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<b>Item No.</b> 7.4	<b>Classification:</b> Open	<b>Date:</b> 7 December 2020	<b>Meeting Name:</b> Planning Sub-Committee B
<b>Report title:</b>	<b>Development Management planning application:</b> Application 20/AP/2723 for: Full Planning Application  <b>Address:</b> DUCKS, Eller Bank, 87 College Road, London SE21 7HH  <b>Proposal:</b> Installation of 2 ground source heat pumps, 1 energy centre, 15 boreholes and all necessary associated underground pipes		
<b>Ward(s) or groups affected:</b>	Dulwich Wood		
<b>From:</b>	Director of Planning		
<b>Application Start Date</b> 28/09/2020		<b>Application Expiry Date</b> 23/11/2020	
<b>Earliest Decision Date</b> 16/11/2020			

## RECOMMENDATIONS

1. That planning permission is granted, subject to conditions.

## BACKGROUND INFORMATION

### Site location and description

2. The application site contains the Dulwich College Kindergarten and Infants School (DUCKS) in two self-contained buildings. The kindergarten is housed in a detached Edwardian property while the infant school utilises a converted and extended sports pavilion. Adjoining them are the playgrounds and extensive sports pitches.
3. The site is on the north-east side of College Road, and is adjoined to the south by a dwelling-house at 89 College Road with other surrounding properties primarily in residential use.
4. The site is subject to the following designations:
  - Metropolitan Open Land
  - Dulwich Wood Conservation Area
  - Suburban Density Zone

## **Details of proposal**

5. The proposals include the construction of a pre-fabricated energy centre to house two ground source heat pumps and the installation of 15 boreholes with associated underground pipework.
6. The pre-fabricated energy centre would be clad in vertical cedar boarding with a slate grey GRP (glass reinforced plastic) roof and be located at the south west elevation of the infant's school with a 1m distance between the two buildings. The proposed energy centre will measure 2.8m in height, 4m in depth and 7.5m in width.
7. The ground source heat pumps, a Viessman 97kw and a Viessman 114kw, would replace the existing gas fired boilers and would serve the existing heating and hot water circuits in the complex.
8. The 15 boreholes are proposed to be installed throughout an area of 0.29 hectare adjacent to the infant's school and College Road on Eller Bank field.

## **Relevant Planning history**

9. 19/AP/1378 Full planning application for:

Construction of a single storey rear extension at ground floor level and installation of a rooflight to existing DUCKS Infant School building  
Granted permission on 04/09/2019

10. 03/AP/1853 Full planning application for:

Construction of single storey rear extension to allow the nursery facility to be located on the ground floor, together with the provision of a new entrance door in the flank elevation and enlargement of existing door on the front elevation.  
Granted permission on 04/02/2004

## **KEY ISSUES FOR CONSIDERATION**

### **Summary of main issues**

11. The main issues to be considered in respect of this application are:
  - a) Principle of development
  - b) Design
  - c) Impact of proposed development on amenity of adjoining occupiers and users of the park
  - d) Environmental considerations
  - e) Impact on trees

### **Adopted planning policy**

National Planning Policy Framework (NPPF)

12. The revised National Planning Policy Framework ('NPPF') was published in February 2019 which sets out the national planning policy and how this needs to be applied. The NPPF focuses on sustainable development with three key objectives: economic, social and environmental.
13. Paragraph 212 states that the policies in the framework are material considerations which should be taken into account in dealing with applications.

Chapter 2 Achieving sustainable development  
Chapter 8 Promoting healthy and safe communities  
Chapter 12 Achieving well-designed places  
Chapter 15 Conserving and enhancing the natural environment

#### London Plan 2016

14. The London Plan is the regional planning framework and was adopted in 2016. The relevant policies of the London Plan 2016 are:

Policy 7.4 Local character  
Policy 7.5 Public realm  
Policy 7.17 Metropolitan open land  
Policy 7.18 Protecting open space and addressing deficiency  
Policy 7.19 Biodiversity and access to nature  
Policy 7.21 Trees and woodland.

#### Core Strategy 2011

15. The Core Strategy was adopted in 2011 providing the spatial planning strategy for the borough. The strategic policies in the core strategy are relevant alongside the saved Southwark Plan (2007) policies. The relevant policies of the core strategy 2011 are:

Strategic Policy 1 Sustainable development  
Strategic Policy 4 Places for learning, enjoyment and healthy lifestyles  
Strategic Policy 11 Open spaces and wildlife  
Strategic Policy 12 Design and conservation  
Strategic Policy 13 High environmental standards.

