JE  
 Flat 5 Duke Of Clarence Court SE17 3BG  
 Flat 3 Duke Of Clarence Court SE17 3BG  
 243b Walworth Road London SE17 1RL  
 Railway Arch 210 Penrose Grove SE17 3EZ  
 Flat 7 Duke Of Clarence Court SE17 3BG  
 Flat 8 Duke Of Clarence Court SE17 3BG  
 Flat 4 Duke Of Clarence Court SE17 3BG  
 Flat 6 Duke Of Clarence Court SE17 3BG  
 Flat 1 Duke Of Clarence Court SE17 3BG  
 7 Laugan Walk London SE17 2EA  
 6 Laugan Walk London SE17 2EA  
 8 Laugan Walk London SE17 2EA  
 Part Ground Floor And First Floor Rear Of 263-265 Walworth Road SE17 1RL  
 Rear Of 238 Walworth Road SE17 1JE  
 2 Laugan Walk London SE17 2EA  
 1 Laugan Walk London SE17 2EA  
 3 Laugan Walk London SE17 2EA  
 5 Laugan Walk London SE17 2EA  
 4 Laugan Walk London SE17 2EA  
 Flat 3 Third Floor 257 Walworth Road SE17 1RL  
 Flat 17 Manchester House SE17 2DW  
 Flat 16 Manchester House SE17 2DW  
 Flat 18 Manchester House SE17 2DW  
 Flat 2 Manchester House SE17 2DW  
 Flat 19 Manchester House SE17 2DW  
 Flat 12 Manchester House SE17 2DW

Flat 2 95 Penton Place SE17 3JR	Flat 11 Manchester House SE17 2DW
Flat 2 277-279 Walworth Road SE17 2TG	Flat 13 Manchester House SE17 2DW
Flat 2 99 Penton Place SE17 3JR	Flat 15 Manchester House SE17 2DW
Flat 213 Walworth Road SE17 1RL	Flat 14 Manchester House SE17 2DW
First Floor Flat 280 Walworth Road SE17 2TE	Flat 20 Manchester House SE17 2DW
Flat 1 91 Penton Place SE17 3JR	Flat 4 Manchester House SE17 2DW
Flat 1 99 Penton Place SE17 3JR	Flat 3 Manchester House SE17 2DW
Flat 1 95 Penton Place SE17 3JR	Flat 5 Manchester House SE17 2DW
Flat 3 91 Penton Place SE17 3JR	Flat 7 Manchester House SE17 2DW
First Floor And Second Floor Flat 210 Walworth Road SE17 1JE	Flat 6 Manchester House SE17 2DW
First Floor And Second Floor Flat 209 Walworth Road SE17 1RL	Flat 22 Manchester House SE17 2DW
Fourth Floor Flat 258-260 Walworth Road SE17 1JE	Flat 21 Manchester House SE17 2DW
Ground Floor Flat 86 Penton Place SE17 3JS	Flat 23 Manchester House SE17 2DW
Ground Floor First Floor And Second Floor Flat 221 Walworth Road SE17 1RL	Flat 25 Manchester House SE17 2DW
Flat 3 99 Penton Place SE17 3JR	Flat 24 Manchester House SE17 2DW
Flat 3 95 Penton Place SE17 3JR	Flat 10 Manchester House SE17 2DW
Flat 3 277-279 Walworth Road SE17 2TG	28 East Street London SE17 2DN
Flat B 38a Penrose Street SE17 3ED	20 East Street London SE17 2DN
Flat A 38a Penrose Street SE17 3ED	262 Walworth Road London SE17 2TE
93b Penton Place London SE17 3JR	278 Walworth Road London SE17 2TE
Good Intent Public House 24-26 East Street SE17 2DN	7 East Street London SE17 2DJ
9b Manor Place London SE17 3BD	5 East Street London SE17 2DJ
217a Walworth Road London SE17 1RL	14 East Street London SE17 2DN
212a Walworth Road London SE17 1JE	2 East Street London SE17 2DN
217b Walworth Road London SE17 1JE	16 East Street London SE17 2DN
Railway Arch 182 30 Manor Place SE17 3BB	282 Walworth Road London SE17 2TE
33 Manor Place London SE17 3BD	1a East Street London SE17 2DJ
97 Penton Place London SE17 3JR	299 Walworth Road London SE17 2TG
9a Manor Place London SE17 3BD	1b East Street London SE17 2DJ
50a Penrose Street London SE17 3DW	Flat 1 Manchester House SE17 2DW
262a Walworth Road London SE17 2TE	1c East Street London SE17 2DJ
Top Floor Flat 86 Penton Place SE17 3JS	283 Walworth Road London SE17 2TG
First Floor And Second Floor Flat 214 Walworth Road SE17 1JE	288 Walworth Road London SE17 2TE
Second Floor Flat 257 Walworth Road SE17 1RL	287 Walworth Road London SE17 2TG
Top Flat 7 Manor Place SE17 3BD	295 Walworth Road London SE17 2TG
First Floor Flat 2 Manor Place SE17 3BB	293 Walworth Road London SE17 2TG
25b Manor Place London SE17 3BD	Flat 8 Manchester House SE17 2DW
25a Manor Place London SE17 3BD	40 Penrose Street London SE17 3DW
Above 287 Walworth Road SE17 2TG	39 Penrose Street London SE17 3DW