#### Southwark Plan 2007 (saved policies)

16. In 2013, the council resolved to 'save' all of the policies in the Southwark Plan 2007 unless they had been updated by the Core Strategy with the exception of Policy 1.8 (location of retail outside town centres). Paragraph 213 of the NPPF states that existing policies should not be considered out of date simply because they were adopted or made prior to publication of the Framework. Due weight should be given to them, according to their degree of consistency with the Framework. The relevant policies of the Southwark Plan 2007 are:

Policy 3.2 Protection of amenity  
Policy 3.12 Quality in design

Policy 3.13 Urban design

Policy 3.18 Setting of listed buildings, conservation areas and world heritage sites

Policy 3.25 Metropolitan open land (MOL)

Policy 3.28 Biodiversity.

#### Draft New London Plan

17. The draft New London Plan was published on 30 November 2017 and the first and only stage of consultation closed on 2 March 2018. Minor suggested changes to the plan were published on 13 August 2018 and an Examination in Public (EIP) began on 15 January 2019 and closed in May 2019.
18. The Inspector's report and Panel recommendations were issued to the Mayor of London in October 2019. The Mayor then issued his intentions to publish the London Plan along with a statement of reasons for not including all of the Inspector's recommendations to the Secretary of State. The Secretary of State will respond to the Mayor, due before 17 February 2020. Until the London Plan reaches formal adoption it can only be attributed limited weight.

#### New Southwark Plan

19. For the last five years the council has been preparing the New Southwark Plan (NSP) which will replace the saved policies of the 2007 Southwark Plan and the 2011 Core Strategy. The council concluded consultation on the Proposed Submission version (Regulation 19) on 27 February 2018. The New Southwark Plan Proposed Submission Version: Amended Policies January 2019 consultation closed in May 2019.
20. The New Southwark Plan Submission Version – Proposed Modifications for Examination was submitted to the Secretary of State in January 2020 for Local Plan Examination. It is anticipated that the plan will be adopted in late 2020 following an Examination in Public (EIP). As the NSP is not yet adopted policy, it can only be attributed limited weight. Nevertheless paragraph 48 of the NPPF states that decision makers may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan, the extent to which there are unresolved objections to the policy and the degree of consistency with the Framework.

### **Consultation**

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

#### Summary of consultation responses from internal, statutory and non-statutory consultees

22. No consultation responses have been received.

#### Summary of public consultation responses

23. A neutral consultation response was received in favour of the principle of improving the energy efficiency of the school however wanting reassurance that the noise generated from the heat pumps will not cause an adverse impact on neighbouring residential properties.

Officer response: The proposed heat pumps are deemed a sufficient distance from the nearest residential properties and are unlikely to cause any adverse impacts due to excessive noise levels. However, a condition is recommended ensuring that noise generated from the heat pumps should be 10DdB(A) or more below the background level in this location so there is no loss of amenity by reason of noise nuisance.

### **Principle of development**

24. The application site is located within Metropolitan Open Land (MOL). Same principles that protect the Green Belt are applied to MOL, and protective policies are set out in planning policy documents at all levels (national, regional and local).
25. Paragraph 145 of the NPPF states that 'A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt'. One of the exceptions offered, however, is 'the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'.
26. Policy 7.17 of the London Plan (2016) states that 'The strongest protection should be given to London's Metropolitan Open Land and inappropriate development refused, except in very special circumstances, giving the same level of protection as in the Green Belt. Essential ancillary facilities for appropriate uses will only be acceptable where they maintain the openness of MOL'.
27. The Draft New London Plan Policy G3 is more concise in stating that 'Development proposals that would harm MOL should be refused'.
28. The current Southwark Plan Policy 3.25 states that 'Within Metropolitan Open Land, planning permission will only be permitted for appropriate development'. Following the guidance of the NPPF 'Extension or alteration to an existing dwelling, providing that it does not result in disproportionate additions over and above the size of the original building' is considered to be appropriate development. Further, 'Essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of MOL' is also considered 'appropriate development' within this policy.
29. The draft new Southwark Plan Policy P56 includes the same exception for appropriate development, though the word 'dwelling' has been replaced with 'building'.
30. The proposed energy centre is to be positioned adjacent to the south west elevation of the existing Infants school building, minimising the impact on the

openness of the MOL.

31. The structure would be modest in scale, sitting below the height and within the width of the existing infant's school building. The proportions therefore do not result in a disproportionate addition to the MOL.
32. A minimum depth of 450mm of topsoil is to be removed prior to the start of work on the boreholes. The topsoil would be stock piled on site with the land being reinstated to its original condition once the works complete. The installation of the boreholes will therefore have little impact on the openness of the MOL.
33. The flow and return pipework between the heat pumps and boreholes will be below ground with a minimum cover of 900mm. As such, there will be little impact on the openness of the MOL.
34. In light of the above, the proposed works are not compliant with the referenced policies as the scheme involves the construction of a new building on MOL as opposed to the extension or alteration of an existing, and its purpose is not an ancillary facility to any land use which preserves the openness of MOL.
35. However, the proposals will greatly improve the energy efficiency of the DUCKS complex with an estimated carbon saving of 56,000kg per annum which is seen as a public benefit.
36. The proposals are further considered to be modest in scale and not a disproportionate addition.
37. Further, because the energy centre would be next to an existing building on an area of hardstanding, it would preserve the openness of the MOL.

## **Design**

38. As set out above, the scale of the proposed energy centre is considered to be modest and proportionate to the existing buildings on site.
39. The structure would be clad in vertical cedar boarding with a slate grey GRP roof to match the existing infant's school.
40. The proposed materials are considered suitable for use within a conservation area as they do not introduce design details or features that are out of character.
41. As such, the works are considered to conserve the appearance and setting of the Dulwich Wood conservation area and are considered acceptable in terms of its quality of design.
42. A condition is recommended stating that the materials for the energy centre should be as specified within the application and on the approved drawings to ensure that the new structure blends in with the existing building and conserves the wider conservation area.

## **Impact of proposed development on amenity of adjoining occupiers and users of the MOL**

43. The section of Eller Bank field where the boreholes will be located will be reinstated to its original condition once the works are complete. As such, the installation of the boreholes will not have any adverse impact on amenity experienced.
44. The ground source heat pumps will not be visible to the public as they will be housed within the proposed energy centre.
45. The ground source heat pumps are considered to be a sufficient distance from adjoining occupiers and are unlikely to cause any adverse impacts due to excessive noise levels. This is because it is over 60m from the nearest dwelling and being housed in a building, sound insulation can readily be installed to make sure no impact would take place; a condition on noise is recommended to secure this.
46. The proposed energy centre is located within the middle of the application site and although it will be visible from Eller Bank field and at points from College Road, is considered a low impact addition and is unlikely to cause any adverse impact to amenity.
47. As such, it is considered that the proposed works are unlikely to cause a negative impact on the amenity of adjoining occupiers and are therefore acceptable in this matter.

## **Conclusion on planning issues**

48. The proposal is not appropriate development on MOL. The only above ground structure- the energy centre- would not affect the openness of the MOL because of its location. There would be an environmental benefit as a result of this development, if granted planning permission, which would see a significant reduction in carbon emissions from the site.

## **Community impact statement / Equalities Assessment**

49. The Public Sector Equality Duty (PSED) contained in Section 149 (1) of the Equality Act 2010 imposes a duty on public authorities to have, in the exercise of their functions, due regard to three "needs" which are central to the aims of the Act:
  - a) The need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act
  - b) The need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it. This involves having due regard to the need to:
    - Remove or minimise disadvantages suffered by persons who share a

relevant protected characteristic that are connected to that characteristic

Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it

- Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- c) The need to foster good relations between persons who share a relevant protected characteristic and those who do not share it. This involves having due regard, in particular, to the need to tackle prejudice and promote understanding.
50. The protected characteristics are: race, age, gender reassignment, pregnancy and maternity, disability, sexual orientation, religion or belief, sex, marriage and civil partnership.
51. The council must not act in a way which is incompatible with rights contained within the European Convention of Human Rights
52. The council has given due regard to the above needs and rights where relevant or engaged throughout the course of determining this application. No matters pertaining to the impact of this development on people with protected characteristics have been raised through the consultation and no impact above in that detailed above in the 'planning assessment' is expected.
53. Throughout the consultation process no information was received to indicate that any members of the public falling under the protected characteristics would be affected by the development, and thus no specific mitigation measures are required in this regard.