First Floor And Second Floor Flat 203 Walworth Road SE17 1RL	41 Penrose Street London SE17 3DW
Basement And Ground Floor Flat 7 Manor Place SE17 3BD	44 Penrose Street London SE17 3DW
Flat 1 93 Penton Place SE17 3JR	42 Penrose Street London SE17 3DW
Second Floor And Third Floor 225 Walworth Road SE17 1RL	1 Occupation Road London SE17 3BE
Front And Part Rear First Floor 225 Walworth Road SE17 1RL	31 Penrose Street London SE17 3DW
Ground Floor Rear 227 Walworth Road SE17 1RL	37 Penrose Street London SE17 3DW
Office Part First Floor 227 Walworth Road SE17 1RL	35 Penrose Street London SE17 3DW
Office No 4 Part First Floor 227 Walworth Road SE17 1RL	45 Penrose Street London SE17 3DW
Part Third Floor South 224-236 Walworth Road SE17 1JE	64 Penrose Street London SE17 3DW
Second Floor 224-236 Walworth Road SE17 1JE	62 Penrose Street London SE17 3DW
Part Fourth Floor South 224-236 Walworth Road SE17 1JE	100 Penton Place London SE17 3JB
Ground Floor 225 Walworth Road SE17 1RL	104 Penton Place London SE17 3JB
Part Basement 225 Walworth Road SE17 1RL	102 Penton Place London SE17 3JB
Shop 227 Walworth Road SE17 1RL	48 Penrose Street London SE17 3DW
Part Ground Floor 263-265 Walworth Road SE17 1RL	46 Penrose Street London SE17 3DW
Rear Of 262 Walworth Road SE17 2TE	54 Penrose Street London SE17 3DW
Basement And Ground Floor 277-279 Walworth Road SE17 2TG	60 Penrose Street London SE17 3DW
First Floor And Second Floor 285 Walworth Road SE17 2TG	56 Penrose Street London SE17 3DW
Ground Floor 280 Walworth Road SE17 2TE	5 Manor Place London SE17 3BD
Rear Of 245 Walworth Road SE17 1RL	289-291 Walworth Road London SE17 2TG
Rear Of 243 Walworth Road SE17 1RL	285 Walworth Road London SE17 2TG
256-260 Walworth Road London SE17 1JF	297 Walworth Road London SE17 2TG
Rear Of 257 Walworth Road SE17 1RL	264-276 Walworth Road London SE17 2TE
Basement And Part Ground Floor 257 Walworth Road SE17 1RL	22 East Street London SE17 2DN
Part First Floor South 224-236 Walworth Road SE17 1JE	14 Bronti Close London SE17 2HD
210-211 Carter Place London SE17 2TF	Flat 9 Manchester House SE17 2DW
9a Amelia Street London SE17 3PY	16 Bronti Close London SE17 2HD
Ground Floor 3 East Street SE17 2DJ	28 Bronti Close London SE17 2HD
Railway Arch 184 30 Manor Place SE17 3BL	24 Bronti Close London SE17 2HD
1d East Street London SE17 2DJ	281 Walworth Road London SE17 2TG
Flat 223 Walworth Road SE17 1RL	17 Manor Place London SE17 3BD
Flat 219 Walworth Road SE17 1RL	13 Manor Place London SE17 3BD
Flat 215 Walworth Road SE17 1RL	19 Manor Place London SE17 3BD
Third Floor Flat 258-260 Walworth Road	3 Manor Place London SE17 3BD

SE17 1JE  
Second Floor Flat 241 Walworth Road 21 Manor Place London SE17 3BD

SE17 1RL  
Railway Arch 185 30 Manor Place SE17 290 Walworth Road London SE17 2TE  
3BL

Railway Arch 207 Penrose Street SE17 301 Walworth Road London SE17 2TG  
3DW

Railway Arch 205 Penrose Street SE17 Railway Arch 183 30 Manor Place SE17 3BB  
3EZ

Railway Arches 208 To 209 Penrose Street SE17 3EZ 11 Manor Place London SE17 3BD

Part First Floor 224-236 Walworth Road Kennington And Walworth Delivery Centre 111-123  
SE17 1JE Crampton Street SE17 3AA

Club Room Penrose House SE17 3DU 3 York Mansions Browning Street SE17 1LP

Rear Of 37 Penrose Street SE17 3DW 2 York Mansions Browning Street SE17 1LP

Rear Of 1 Occupation Road SE17 3BE 4 York Mansions Browning Street SE17 1LP

Railway Arch 203 Penrose Street SE17 6 York Mansions Browning Street SE17 1LP  
3EZ

Railway Arch 206 Penrose Street SE17 5 York Mansions Browning Street SE17 1LP  
3DW

Railway Arch 204 Penrose Street SE17 First Floor And Second Floor Flat 216 Walworth Road  
3EZ SE17 1JE

81 Penton Place London SE17 3JR 194 Walworth Road London SE17 1JJ

79 Penton Place London SE17 3JR First Floor Flat 238 Walworth Road SE17 1JE

83 Penton Place London SE17 3JR 1 York Mansions Browning Street SE17 1LP

Surrey Gardens Memorial Hall Penrose Street SE17 3DW 260a Walworth Road London SE17 1JE