### **Human rights implications**

54. 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.

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Site history file: 2084-87 Application file: 20/AP/2723  Southwark Local Development Framework and Development Plan Documents	Chief Executive's Department 160 Tooley Street London SE1 2QH	Planning enquiries: 020 7525 0254 planning.enquiries@southwark.gov.uk Case officer telephone: 020 7525 0254 Council website: www.southwark.gov.uk

## APPENDICES

No.	Title
Appendix 1	Consultation undertaken
Appendix 2	Consultation responses received
Appendix 3	Relevant planning history
Appendix 4	Recommendation

## AUDIT TRAIL

<b>Lead Officer</b>	Simon Bevan, Director of Planning	
<b>Report Author</b>	Gemma Williams, Planning Officer	
<b>Version</b>	Final	
<b>Dated</b>	16 November 2020	
<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 of Finance and Governance	No	No
Strategic Director of Environment and Leisure	No	No
Strategic Director of Housing and Modernisation	No	No
Director of Regeneration	No	No
<b>Date final report sent to Constitutional Team</b>	18 November 2020	

**Consultation undertaken**

**Site notice date:** n/a.

**Press notice date:** 08/10/2020

**Case officer site visit date:** n/a

**Neighbour consultation letters sent:** 07/10/2020

**Internal services consulted**

Environmental Protection

**Statutory and non-statutory organisations**

**Neighbour and local groups consulted:**

14 Ferrings London Southwark	11 Ferrings London Southwark
15 Ferrings London Southwark	10 Ferrings London Southwark
86 College Road London Southwark	82 College Road London Southwark
12 Ferrings London Southwark	80 College Road London Southwark
60 College Road London Southwark	78 College Road London Southwark
3 Constable Walk College Road London	74 College Road London Southwark
1 Constable Walk College Road London	72 College Road London Southwark
9 Woodhall Drive London Southwark	68 College Road London Southwark
3 Woodhall Drive London Southwark	66 College Road London Southwark
11 Woodhall Drive London Southwark	62 College Road London Southwark
84 College Road London Southwark	58 College Road London Southwark
76 College Road London Southwark	7 Woodhall Drive London Southwark
70 College Road London Southwark	5 Woodhall Drive London Southwark
64 College Road London Southwark	1 Woodhall Drive London Southwark
2 Constable Walk College Road London	89 College Road London Southwark
16 Ferrings London Southwark	

**Re-consultation:**

**Consultation responses received**

**Internal services**

**Statutory and non-statutory organisations**

**Neighbour and local groups consulted:**

16 Ferrings London SE21 7LU

**Relevant planning history**

No relevant planning history

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## APPENDIX 4

### RECOMMENDATION

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 Simon Yiend	<b>Reg. Number</b>	20/AP/2723
<b>Application Type</b>	Minor application		
<b>Recommendation</b>	GRANT permission	<b>Case Number</b>	2084-87

#### Draft of Decision Notice

**Planning permission is GRANTED for the following development:**

Installation of 2 ground source heat pumps, 1 energy centre, 15 boreholes and all necessary associated underground pipes

DUCKS Eller Bank 87 College Road London

**In accordance with application received on 6 August 2020 and Applicant's Drawing Nos.:**

Existing Plans

Proposed Plans

Plans - Proposed 366:2 - PROPOSED ENERGY CENTRE PLAN AND ELEVATIONS received 06/08/2020

Other Documents

Design and access statement DESIGN AND ACCESS STATEMENT received 06/08/2020

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

1. 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.

**Permission is subject to the following Compliance Condition(s)**

2. MATERIALS TO BE AS SPECIFIED

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 2019; 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.

3. NOISE LEVELS NOT TO BE EXCEEDED

The Rated sound level from the ground source heat pump, together with any associated ducting shall not exceed the Background sound level (LA90 15min) at the nearest noise sensitive premises. Furthermore, the plant Specific sound level shall be 10dB(A) or more below the background sound level in this location. For the purposes of this condition the Background, Rating and Specific sound levels shall be calculated in full accordance with the methodology of BS4142:2014 as amended.

Reason:

To ensure that occupiers of neighbouring premises do not suffer a loss of amenity by reason of noise nuisance or the local environment from noise creep due to plant and machinery 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).