85 Penton Place London SE17 3JR 7 York Mansions Browning Street SE17 1LP

71 Penton Place London SE17 3JR Flat 2 220-222 Walworth Road SE17 1JE

152 Manor Place London SE17 3BH Flat 1 220-222 Walworth Road SE17 1JE

73 Penton Place London SE17 3JR 182-184 Walworth Road London SE17 1JJ

77 Penton Place London SE17 3JR 224-236 Walworth Road London SE17 1JE

75 Penton Place London SE17 3JR 196-202 Walworth Road London SE17 1JJ

67 Penton Place London SE17 3JR 9 York Mansions Browning Street SE17 1LP

6 Thrush Street London SE17 3AQ 8 York Mansions Browning Street SE17 1LP

5 Thrush Street London SE17 3AQ 243a Walworth Road London SE17 1RL

7 Thrush Street London SE17 3AQ 247b Walworth Road London SE17 1RL

9 Thrush Street London SE17 3AQ 247a Walworth Road London SE17 1RL

8 Thrush Street London SE17 3AQ 190 Walworth Road London SE17 1JJ

1 Thrush Street London SE17 3AQ Flat B 246 Walworth Road SE17 1JE

69 Penton Place London SE17 3JR Flat A 246 Walworth Road SE17 1JE

2 Thrush Street London SE17 3AQ Flat C 246 Walworth Road SE17 1JE

4 Thrush Street London SE17 3AQ 259 Walworth Road London SE17 1RZ

3 Thrush Street London SE17 3AQ 234-236 Walworth Road London SE17 1JD

150 Manor Place London SE17 3BH 1a York Mansions Browning Street SE17 1LP

2 Runacres Court Pasley Close SE17 203 Walworth Road London SE17 1RL  
3JZ

11 Runacres Court Pasley Close SE17 Flat B 240 Walworth Road SE17 1JE  
3JZ

23 Runacres Court Pasley Close SE17 Flat A 240 Walworth Road SE17 1JE  
3JZ

4 Runacres Court Pasley Close SE17 232 Walworth Road London SE17 1JE  
3JZ

3 Runacres Court Pasley Close SE17 226-228 Walworth Road London SE17 1JE



3JZ	
Flat 2 93 Penton Place SE17 3JR	238 Walworth Road London SE17 1JE
89c Penton Place London SE17 3JR	242 Walworth Road London SE17 1JE
Flat 3 93 Penton Place SE17 3JR	240 Walworth Road London SE17 1JE
10 Runacres Court Pasley Close SE17 3JZ	210 Walworth Road London SE17 1JE
1 Runacres Court Pasley Close SE17 3JZ	208 Walworth Road London SE17 1JE
5 Runacres Court Pasley Close SE17 3JZ	212 Walworth Road London SE17 1JE
142 Manor Place London SE17 3BH	218 Walworth Road London SE17 1JE
36-38 Penrose Street London SE17 3DW	201 Walworth Road London SE17 1RL
144 Manor Place London SE17 3BH	223 Walworth Road London SE17 1RL
148 Manor Place London SE17 3BH	219 Walworth Road London SE17 1RL
146 Manor Place London SE17 3BH	229 Walworth Road London SE17 1RL
7 Runacres Court Pasley Close SE17 3JZ	243 Walworth Road London SE17 1RL
6 Runacres Court Pasley Close SE17 3JZ	235 Walworth Road London SE17 1RL
8 Runacres Court Pasley Close SE17 3JZ	247-249 Walworth Road London SE17 1RL
Security House 2-6 Occupation Road SE17 3BE	199 Walworth Road London SE17 1RL
9 Runacres Court Pasley Close SE17 3JZ	244-248 Walworth Road London SE17 1JE
10 Thrush Street London SE17 3AQ	215 Walworth Road London SE17 1RL
Flat 12 Lynford French House SE17 3AQ	209 Walworth Road London SE17 1RL
Flat 11 Lynford French House SE17 3AQ	255 Walworth Road London SE17 1RL
188 Crampton Street London SE17 3AE	Flat 3 251-253 Walworth Road SE17 1RL
140 Manor Place London SE17 3BH	Flat 2 251-253 Walworth Road SE17 1RL
2 Manor Place London SE17 3BB	248b Walworth Road London SE17 1JE
Flat 7 Lynford French House SE17 3AQ	3 East Street London SE17 2DJ
Flat 6 Lynford French House SE17 3AQ	217 Walworth Road London SE17 1RL
Flat 8 Lynford French House SE17 3AQ	275 Walworth Road London SE17 1RL
Flat 10 Lynford French House SE17 3AQ	273 Walworth Road London SE17 1RL
Flat 9 Lynford French House SE17 3AQ	269-271 Walworth Road London SE17 1RL
Penrose Surgery 33 Penrose Street SE17 3DW	Flat 1 251-253 Walworth Road SE17 1RL
29a Amelia Street London SE17 3PY	267 Walworth Road London SE17 1RL
Walworth Police Station 12-28 Manor Place SE17 3BB	10 York Mansions Browning Street SE17 1LP
164 Manor Place London SE17 3BL	250 Walworth Road London SE17 1JE
168 Manor Place London SE17 3BL	216 Walworth Road London SE17 1JE
166 Manor Place London SE17 3BL	207 Walworth Road London SE17 1RL
43 Penrose Street London SE17 3DW	213 Walworth Road London SE17 1RL
Manor Place Surgery 1 Manor Place SE17 3BD	188 Walworth Road London SE17 1JJ
7- 10 Occupation Road London SE17 3BE	230 Walworth Road London SE17 1JE
30 Manor Place London SE17 3BB	221 Walworth Road London SE17 1RL

25 Manor Place London SE17 3BD	233 Walworth Road London SE17 1RL
Flat 5 Lynford French House SE17 3AQ	205 Walworth Road London SE17 1RL
Flat 2 George Elliot House SE17 3AQ	245 Walworth Road London SE17 1RL
Flat 1 George Elliot House SE17 3AQ	186 Walworth Road London SE17 1JJ
Flat 3 George Elliot House SE17 3AQ	252 Walworth Road London SE17 1JE
Flat 5 George Elliot House SE17 3AQ	211 Walworth Road London SE17 1RL
Flat 4 George Elliot House SE17 3AQ	1a Browning Street London SE17 1LN
12 Thrush Street London SE17 3AQ	239 Walworth Road London SE17 1RL
11 Thrush Street London SE17 3AQ	231 Walworth Road London SE17 1RL
13 Thrush Street London SE17 3AQ	192 Walworth Road London SE17 1JJ
15 Thrush Street London SE17 3AQ	251 Walworth Road London SE17 1RL
14 Thrush Street London SE17 3AQ	220-222 Walworth Road London SE17 1JE
Flat 6 George Elliot House SE17 3AQ	241 Walworth Road London SE17 1RL
Flat 1 Lynford French House SE17 3AQ	91b Penton Place First Floor Flat SE17 3JR
Flat 12 George Elliot House SE17 3AQ	6 Well Street London E9 7PX
Flat 2 Lynford French House SE17 3AQ	By Email
Flat 4 Lynford French House SE17 3AQ	Upper Woodside Woodside Lane GU34 3EX
Flat 3 Lynford French House SE17 3AQ	244 Walworth Road London SE17 1JE
Flat 8 George Elliot House SE17 3AQ	28 Sutherland Square SE17 3EQ
Flat 7 George Elliot House SE17 3AQ	18 Market Place Blue Anchor Lane SE16 3UQ

**Re-consultation:** 24/06/2015

**APPENDIX 2****Consultation responses received****Internal services**

Flood and Drainage Team

**Statutory and non-statutory organisations**

Council for British Archaeology

Environment Agency

Historic England

London Fire & Emergency Planning Authority

London Underground Limited

Network Rail (Planning)

Thames Water - Development Planning

The Victorian Society

Transport for London (referable & non-referable app notifications and pre-apps)

**Neighbours and local groups**

Email representation

Email representation

Flat 2 91 Penton Place SE17 3JR

Upper Woodside Woodside Lane GU34 3EX

18 Market Place Blue Anchor Lane SE16 3UQ

224-236 Walworth Road London SE17 1JE

226-228 Walworth Road London SE17 1JE

230 Walworth Road London SE17 1JE

238 Walworth Road London SE17 1JE

242 Walworth Road London SE17 1JE

244 Walworth Road London SE17 1JE

28 Sutherland Square SE17 3EQ

28 Sutherland Square SE17 3EQ

28 Sutherland Square SE17 3EQ

6 Well Street London E9 7PX

7- 10 Occupation Road London SE17 3BE

7- 10 Occupation Road London SE17 3BE

7- 10 Occupation Road London SE17 3BE

7- 10 Occupation Road London SE17 3BE

7- 10 Occupation Road London SE17 3BE

7- 10 Occupation Road London SE17 3BE

7- 10 Occupation Road London SE17 3BE

7- 10 Occupation Road London SE17 3BE

7- 10 Occupation Road London SE17 3BE

91b Penton Place First Floor Flat SE17 3JR





Ordnance Survey

Date 14/9/2015



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<b>Item No.</b> 6.3	<b>Classification:</b> Open	<b>Date:</b> 24 September 2015	<b>Meeting Name:</b> Planning Committee
<b>Report title:</b>	<b>Development Management planning application:</b> Application 15/AP/1847 for: Full Planning Permission  <b>Address:</b> 100 LORDSHIP LANE, LONDON SE22 8HF  <b>Proposal:</b> Retention of : (i) reduction in size of A1 shop; (ii) insertion of an additional opening to the ground floor rear elevation; (iii) increase of 1 bedroom flat to a 2 bedroom flat; and (iv) relocation of main entrance from front to rear		
<b>Ward(s) or groups affected:</b>	East Dulwich		
<b>From:</b>	Director of Planning		
<b>Application Start Date</b> 14/05/2015		<b>Application Expiry Date</b> 09/07/2015	
<b>Earliest Decision Date</b> 10/06/2015			

### RECOMMENDATION

1. That planning permission be granted subject to conditions.

### BACKGROUND INFORMATION

2. This application is reported to planning committee following a referral request from councillors.

### Site location and description

3. The site is located to the western side of Lordship Lane near to the junction with Chesterfield Grove and comprises a two storey semi-detached building with an A1 shop to the ground floor fronting Lordship Lane and a single residential flat above. The property has also been recently extended with a rear single storey and basement level extension, accommodating a one bedroom flat.
4. A secondary access from Chesterfield Grove runs to the rear of the site.
5. The application site is not located within a conservation area and the application will not affect the setting of a listed building.

### Details of proposal

6. Retrospective planning permission is sought for the alterations to previously consented scheme LBS reference 08/AP/1212 '*Erection of rear basement and ground floor extensions, installation of 2 rooflights to the front roof slope and provision of a new shopfront; in connection with the enlargement of the existing ground floor retail unit and the provision of 2 x 1 bed flats.*'
7. These alterations comprise:

- (i) reduction in size of A1 (use class) shop;
  - (ii) increase of one bedroom flat to a two bedroom flat at basement and ground floor level;
  - (iii) insertion of one additional opening to the rear ground floor level; and
  - (iv) relocation of main entrance from Lordship Lane to the rear shared access road which adjoins Chesterfield Grove.
8. No other external alterations are proposed beyond those approved under 08/AP/1212.
9. **Planning history**

<p><b>07/AP/0840</b> Application type: Full Planning Permission (FUL) Rear extensions at basement, ground, first and second (roof) floor levels with formation of lightwell and stairs at basement and ground floor and roof terraces at first and second floor levels. Mansard roof extension to front with increased roof ridge-line. Creation of 1 x self-contained studio flat within part of basement, and 2 x 2-bed flats on first and second floors. Use of ground floor rear extension and part of basement in association with the ground floor retail unit. Alterations to shop front to create new separate entrance to upper flats. Decision date 15/08/2007 Decision: <b>Refused</b></p>
<p><b>07/AP/2173</b> Application type: Full Planning Permission (FUL) Rear extension at basement, ground floor and first floor, with formation of lightwell and stairs at basement and ground floor. Erection of rear dormer roof extension and two skylights at front roof slope. Metal stairs at side for rear access. Raising of chimney stack and party wall. Creation of 1 x self-contained studio flat within part of basement, and 2 x 1-bed flats on first and second floors. Use of ground floor rear extension and part of basement in association with the ground floor retail unit. Alterations to shopfront and separate entrance to upper flats Decision date 19/12/2007 Decision: <b>Refused</b></p>
<p><b>07/AP/2940</b> Application type: Full Planning Permission (FUL) Erection of an extension at rear of basement, ground &amp; first floor levels; rear dormer window extension at roof level with 2 No skylights at front roof slope; to provide 1 x 1 bed unit and office/storage within basement; enlarged retail shop (Class A1) on ground floor level; 2- bedroom flat on first floor and within roof space; alterations to shop front to provide separate access to the basement flat and new first/second floor flat. Decision date 04/03/2008 Decision: <b>Refused</b></p>
<p><b>08/AP/1212</b> Application type: Full Planning Permission (FUL) Erection of rear basement and ground floor extensions, installation of 2 rooflights to the front roof slope and provision of a new shopfront; in connection with the enlargement of the existing ground floor retail unit and the provision of 2 x 1 bed flats. Decision date 10/09/2008 Decision: <b>Granted</b></p>
<p><b>09/AP/2357</b> Application type: Full Planning Permission (FUL) Basement, ground and first floor rear extensions, dormer window extension to the rear roof and 1 No. Skylight at the front roof slope; access stairs to basement to rear. Conversion to a two bed unit on the first floor and loft and 1 one bed unit within the basement level, with the main access to the flats from the Chesterfield Grove; extension to the retail shop on ground floor; bin and bike store to rear ground floor. Decision date 23/12/2009 Decision: <b>Refused</b></p>



<p><b>10/AP/0532</b> Application type: Full Planning Permission (FUL)  Basement, ground and first floor rear extensions, dormer window extension to the rear roof, one new skylight at the front roof slope and one new skylight at the side roof slope; conversion to a 1 one bed unit on the basement and ground floor and 1 two bed unit on the first floor and loft, with the main access to the flats from the Chesterfield Grove; refurbishment of the retail shop with new shop front on ground, and basement conversion into retail shop store area; bin and bike store to rear ground floor.  Decision date 17/05/2010 Decision: <b>Refused</b></p>
<p><b>14/EN/0210</b> Enforcement type: Unauthorised building works (UBW)  Unauthorised building work.  Sign-off date 25/07/2014 Sign-off reason: Final closure - <b>no breach of control.</b></p>
<p><b>14/AP/3173</b> Application type: Full Planning Permission (FUL)  Erection of single storey first floor rear extension and insertion of x2 windows to rear elevation  Decision date 12/11/2014 Decision: <b>Granted (GRA)</b></p>

### Planning history of adjoining sites

10. 98B LORDSHIP LANE, LONDON, SOUTHWARK, SE22 8HF

08-AP-0988 - Erection of a tubular steel and wooden 'deck style' balustrade with inclined bracing to enclose the existing roof terrace of flat at first floor rear level. REFUSED 17/06/2008.

97-AP-1396 – Continued use of upper floor as a self contained flat and alterations to rear elevation. APPROVED 12/02/1998.

### KEY ISSUES FOR CONSIDERATION

#### Summary of main issues

11. The main issues to be considered in respect of this application are:
- a) The principle of the development in terms of land use and conformity with strategic policies
  - b) The impact of the development on the amenity of the adjoining properties
  - c) Design quality
  - d) All other relevant material planning considerations.

#### Planning policy

12. National Planning Policy Framework (the Framework)  
Section 7 - Requiring good design  
Section 6 - Delivering a wide choice of high quality homes
13. London Plan 2015  
Policy 7.4 - Local Character  
Policy 7.6 - Architecture

14. Core Strategy 2011  
Strategic policy 12 - Design and conservation  
Strategic policy 13 - High environmental standards
15. Southwark Plan 2007 (July) - saved policies  
The Council's cabinet on 19 March 2013, as required by paragraph 215 of the NPPF, considered the issue of compliance of Southwark Planning Policy with the National Planning Policy Framework. All policies and proposals were reviewed and the Council satisfied itself that the policies and proposals in use were in conformity with the NPPF. The resolution was that with the exception of Policy 1.8 (location of retail outside town centres) in the Southwark Plan all Southwark Plan policies are saved. Therefore due weight should be given to relevant policies in existing plans in accordance to their degree of consistency with the NPPF.

Policy 3.2 - Protection of amenity  
Policy 3.12 - Quality in design  
Policy 3.13 - Urban design  
Policy 5.2 - Transport Impacts

16. Residential Design Standards SPD (2011)

#### **Principle of development**

17. The creation of new residential unit was previously established under LBS reference 08/AP/1212. The principle of alterations to existing residential properties is accepted in land use terms subject to the material planning considerations below.
18. The commercial floor space of the shop would remain unaltered at ground floor relative to the size permitted under 08/AP/1212, with a modest reduction in the storage area in the basement, to enable a slightly deeper residential area for the flat behind. This change is considered to be modest and does not undermine the feasibility of continued retail operation at the site. Consequently there are no land use issues here.

#### **Summary of consultation responses received**

19. Two responses were received objecting to the proposal. The material planning considerations raised were:
- Increased overlooking and loss of privacy
  - Insufficient cycle storage
  - Increased activity, noise generation and disturbance 24 hours a day along the rear access track which provides access to Chesterfield Grove which would adversely affect the amenity of nearby residents, in particular No.2A Chesterfield Grove which adjoins this access road
  - Poor design at odds with the prevailing character of nearby development.
20. These points are all addressed within the report below.
21. All other matters raised including the hard-surfacing and the laying of utilities underground along the shared road are civil matters which are outside of the control of planning regulations.
22. It is noted that all other alterations completed at No.100 Lordship Lane at the time of the writing of this report are lawful and have received the relevant permission(s) from the Local Planning Authority.

### **Impact of proposed development on amenity of adjoining occupiers and surrounding area**

23. The proposal would see the loss of the front door from the approved ground floor and basement level flat and internal alterations to accommodate an additional single bedroom. The dwelling would remain as a single unit.
24. The loss of the principal entrance from Lordship Lane will require the flat to be accessed solely from the rear. Despite this the proposed use of the previously approved rear access would not result in a material increase to activity along the rear access road beyond that of the already consented scheme. It is noted that other properties have their only principal access from the shared access road.
25. The provision of an additional single bedroom within the previously consented scheme would not lead to any discernible increases to noise levels along the rear access, with the flat remaining as a single residential unit. Access to the flat located to the first and second floors flat would be unaffected and would still be from Lordship Lane, as previously consented.
26. One additional opening is proposed to the rear ground floor level of the consented rear extension and the balcony would be repositioned approximately 0.3 metres northward. These alterations would not give rise to increased overlooking, replicating the established pattern of overlooking. These openings would be screened by the boundary fence which adjoins the access road. No other external alterations are proposed, so there would be no impacts in relation to loss of light, increased shadowing or increased sense of overbearing.
27. The use of the outdoor amenity space would not create any additional noise above levels expected for an ordinary residential dwelling. The use of this space would not lead to an increase in external activity beyond that established under the consented scheme.
28. The proposal would therefore not unreasonably affect the amenity of the occupiers or users of any nearby or adjoining properties with no material or discernible increase in activity or noise beyond the previously approved scheme.

### **Impact of adjoining and nearby uses on occupiers and users of proposed development**

29. None beyond those assessed under LBS reference 08/AP/1212. Internal noise transfer between the existing commercial unit which fronts Lordship Lane would be controlled by the relevant Building Control legislation and building standards.

### **Transport issues**

30. None. Sufficient on site, secure cycle storage would be maintained for a single residential unit.
31. The proposal would not result in the creation of a new dwelling and consequently would not generate any significant amounts of additional trips or result in any tangible increased levels of stress in relation to local parking provision.

### **Design issues**

32. Externally the proposal would see some minor alterations to the fenestration of the ground floor rear element of the extension. The provision of an additional window and

the refashioned balcony would not alter the overall appearance and character of the building and are therefore considered as being acceptable.

#### **Quality of accommodation for potential future occupiers**

33. The proposed standard of accommodation would meet all the minimum space requirements for a two bed three person single dwelling. External amenity space is provided and accommodation is spilt over two levels, with sufficient natural light penetration into all key habitable rooms.
34. Despite the loss of the access from Lordship Lane the principal entrance along the rear access road provides an adequate access point to Chesterfield Grove with only a short distance to this street. It is noted that other properties also have their primary access point from this access road.

#### **Impact on character and setting of a listed building and/or conservation area**

35. None.

#### **Impact on trees**

36. None.

#### **Planning obligations (S.106 undertaking or agreement)**

37. The proposal would not be CIL liable as no additional floor space or dwellings would be created outside of the previously consented and approved scheme.

#### **Sustainable development implications**

38. None.

#### **Other matters**

39. In respect of the hard surfacing of the rear access road, this is outside the remit of this application as it falls outside the red line site boundary. Furthermore such a measure is not considered to be necessary in the context of this proposal. These works could be undertaken without planning consent but require the agreement of the relevant landowners and this is therefore a civil matter.

#### **Conclusion on planning issues**

40. The proposal would not materially affect the occupiers or users of any nearby or adjoining properties, would not result in a material increase in activity along the rear access road, is of an appropriate external design and would offer a good standard of internal accommodation for potential future occupiers. No material considerations which indicate against the proposal remain.
41. It is therefore recommended that planning permission be granted.

#### **Community impact statement**

42. In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

The impact on local people is set out above.

### **Consultations**

43. Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

### **Consultation replies**

44. Details of consultation responses received are set out in Appendix 2.

### **Human rights implications**

45. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
46. This application has the legitimate aim of providing an altered residential flat with an additional bedroom. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

**BACKGROUND DOCUMENTS**

<b>Background Papers</b>	<b>Held At</b>	<b>Contact</b>
Site history file: TP/2315-100 Application file: 15/AP/1847 Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 0207 525 5976 Council website: www.southwark.gov.uk

**APPENDICES**

<b>No.</b>	<b>Title</b>
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Recommendation

**AUDIT TRAIL**

<b>Lead Officer</b>	Simon Bevan, Director of Planning	
<b>Report Author</b>	Lewis Goodley, Planning Officer	
<b>Version</b>	Final	
<b>Dated</b>	14 September 2015	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>
Strategic director, finance and corporate services	No	No
Strategic director, environment and leisure	No	No
Strategic director, housing and community services	No	No
Director of regeneration	No	No
<b>Date final report sent to Constitutional Team</b>		14 September 2015

**APPENDIX 1****Consultation undertaken**

**Site notice date:** 14/05/2015

**Press notice date:** n/a

**Case officer site visit date:** 14/05/2015

**Neighbour consultation letters sent:** 18/05/2015

**Internal services consulted:**

n/a

**Statutory and non-statutory organisations consulted:**

n/a

**Neighbour and local groups consulted:**

2a Chesterfield Grove London SE22 8RW  
100 Lordship Lane London SE22 8HF  
98a Lordship Lane London SE22 8HF  
98b Lordship Lane London SE22 8HF  
102 Lordship Lane London SE22 8HF  
98 Lordship Lane London SE22 8HF

2 Chesterfield Grove London SE22 8RW  
Flat 3 108 Lordship Lane SE22 8HF  
Flat 1 108 Lordship Lane SE22 8HF  
Flat 2 108 Lordship Lane SE22 8HF  
179 Friern Road London SE22 0BD  
35 Pickwick Road Dulwich SE21 7JN

**Re-consultation:** n/a

**APPENDIX 2****Consultation responses received****Internal services**

None

**Statutory and non-statutory organisations**

None

**Neighbours and local groups**

179 Friern Road London SE22 0BD  
179 Friern Road London SE22 0BD  
35 Pickwick Road Dulwich SE21 7JN



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## RECOMMENDATION

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This document shows the case officer's recommended decision for the application referred to below.  
This document is not a decision notice for this application.

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<b>Applicant</b>	Mr PRAVIN PATEL Mr P Patel	<b>Reg. Number</b>	15/AP/1847
<b>Application Type</b>	Full Planning Permission	<b>Case</b>	TP/2315-100
<b>Recommendation</b>	Grant permission	<b>Number</b>	

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### Draft of Decision Notice

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**Planning Permission was GRANTED for the following development:**

Retention of : (i) reduction in size of A1 shop; (ii) insertion of an additional opening to the ground floor rear elevation; (iii) increase of 1 bedroom flat to a 2 bedroom flat; and (iv) relocation of main entrance from front to rear

**At:** 100 LORDSHIP LANE, LONDON, SE22 8HF

**In accordance with application received on** 13/05/2015 12:00:44

**and Applicant's Drawing Nos.** Site Location Plan, A001 - Revision A (Roof Plan), A-004 - Revision C (Elevations), A-004 - Revision C (Floorplan - First and Second Floors), A-004 - Revision C (Floor Plans ground and basement- as built).

**Subject to the following two conditions:**

**Time limit for implementing this permission and the approved plans**

- 1 The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans:

A-001 - Revision A, A-004 - Revision C (Elevations), A-004 - Revision C (Floor Plans ground and basement- as built).

Reason:

For the avoidance of doubt and in the interests of proper planning.

**Compliance condition(s)** - the following condition(s) impose restrictions and/or other requirements that must be complied with at all times once the permission has been implemented.

- 2 The materials to be used in the implementation of this permission shall not be otherwise than as described and specified in the application and on the drawings hereby approved unless the prior written consent of the local planning authority has been obtained for any proposed change or variation.

Reason

To ensure that the new works blend in with the existing building in the interest of the design and appearance of the building in accordance with The National Planning Policy Framework 2012, Strategic Policy 12 - Design and Conservation of The Core Strategy 2011 and Saved Policies 3.12 Quality in Design and 3.13 Urban Design of the Southwark Plan 2007

**Statement of positive and proactive action in dealing with the application**

The Council has published its development plan and core strategy on its website together with advice about how applications are considered and the information that needs to be submitted to ensure timely consideration of an application. Applicants are advised that planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise.



<b>Item No.</b> 6.4	<b>Classification:</b> Open	<b>Date:</b> 24 September 2015	<b>Meeting Name:</b> Planning Committee
<b>Report title:</b>	<b>Development Management planning application:</b> Application 15/AP/2745 for: Full Planning Permission  <b>Address:</b> ST OLAVES AND ST SAVIOURS SPORTS GROUND, GREEN DALE, LONDON SE22 8TX  <b>Proposal:</b> Removal of existing 1.8 metre high chain link fence; installation of a 2.4 metre high black powder coated steel palisade fence inclusive of 1 no. 4 metre wide double leaf gate to the side of the path that divides the sports field		
<b>Ward(s) or groups affected:</b>	South Camberwell		
<b>From:</b>	Director of Planning		
<b>Application Start Date</b> 14/07/2015		<b>Application Expiry Date</b> 08/09/2015	
<b>Earliest Decision Date</b> 12/08/2015			

## RECOMMENDATION

1. That the application is considered by the Planning Committee as it is for development on Metropolitan Open Land (MOL); and that planning permission is granted subject to condition.

## BACKGROUND INFORMATION

### Site location and description

2. The subject site is a school playing field situated between Dulwich Hamlet Sports Facilities and Green Dale. There are no listed buildings on or adjacent to the site and it is not within a Conservation Area. The site is designated Metropolitan Open Lane providing outdoor recreation/sport.

### Details of proposal

3. The proposed development involves the installation of a 2.4m high boundary fence around the perimeter of the site to replace the existing 1.8m high chain link fence. The fence is situated adjacent to the pedestrian pathway between Abbotswood Road and Green Dale.
4. The proposed fence will have a length of 131m and will be a black powder coated aluminium palisade fence. This includes one 4m wide double leaf gate to provide access to the playing fields.

## 5. Planning history

<p>08/AP/2456 Application type: Full Planning Permission (FUL) To remove the existing 1.8 metre high timber fence and install a 2.4 metre high black powder coated steel palisade fence along the south western and north western boundaries of the sports ground with new access gates. Decision date 19/12/2008 Decision: <b>Granted</b> (GRA)</p>
<p>09/AP/0452 Application type: Full Planning Permission (FUL) Construction of a low pitched roof to existing sports pavilion, with the installation of three sunpipes. Decision date 03/07/2009 Decision: <b>Granted</b> (GRA)</p>
<p>09/AP/0893 Application type: Full Planning Permission (FUL) Replacement of existing single glazed timber windows and doors, painted white, with powder coated aluminium, double glazed doors and double glazed upvc windows, to be white in colour, on the front, side and rear of the sports pavilion. Decision date 23/07/2009 Decision: <b>Granted</b> (GRA)</p>

## KEY ISSUES FOR CONSIDERATION

### Summary of main issues

6. The main issues to be considered in respect of this application are:
- the impact of the development upon the MOL;
  - whether the proposed development is of an acceptable design

### Planning policy

- National Planning Policy Framework (the Framework)  
Achieving Sustainable Development  
7. Requiring good design  
8. Promoting healthy communities  
9. Protecting Green Belt land
- London Plan July 2011 consolidated with revised early minor alterations October 2013 and further alterations March 2015  
3.19 Sports Facilities  
7.17 Metropolitan Open Land
- Core Strategy 2011  
SP1 Sustainable Development  
SP4 Places for learning, enjoyment and healthy lifestyles  
SP11 Open Spaces and wildlife  
SP12 Design and Conservation
- Southwark Plan 2007 (July) - saved policies  
The Council's cabinet on 19 March 2013, as required by paragraph 215 of the NPPF, considered the issue of compliance of Southwark Planning Policy with the National Planning Policy Framework. All policies and proposals were reviewed and the Council satisfied itself that the policies and proposals in use were in conformity with the NPPF. The resolution was that with the exception of Policy 1.8 (location of retail outside town centres) in the Southwark Plan all Southwark Plan policies are saved. Therefore due weight should be given to relevant policies in existing plans in accordance to their degree of consistency with the NPPF.

3.12 Quality of Design  
3.25 Metropolitan Open Lane

**Principle of development**

11. The proposed development will improve the security around the existing school playing fields which will help secure the provision of sports and recreation facilities for the use of the school. London Plan policy 3.19 states that development proposals that enhance or increase the provision of sports and recreation facilities should be supported. However it also states that where sports facility developments are provided on existing open space they will need to be considered in light of policies protecting open space as well as the borough's own assessment of needs and opportunity for both sports facilities and for green multi functional open space.
12. London Plan policy 7.17 states that the development of land within Metropolitan Open Land is acceptable where it provides essential ancillary facilities for an appropriate use and where it maintains the openness of MOL. MOL also has the same level of protections as land designated as Green Belt. The NPPF paragraph 89 states that the construction of new building should be regarded as inappropriate in Green Belt. However exceptions apply including the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Therefore the tests as to whether the development is acceptable in principle is:
- a) whether the use of the land is appropriate;
  - b) whether the proposed development is ancillary and essential to the use of the land as a sports playing field; and
  - c) whether the proposed development preserves the openness of the Metropolitan Open Land.

*a) whether the use of the land is appropriate?*

The use of the site as a school playing field is long established and allows the facility to be used for sports and recreation uses by local schools. This is considered to be an appropriate use of MOL.

*b) whether the proposed development is ancillary and essential to the use of the land as a sports playing field?*

The proposed replacement fence will provide improved security for the playing safeguarding its use as sports playing field and ensuring that the condition of the facility can be maintained to a high standard. The fence is therefore ancillary to the use of the land a sports playing field and essential as it protects the facility from vandalism and inappropriate uses.

*c) whether the proposed development maintains the openness of the MOL?*

The proposed palisade fence will replace an existing chain link fence and will be 60cm higher than the existing. The proposed fence allows for views through to the open space beyond and will also be partially screened from the existing shrubs and trees that occupy the strip of land between the existing pedestrian path and the boundary of the playing fields. It is considered that the proposed development will maintain the openness of the MOL.

**Environmental impact assessment**

13. Not required for an application of this size.

### **Impact of proposed development on amenity of adjoining occupiers and surrounding area**

14. The site is bounded by other designated open spaces to the north, east and south and the Green Dale cycle way to the west. The proposed fencing will not be situated next to any residential properties and there will be no detrimental impact on amenity.

### **Design issues**

15. The NPPF stresses the importance of good design and states in paragraph 56 that: *“Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”* Policy SP12 of the Core strategy states that *“Development will achieve the highest possible standards of design for buildings and public spaces to help create attractive and distinctive places which are safe, easy to get around and a pleasure to be in.”* Saved Policy 3.13 asserts that the principles of good urban design must be taken into account in all developments. This includes height, scale and massing of buildings, consideration of the local context, its character and townscape as well as the local views and resultant streetscape.
16. The existing chain link fence is of no particular design merit and does not make a significant contribution to the character and appearance of the area. The proposed replacement fence is a powder coated aluminium fence which will match that which has been installed around the neighbouring open space on the opposite side of the pedestrian pathway (08/AP/2456). The replacement fence will have an acceptable impact in design terms and will also be screened from public space by existing landscaping outside of the site. As such the proposal is in accordance with the relevant design policies.

### **Impact on trees**

17. None anticipated.

### **Sustainable development implications**

18. The proposed fencing will help safeguard the provision of sports and recreation facilities for local schools and is in accordance with the relevant local, regional and national policies regarding the protection of open space. This is considered to comply with the definition of sustainable development as set out in NPPF.

### **Conclusion on planning issues**

19. The proposed development is of a design and scale which preserves the openness of the Metropolitan Open Land and is in keeping with the character and appearance of the surrounding streetscape. Accordingly approval is recommended subject to conditions set out below.

### **Community impact statement**

20. In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

a) The impact on local people is set out above.

### Consultations

21. Details of consultation and any re-consultation undertaken in respect of this application are set out in Appendix 1.

### Consultation replies

22. Details of consultation responses received are set out in Appendix 2.

### Summary of consultation responses

23. No response received.

### Human rights implications

24. This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant.
25. This application has the legitimate aim of providing fencing around a sports field. The rights potentially engaged by this application, including the right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: TP/1238-C Application file: 15/AP/2745 Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries telephone: 020 7525 5403 Planning enquiries email: planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 3920 Council website: www.southwark.gov.uk

## APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Recommendation

**AUDIT TRAIL**

<b>Lead Officer</b>	Simon Bevan, Director of Planning	
<b>Report Author</b>	Robin Sedgwick, Planning Officer	
<b>Version</b>	Final	
<b>Dated</b>	15 September 2015	
<b>Key Decision</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments sought</b>	<b>Comments included</b>
Strategic director, finance & corporate services	No	No
Strategic director, environment and leisure	No	No
Strategic director, housing and community services	No	No
Director of regeneration	No	No
<b>Date final report sent to Constitutional Team</b>		15 September 2015



**APPENDIX 1****Consultation undertaken**

**Site notice date:** 20/07/2015

**Press notice date:** n/a

**Case officer site visit date:** n/a

**Neighbour consultation letters sent:** n/a

**Internal services consulted:**

n/a

**Statutory and non-statutory organisations consulted:**

n/a

**Neighbour and local groups consulted:**

n/a

**Re-consultation:** n/a

**APPENDIX 2****Consultation responses received**

**Internal services**

None

**Statutory and non-statutory organisations**

None

**Neighbours and local groups**

None

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## RECOMMENDATION

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This document shows the case officer's recommended decision for the application referred to below.  
This document is not a decision notice for this application.

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<b>Applicant</b>	Govenors of St Saviour's and St Olave's	<b>Reg. Number</b>	15/AP/2745
<b>Application Type</b>	Full Planning Permission	<b>Case Number</b>	TP/2137-A
<b>Recommendation</b>	Grant permission		

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### Draft of Decision Notice

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**Planning Permission was GRANTED for the following development:**

Removal of existing 1.8 metre high chain link fence; installation of a 2.4 metre high black powder coated steel palisade fence inclusive of 1 no. 4 metre wide double leaf gate to the side of the path that divides the sports field

**At:** ST OLAVES AND ST SAVIOURS SPORTS GROUND, GREEN DALE, LONDON, SE22 8TX

**In accordance with application received on 08/07/2015 16:00:34**

**and Applicant's Drawing Nos.** 01 - Site Plan OS  
02 - Site Location Plan  
03 - Existing and Proposed Fence and Gate Details

**Subject to the following three conditions:**

**Time limit for implementing this permission and the approved plans**

- 1 The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans:
  - 02 - Site Location Plan
  - 03 - Existing and Proposed Fence and Gate Details

Reason:  
For the avoidance of doubt and in the interests of proper planning.
  
- 2 The development hereby permitted shall be begun before the end of three years from the date of this permission.
 

Reason  
As required by Section 91 of the Town and Country Planning Act 1990 as amended.

**Compliance condition(s)** - the following condition(s) impose restrictions and/or other requirements that must be complied with at all times once the permission has been implemented.

- 3 The materials to be used in the implementation of this permission shall not be otherwise than as described and specified in the application and on the drawings hereby approved unless the prior written consent of the local planning authority has been obtained for any proposed change or variation.
 

Reason  
To ensure that the new works blend in with the existing building in the interest of the design and appearance of the building in accordance with The National Planning Policy Framework 2012, Strategic Policy 12 - Design and Conservation of The Core Strategy 2011 and Saved Policies 3.12 Quality in Design and 3.13 Urban Design of the Southwark Plan 2007

**Statement of positive and proactive action in dealing with the application**

The Council has published its development plan and core strategy on its website together with advice about how applications are considered and the information that needs to be submitted to ensure timely consideration of an application. Applicants are advised that planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The decision has been made in a timely manner.

Item No.	Classification:	Date:	Meeting Name:
7.	Open	24 September 2015	Planning Committee
<b>Report title:</b>		To release £250,000 from S106 agreement 12/AP/2797 and £168,649.52 from S106 agreement 15/AP/0747 for highway improvements to Balfour Street, London SE17	
<b>Ward(s) or groups affected:</b>		East Walworth	
<b>From:</b>		Chief Executive	

## RECOMMENDATIONS

1. To authorise the release of funds of £250,000 from the development known as Trafalgar Place at Rodney Road and Balfour Street, London SE17 12/AP/2797 a/n 658:
  - £250,000 will go towards undertaking highway improvements to Balfour Street including tree planting, traffic calming measures and widening of existing footways by the Council.
2. To authorise the release of funds of £168 649.52 from the variation to the S106 agreement for Trafalgar Place under reference 15/AP/0747 dated 27 April 2015 a/n 658A:
  - An additional payment of £168,649.52 from the developer to the council is proposed to cover the cost of the Balfour Streetscape Improvement works which are now to be undertaken by the Council.

## BACKGROUND INFORMATION

3. Planning obligations are legal agreements between the local planning authority, the developer and other interested parties which are used to mitigate the impacts caused by development and contribute to providing infrastructure and facilities necessary to achieve sustainable communities. The council can enter into a legal agreement with a developer whereby the developer agrees to provide planning contributions pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).
4. Section 106 funds are released to projects and programmes as new developments come forward for implementation which triggers the payment of sums to the council.
5. The development known as Trafalgar Place at Rodney Road and Balfour Street, London SE17 12/AP/2797, is to pay the Balfour Street works contribution of £250,000 to the Council as defined below pursuant to the Section 106 Agreement .
6. A variation to the S106 was agreed in May 2015 to recognise that highways works which the developer was obligated to undertake within the original s106 agreement would sit more logically within the wider Balfour St streetscape improvement scheme. As part of this S106 variation, the developer agreed to contribute an additional £168 649.52 towards the

scheme. The contribution equates to the cost of the additional highways works to the western footway and the off-site tree planting commitment.

7. **“Balfour Street Works Contribution”** means the sum of £250,000 (two hundred and fifty thousand pounds) to be paid by the Developer to the Council pursuant to paragraph 1.2 of Schedule 4.

### **Projects to mitigate the impact of the developments**

8. Section 106 payments are secured as part of the planning permissions for the above site in order to mitigate the impact of large new developments on the area, and provide the infrastructure and services to support large new developments.
9. The approved and under construction Trafalgar Place development will create new pedestrian links between the new residential blocks and on Victory Place that will enhance the public realm and bring benefits to both existing and new residential community. The planning approval also secured improvements to the western footway on Balfour Street directly adjacent to the new development including new tree planting. In order to further mitigate the impact of the development a £250,000 contribution was secured to ensure all areas of Balfour Street are enhanced.
10. The proposed improvements to Balfour Street are as follows:
  - Narrowing of the existing carriageway in order to encourage slower driving speeds
  - Traffic calming measures including raised tables
  - Widening of footways
  - Rationalising of on-street car parking bays
  - Additional tree planting over and above the seven new trees already required as part of the Trafalgar Place consent
  - Low level planting along footway to create pedestrian and cyclist friendly green link between Victory Park and Nursery Row Park.

### **Consultation**

11. Consultation on initial proposals for improvements to Balfour Street was undertaken as part of the pre-planning consultation for the approved Trafalgar Place scheme (application 12/AP/2729). The key objectives identified through this earlier Lend Lease led consultation was that local community wished to see additional tree planting, widening of footways and traffic calming measures. The design proposals that will be presented to the public in June 2014 will respond to key objectives identified through this earlier consultation. This consultation will be led by the Council’s Highway’s department ahead of any application for statutory consents required for alterations to highway.

### **Resource implications**

12. The resource implications are outlined above and summarised in the finance concurrent below.

### **Community impact statement**

13. All projects will be designed to be fully accessible to all, without prejudice or discrimination.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **S106 Manager**

14. The development at Rodney Road and Balfour Street, London SE17 12/AP/2797 a/n 658 secured £3,144,567 in contributions. All the triggered payments have been received.
15. The proposed allocation accords with the agreement and would provide some mitigation for the impacts of the development.

#### **Director of Legal Services**

16. It is essential that section 106 monies are spent strictly in accordance with the terms of the relevant Agreement and also in accordance with the tests set out in regulation 122(20) Community Infrastructure Regulations 2010 (as amended) which provide that the required obligation must be (i) necessary to make the development acceptable in planning terms; (ii) directly related to the development; and (iii) fairly and reasonably related to the scale and kind of the development.
17. The section 106 Agreements which are listed in this report have been reviewed to ensure that the contributions which have been identified are indeed being spent in accordance with the tests set out above and have been found to be compliant
18. Under paragraph 6, part 3F, the Council's Constitution, it is amongst the roles and functions of the Planning Committee to consider the expenditure of section 106 monies and where the proposed expenditure exceeds £100,000, the Planning Committee is required to consider the expenditure in accordance with paragraph 2, Part 3F under the subheading of "Matters Reserved for Decision"
19. Subject to taking account of the above considerations, Members are advised to approve the expenditure which would be consistent with the terms of the relevant section 106 Agreements and the legal tests outlined above

#### **Strategic Director of Finance and Corporate Services (CAP15/069)**

20. This report requests approval, under delegated authority, to the release of £250,000 S106 funds from legal agreement 12/AP/2797 (a/c no 658) towards highway improvements to Balfour Street, SE17 and £168,649.52 (agreement 15/AP/0747, a/c no 658A) towards Balfour Streetscape .
21. It is noted that £168,649.52 from agreement 15/AP/0747 is in the council's bank account and has not been committed to other projects and is therefore available for the detailed works. Use of the S106 funds will be monitored as part of the council's capital programme.

22. Staffing and any other costs connected with this recommendation to be contained within existing departmental revenue budgets.

### BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
S106 Legal Agreements	Planning Department, 160 Tooley Street, London, SE1 2QH	Jack Ricketts 020 7525 5464

### AUDIT TRAIL

<b>Lead Officer</b>	Jon Abbott, Head of Regeneration	
<b>Report Author</b>	Jon Abbott, Head of Regeneration	
<b>Version</b>	Final	
<b>Dated</b>	15 September 2015	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
S106 Manager	Yes	Yes
<b>Date final report sent to Constitutional Team</b>		15 September 2015

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